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federal register

Tuesday
August 6, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

CONTINUED INSIDE

Selected Subjects

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

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 6 and 27; at 9 am (identical sessions).

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call Martin Franks, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington starting in November. The January 1986 workshop will include facilities for the hearing impaired. Dates will be announced later.

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Presidential Documents

Title 3—

The President

Proclamation 5360 of August 2, 1985

Freedom of the Press Day, 1985

By the President of the United States of America

A Proclamation

Freedom of the press is one of our most important freedoms and also one of our oldest. In the form of the First Amendment it is permanently embedded in our Constitution, but its roots go back to colonial America and indeed to the traditional laws and customs of England.

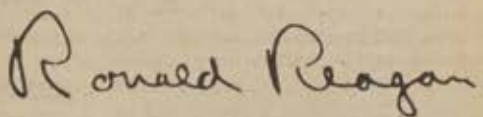
Two hundred and fifty years ago, on August 4, 1735, one of the landmark events of American legal history occurred when a court exonerated the newspaper publisher John Peter Zenger, who had been accused of sedition because of his zeal in uncovering official corruption. Since then, his case has become a symbol of our Nation's continuing commitment to maintaining freedom of the press.

Today, our tradition of a free press as a vital part of our democracy is as important as ever. The news media are now using modern techniques to bring our citizens information not only on a daily basis but instantaneously as important events occur. This flow of information helps make possible an informed electorate and so contributes to our national system of self-government. Freedom of the Press Day is an appropriate time to remember the contributions a free press has made and is continuing to make to the development of our Nation.

In recognition, the Congress, by House Joint Resolution 164, has designated August 4, 1985, as "Freedom of the Press Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 4, 1985, as Freedom of the Press Day. I call upon the people of the United States to observe this occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of August, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.



[FR Doc. 85-18764
Filed 08-05-85; 10:04 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 151
Tuesday, August 6, 1985

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 356]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 356 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 9–15, 1985. The regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 356 (§ 908.656) is effective for the period August 9–15, 1985.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

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

The regulation is consistent with the marketing policy for 1984–85. The committee met publicly on July 30, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified week. The committee reports that demand for Valencia oranges is good on smaller sizes, but has dropped off somewhat on the larger size fruit.

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

List of Subjects in 7 CFR Part 908

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

PART 908 [AMENDED]

1. The authority citation for Part 7 CFR 908 continues to read as follows:

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

2. Section 908.656 is added to read as follows:

§ 908.656 Valencia Orange Regulation 356.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 9, 1985, through August 15, 1985, are established as follows:

(a) District 1: 312,000 cartons;
(b) District 2: 488,000 cartons;
(c) District 3: Unlimited cartons.

Dated: August 1, 1985.

Thomas R. Clark,

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

[FR Doc. 85–18647 Filed 8–5–85; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1050

Milk in the Central Illinois Marketing Area; Order Terminating Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of certain rules.

SUMMARY: This action terminates and removes the "reload point" definition from the Central Illinois milk order. Such action will permit milk to be reloaded on the premises of a manufacturing plant without the operations of both the "reload station" and the milk plant being combined and considered a single supply plant under the order. Prairie Farms Dairy, Inc., a cooperative association that represents about one-half of the producers who supply milk to the market, requested the action. Such termination will facilitate the efficient assembly of milk from distant farms for movement to distributing plants.

EFFECTIVE DATE: August 1, 1985.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued June 24, 1985; published June 27, 1985 (50 FR 26576).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure the use of efficient milk marketing practices.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the order regulating the

handling of milk in the Central Illinois marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on June 27, 1985 (50 FR 26576) concerning a proposal to suspend or terminate certain provisions of the order. Interested persons were given an opportunity to file written data, views and arguments thereon by July 12, 1985. In response to the notice, cooperatives requested that the provisions be terminated as soon as possible, but not later than August 1, 1985.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that the following provisions of the order regulating the handling of milk in the Central Illinois marketing area no longer tend to effectuate the declared policy of the Act:

Section 1050.19 (Reload point) in its entirety.

Statement of Consideration

This action terminates and removes the "reload point" definition from the Central Illinois order effective August 1, 1985.

Under the current order provisions, if milk is reloaded on the premises of a milk plant, the reloading operations are considered to be a part of the supply plant's total operations, i.e., the reloading operations are combined with the processing operations of the milk plant and considered a single facility.

Suspension of this definition was requested by Prairie Farms Dairy, Inc., a cooperative that represents about one-half of the producers who supply milk to the market. Proponent asked that the provisions be suspended indefinitely.

The notice inviting public comments indicated that suspension of the definition for an indefinite period would not be appropriate. It stated that since a finding could not be made that the changed marketing conditions are expected to be temporary, the more appropriate action would be to terminate the definition. Hence, the notice invited interested parties to comment on whether the "reload point" definition should be suspended, and if so, what period of time should be covered by the suspension. Alternatively, commentors were invited to express their views about whether such definition effectuates the purposes of the Act in light of the current marketing practices of handlers and, if not, whether termination of the definition would be more appropriate.

In response to the invitation, Prairie Farms asked that the definition be terminated. Another cooperative, Associated Milk Producers, Inc., which represents most of the other producers who supply milk to the market, supported proponent's request for termination of the order's "reload point" definition. Another cooperative association that represents producers who supply the adjacent Iowa market opposed the suspension action and indicated that the issue should be considered at a public hearing.

This action is warranted because the "reload point" definition prohibits Prairie Farms from efficiently marketing the milk of 65 producers who are located in the vicinity of Preston, Iowa, and whose milk has been delivered to the cooperative's bottling plant in Peoria, Illinois, for many years. Because of the distance involved, it is more efficient to pump the milk of such dairy farmers from the small farm tankers into larger over-the-road tankers at an assembly point near the production area for further shipment to such distributing plant. The only such facility that is available to provide such services for the cooperative is a cheese manufacturing plant. However, if milk is reloaded on the premise of the cheese plant, the reloading operations would be considered to be a part of such plant's total operations for the purpose of applying other provisions of the order.

This termination order will permit the cooperative to utilize the premises of the cheese plant to conduct its reloading operations and thereby avoid the costly adjustments associated with locating an appropriate site and constructing a separate reload station of its own. Thus, it will facilitate the efficient assembly of milk from distant farms for delivery to the market's distributing plants.

Termination of the "reload point" definition is not an issue that need be considered at a public hearing. The hearing process is the procedure through which proposed amendments to orders are considered and developed to regulate the handling of milk. In this instance, current regulations that inhibit the efficient marketing of milk are being terminated since such regulations no longer tend to effectuate the declared purpose of the Act in view of current marketing conditions.

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

(a) Termination of the provisions is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area by promoting the efficient assembling of milk for shipment to distributing plants;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this action. A vast majority of the producers supplying this market now favor termination of the "reload point" definition.

Therefore, good cause exists for terminating the aforesaid provisions of the Central Illinois order effective August 1, 1985.

List of Subjects in 7 CFR Part 1050

Milk marketing orders, Milk, Dairy Products.

PART 1050—[AMENDED]

1. The authority citation for 7 CFR Part 1050 continues to read as follows:

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

It is therefore ordered, That the aforesaid provisions of the Central Illinois order are hereby terminated as follows:

§ 1050.19 [Removed]

Section 1050.19 (Reload point) is removed in its entirety.

Effective date: August 1, 1985.

Signed at Washington, DC, on July 31, 1985.

Karen K. Darling,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85–18645 Filed 8–5–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ASW-13]

Alteration of Transition Area and Control Zone: Killeen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the transition area and control zone at Killeen,TX. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing new standard instrument approach procedures (SIAPs) to the Killeen Municipal Airport, Hood Army Air Field, and Robert Gray Army Air Field. This revision is necessary since there are three new SIAPs that have been developed using the new Gray Vortac (GRK). In addition, a review of this airspace revealed the necessity to reconfigure the control zone and

transition area. This action will reduce the amount of controlled airspace northwest of Robert Gray and Hood Army Air Fields and result in additional controlled airspace as necessary to protect the existing and three new SIAPs.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2622.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Killeen, TX, transition area and control zone (50 FR 15578).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Sections 71.171 and 17.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area and control zone at Killeen, TX. This action provides the controlled airspace necessary to protect aircraft conducting instrument flight rules (IFR) activity at Killeen Municipal, Hood, and Robert Gray Airports.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexiblity Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Killeen,TX—[Revised]

Within a 5-mile radius of the Killeen Municipal Airport (latitude 31°05'09" N., longitude 97°41'10" W.) and within a 5-mile radius of the Hood Army Air Field (latitude 31°08'13" N., longitude 97°42'49" W.), and within a 5-mile radius of the Robert Gray Army Air Field (latitude 31°04'04" N., longitude 97°49'45" W.), and within 1.5 miles each side of the north localizer course extending from the 5-mile radius area to 7 miles north of the Robert Gray Army Air Field, and within 2 miles each side of the 160-degree bearing from the Robert Gray Army Air Field extending from the 5-mile radius area to 11 miles south of the airport.

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Killeen, TX—[Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hood Army Air Field (latitude 31°08'13" N., longitude 97°42'49" W.), and within 4.5 miles each side of the 217-degree bearing from the airport extending from the 5-mile radius area to 21 miles southwest of the airport, and within a 6.5-mile radius of the Killeen Municipal Airport (latitude 31°05'09" N., longitude 97°41'10" W.), and within 3 miles each side of the south localizer course extending from the 6.5-mile radius area to 15.5 miles south of the airport and within 4.5 miles each side of the 244-degree bearing from the airport extending from the 6.5-mile radius area to 20 miles southwest of the airport, and within a 6.5 mile radius of the Robert Gray Army Air Field (latitude 31°04'04" N., longitude 97°49'45" W.), and within 2.5 miles each side of the north localizer course extending from the 6.5-mile radius area to 7.5 miles north of the airport and within 4.5 miles each side of the 160-degree bearing from the airport extending from the 6.5-mile radius area to 14 miles south of the airport.

Issued in Fort Worth, TX, on July 24, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-18554 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

[T.D. 85-126]

Change of Practice Regarding Tariff Classification of Imported Lace Curtain Material

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of practice.

SUMMARY: This document gives notice that Customs is changing its current established and uniform practice of classifying certain lace curtain material imported with one hemmed edge and without lines or patterns indicating where the fabric should be cut. After reviewing the comments received in response to the notice proposing this change, Customs will now classify the merchandise under one of the tariff provisions for lace, in the piece or in motifs, whether or not ornamented. The imported fabric is not dedicated to use as a particular article.

EFFECTIVE DATE: This change of practice will be effective as to merchandise entered for consumption, or withdrawn from warehouse for consumption, on or after November 4, 1985.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION

Background

This document pertains to the tariff classification of lace curtain material which is imported with one hemmed edge, and without any lines or patterns which indicate where the fabric is to be cut. The merchandise is currently classified under the provision for other lace or net articles, not specially provided for, whether or not ornamented, in item 386.13, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202).

On July 17, 1984, a notice was published in the **Federal Register** (49 FR 28886) advising that Customs was reviewing its practice of classifying the merchandise in item 386.13, TSUS. The current classification is based upon a Customs Service ruling dated May 25, 1979 (055443) in which it was stated that an established and uniform practice existed to classify curtain fabrics hemmed at one edge under the provisions for articles of textile materials, not specially provided for.

Customs has reexamined this matter and determined that the information upon which that ruling was predicated, that an established and uniform practice of classification existed at that time with regard to hemmed curtain fabric, was erroneous. However, since the finding of a practice was made in a Customs ruling, irrespective of the correctness of the finding, Customs cannot now revoke that finding and change the classification of the merchandise to a different provision without compliance with section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and § 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)), which specify the procedure for changing an established and uniform practice. *Rank Precision Industries, Inc. v. United States*, 660 F. 2d 476, 68 CCPA 78, C.A.D. 1269 (1981).

In its condition as imported, without cutting lines or other lines of demarcation which would allow the identification of the individual curtains to be made from the material, the subject merchandise is not classifiable as unfinished curtains. See General Headnote 10(h), TSUS. *The Harding Co. v. United States*, 23 CCPA 250, T.D. 48109 (1936); *United Stated v. Buss & Co.*, 5 Ct. Cust. Appls. 110, T.D. 34138 (1914). In addition, the merchandise is not sufficiently dedicated for use as curtains to preclude its classification as material. Hemmed curtain fabric is apparently known in the trade and commerce of this country as material or fabric rather than as unfinished curtains. The classification of the merchandise should reflect the commercial reality. Accordingly, it was proposed to change the classification of this merchandise so that future importations would be classified under one of the provisions for lace, in the piece or in motifs, whether or not ornamented, in items 351.30 through 351.90, TSUS. The exact tariff classification and rate of duty would depend upon how the lace was made.

Discussion of Comments

Twenty comments were received in response to the July 17, 1984, **Federal Register** notice. Seventeen of the comments express support for the proposed change, and three are opposed.

The same major point is made in each of the three comments opposing any change in the practice. They state that the hemmed imports can only be used for draperies; cutting lines are absent because it is not possible to predict the dimensions of individualized draperies; and the presence of cutting marks would detract from the material and make it unsalable.

The other commenters express approval and state that a change is long overdue and will help put an end to avoidance of Customs duties by importers of hemmed materials.

We are of the opinion that if the specific textile articles to be made from imported fabric cannot be identified, the presumption is that the fabric remains material and is classifiable as such rather than as an article. Hemmed fabrics can only be regarded as articles if they have performed upon them post-weaving processing which causes the material to be commonly and commercially recognized in the trade as something other than fabric. The hemming of one edge of an imported fabric cannot be regarded as having satisfied that criterion. The imported material in question is not dedicated to use as a particular identifiable article. The clear judicial precedents prevent material from being classified as an article in the absence of cutting lines or other lines of demarcation which clearly identify the particular articles to be made from that material.

Change of Practice

After careful analysis of the comments and further review of the matter, the imported lace curtain material under consideration will be classified under one of the provisions for lace, in the piece or in motifs, whether or not ornamented, in items 351.30 through 351.90, TSUS, depending upon the production method used for the particular importation.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Robert P. Schaffer,

Acting Commissioner of Customs.

Approved: July 16, 1985.

John M. Walker, Jr.

Assistant Secretary of the Treasury.

[FR Doc. 85-18551 Filed 8-5-85; 8:45 am]

BILLING CODE 4820-20-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Micro Chemical, Inc., providing for manufacture of 10-, 40-, and 100-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens. The regulations are further amended to add the firm to the list of sponsors of approved applications.

EFFECTIVE DATE: August 6, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Micro Chemical, Inc., Amarillo, TX 79105, is the sponsor of NADA 138-187 submitted on its behalf by Elanco Products Co. The NADA provides for manufacture of 10-, 40-, and 100-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (iv). The NADA is approved and the regulations are amended to reflect the approval. The regulations are further amended to add the firm to the list of sponsors of approved NADA's.

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

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371; 21 CFR 5.10 and 5.83.

2. Part 510 is amended in § 510.600 in paragraph (c)(1) by adding a new entry alphabetically and in paragraph (c)(2) by adding a new entry numerically, to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Micro Chemical, Inc., Amarillo, TX 79105	047126
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
047126	Micro Chemical, Inc., Amarillo, TX 79105.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. Part 558 is amended in § 558.625 by adding new paragraph (b)(85), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(85) To 047126: 10, 40, and 100 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: July 30, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–18558 Filed 8–5–85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Iron Hydrogenated Dextran Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Veterinary Laboratories, Inc., providing for safe and effective use of iron hydrogenated dextran injection for prevention and treatment of iron deficiency anemia in baby pigs.

EFFECTIVE DATE: August 6, 1985.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Veterinary Laboratories, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215, filed NADA 138–255 providing for intramuscular use of iron hydrogenated dextran injection for baby pigs for prevention and treatment of iron deficiency anemia. The NADA is approved and the regulations are amended accordingly. The basis of approval is discussed in the freedom of information summary.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 522.1183 [Amended]

2. Section 522.1183 *Iron hydrogenated dextran injection* is amended in paragraph (e)(1) by revising the phrase "Nos. 015562 and 015579" to read "Nos. 000857, 015562, and 015579."

Dated: July 29, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–18559 Filed 8–5–85; 8:45 am]

BILLING CODE 4160-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Teenager Exchange-Visitor Programs

AGENCY: United States Information Agency.

ACTION: Interim rule and Announcement of Hearing.

SUMMARY: The United States Information Agency (USIA) published an interim rule and request for comments in 48 FR 50707, November 3, 1983. By that notice 22 CFR 514.11, 514.13(b) and 514.17 were modified: (1) To reflect organizational changes at the USIA, (2) to update minimum requirements for designating Teenage Exchange Visitor Programs, and (3) to develop a due process procedure for revocation or suspension of designation of an Exchange Visitor Program. This notice responds to the comments by modifying the interim rule. Further comments are invited. An oral hearing will be held.

DATES: The new interim rule shall be effective August 6, 1985. Comments are due September 5, 1985. Parties wishing to participate in an oral hearing must

notify the Agency under separate cover no later than September 5, 1985. The date of the hearing will be set at a later time. The date will be announced by direct mailing to participants and by notice in the **Federal Register**. The time will be alloted equally between Responsible Officers of designated sponsors which notify the Agency of their desire to speak.

ADDRESSES: Send comments or notification of desire to participate in the oral hearing to: Merry Lymn, Attorney-Advisor, United States Information Agency, 301 4th Street SW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Attorney Advisor, United States Information Agency, 301 4th Street S.W., Washington, D.C. 20547. (202) 485–7976.

SUPPLEMENTARY INFORMATION: The United States Information Agency published an interim rule and request for comments in 48 FR 50707, November 3, 1983. By that notice 22 CFR 514.11, 514.13(b) and 514.17 were modified: (1) To reflect organizational changes at the USIA, (2) to update minimum requirements for designating Teenage Exchange Visitor Program, and (3) to develop a due process procedure for revocation or suspension of designation of an Exchange Visitor Program. This notice responds to the comments by modifying the interim rule.

The comments were concerned with modifications to 22 CFR 514.13(b). The discussion follows the order of the subsections.

In the introductory paragraph of 22 CFR 514.13(b) the Teenager-Exchange Visitor Program is described as "an opportunity to spend six months to one year studying at a high school or other educational instutition." Youth For Understanding (YFU) points out that there are some non-academic programs which are shorter in duration. YFU's point is well taken. However, the Agency is concerned that programs not be allowed to become merely a vacation or tour. Before the Agency will allow a Sponsor to use J–1 visas for non-academic programs of short duration, the Agency must be assured that the integrity and the purpose of the exchange experience as envisioned by the Mutual Educational and Cultural Exchange Act of 1961, as amended (Pub. L. 87–256) (Fulbright Hays Act) will be furthered by such an exchange. Therefore, the regulation will be modified so that in certain limited circumstances some Sponsors will be able to be designated for such a program. However, Sponsors should be aware that issuance of IAP–66 forms is limited to programs for which the Sponsor is designated.

Section 514.13(b)(2) Selection of Student

One organization, Spanish Heritage, urges that the Agency lower the minimum age to 14. The Agency has no evidence that lowering the age would be desirable from an overall programatic perspective. Further, there is no evidence high school principals are anxious to accept 14 year olds into the high school exchange program nor that the high school would benefit from such expansion.

American Field Service (AFS) urges that the requirement that exchangees "have a sufficient command of the English language to enable them to function well in an English-speaking academic and community environment" be modified to require the support of the sponsoring organization where the students skills are lacking. This would allow less language proficient students to participate in exchange. The Agency cannot grant this request. Some organizations have placed students in schools where they were unable to function. In these cases, the quality of the program suffered greatly. The regulation requires that students have enough language skill to participate in the program. That is to say, the Agency is not requiring the student to have greater skill than necessary. However, reports from principals that the exchange student cannot participate in the school program cannot be tolerated and is an indication that the welfare of the program as a whole is threatened.

Section 514.13(b)(3) Orientation of Students and Host Families

Among other things, this section requires that host families acknowledge, in writing, receipt of the current regulations. AFS contends that it will be difficult to secure such an acknowledgment by separate mailing and suggests that the organization keep a record of having sent the regulations instead. The Agency's experience indicates that all involved parties must have a copy of the regulations, and that receipt must be assured. Sponsors may distribute the regulations with the application and require signature of receipt upon application. Sponsors may also send copies by registered or certified mail with return receipt requested. Alternatively, acceptance of the family by the organization and acceptance of the visiting student by the family may be appropriate time to secure the signature. In any of these cases response would be assured without additional mailings. The individual Sponsors should analyze their constituencies and determine the most efficient, economical, and likely way to obtain a response.

Section 514.13(b)(4) Health and Accident Insurance

By prior notice, the Agency proposed to increase the mimimum medical coverage from $2,000 to $15,000 per accident or injury. The Agency believes that $2,000 is inadequate coverage in serious cases. In fact, in serious cases, $15,000 may not be enough. By its comments, YFU urges the Agency to reconsider and require higher coverage. Spanish Heritage and Experiment in International Living (EIL) misinterpreted the new rule as requiring $5,000 coverage. Spanish Heritage supports $5,000 but says that too is inadequate. EIL contends that $2,500 is adequate. It has come to our attention that in the past year a number of students have been seriously injured in an automobile accident where cost of care was very high. In light of this information, the Agency would be remiss if it allowed less than $15,000 coverage.

Section 514.13(b)(5) Dispersion of Students

The Agency received no comments, in writing, regarding the requirement that a sponsor not "place more than four foreign students or more than two of the same nationality in a single school." This requirement is considered important because of a possible tendency for foreign students to congregate with each other rather than mix with the American students. Fewer foreign students in the school forces them to mix. Moreover, the Agency is concerned that the schools receive foreign students in such a manner that the exchange experience will enrich the host school and community, as well as the exchange student. Too many foreign students in one community may remove the "specialness" associated with the exchange student. Further, some communities or some schools may not be able to absorb great numbers of foreign students.

Since publication of the interim rule, the Agency has received some requests for exceptions to the rule. These requests have related to the necessity to remove a foreign student from his or her original placement.

Thus, there appears to be a need to modify the regulation. Accordingly, the regulation will be modified so that a sponsor may apply for an exception to the rule. The sponsor must explain adequately to the Agency:

(i) If a teenager is being moved from one school to another, why it is necessary to change the original placement, and why the proposed community is the *only* satisfactory placement for the teenager;

(ii) The number of students in the proposed school;

(iii) The number of foreign students in the proposed school and the country of each

(A) from all exchange programs, and

(B) from the sponsor's program;

(iv) The number of alien residents; and

(v) A letter from the principal, superintendent, or other official of the school district responsible for foreign students, explaining how an additional foreign student would enhance the experience and program of the school.

Should sufficient cause be shown to warrant that an exception be granted, in no case will more foreign exchange students be permitted in the school than constitutes one percent of the student body, further, no organization may occupy more than fifty percent of the places.

Section 514.13(b)(6) Acceptance of Students

The comments regarding this regulation, which requires an acceptance of the foreign exchange student by the school in writing, express the concern of a few sponsors that the requirement may place a possible burden on school administrators. However, no school administrators nor administrators' organizations objected. A standardized form can be provided to the school. Any extra burden entailed far outweighs the disadvantage of surprising a school with an "unwanted" or "extra" student. Accordingly, § 514.13(b)(6) will not be modified at this time.

Section 514.13(b)(7) Host Family Arrangements

Among other things, this section requires that the name and address of the host family be noted on the form IAP-66. Two organizations contend that in some countries it takes so long to issue visas as to make this requirement impractical. Upon inquiry, the State Department has assured us that when the applicant has all forms completed and in order the J-1 visa can be issued in less than a day. It is incumbent upon the sponsoring organizations to allot time in planning the exchange experience for delays in mailing. The Agency remains convinced that the families of the teenagers should know well before the teenager's leave the name and address of the host family. Furthermore, when a teenage exchange visitor applies for a visa, the applicant should know, with specificity, where he/she is going. This is especially true of the age group with which we are dealing. We have had reports of teenagers arriving in this country without a permanent placement. We are concerned that sponsors conduct a high quality program. Arrival in this country without an immediate placement into a permanent family postpones settlement, increases insecurity and uncertainty, and detracts from the quality of the program. Therefore, the requirement that the name and address of the host family appear on the form IAP-66 will not be modified.

Section 514.13(b)(8) Changes in Host Family Assignments.

This section requires that students be placed with one host family for the entire school year and that welcoming, receiving, or temporary families not be used. We have had reports that several organizations have brought more exchange students into the United States than they have host families available for placement. As a result, students are placed with "host" or "welcoming" families until such time as a permanent family can be found. This is unacceptable. Children must be placed with a permanent family prior to leaving the home country. Should a permanent family back out at the last minute—i.e. after the teenager has left home, the student could be placed in an "emergency" home. However, such emergencies are not expected to be commonplace and should be well documented. It is not advisable that the regulations be modified to accommodate rare emergencies. Rather, notification to the Agency on these occasions will suffice.

We received hundreds of letters from Rotary International members, and a letter from Iberoamerican Cultural Exchange Program (ICEP). These letters revealed that the involved organizations routinely place teenagers in more than one home. They contend that it is part of their program and beneficial to the students and the families. Only District 747 of the Rotary International Clubs has reference in its file to the use of more than one host family. None of the others specifies that more than one host family is to be used. There is nothing in the files to indicate that the organizations planned to place students with more than one family. The same is true of ICEP.

The Agency can understand that in some cases it may be beneficial for the designated program to include more than one host family. Such a program may not be haphazard but must be carefully planned. The regulation will be modified to insert the following sentence.

Where the program as designed includes a stay with more than one host family, a specific designation may be granted if the sponsor justifies such a designation in its application.

It is suggested that Rotary International and ICEP apply for a modification to their program designations.

The Agency received no comments regarding § 514.13(b) (9) and (10).

Section 514.13(b)(11) Financial Responsibility of Sponsor

This section requires that the sponsor purchase a round trip ticket prior to the entry of each student into the United States. YFU contends that this may cause financial problems for some organizations. AFS asserts that in some cases it is less expensive to purchase a one way ticket to bring the student here, and a second one way ticket after arrival.

The Agency must be assured that the sponsors have the financial ability to guarantee the student's return airfare. Further, the Agency cannot allow organizations to "use" the students' money for investment or other purposes. Consequently, the Agency would be required to monitor carefully the purchase of two one-way tickets. Such monitoring would be very burdensome for both the Agency and the involved organizations. Thus, the section will not be modified at this time.

Section 514.13(b)(12) Annual Reports of Sponsor and 514.13(b)(13) Control and Issuance of Forms IAP-66

All sponsors should note that issuance of forms IAP-66 is dependent upon the contents of the annual report.

Some citations in the Authorities Section were repeated and have been deleted, reference to the Mutual Educational and Cultural Exchange Act of 1961, as amended has been added.

List of Subjects in 22 CFR Part 514

Cultural exchange programs, Reporting and recordkeeping requirements.

PART 514—[AMENDED]

Accordingly the following modifications to Chapter V Part 514, are adopted on an interim basis:

1. The authority citation for Part 514 is revised to read as follows:

Authority: (Sec. 4, 63 Stat. 111; secs. 102, 109(a)(b)(d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(J), 104(a), 212(e), 66 Stat. 166, 174, 182, 184; sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2658, 2452); (8 U.S.C. 1101(a)(15)(J), 1104(a) 1182(e), 1258); Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27, 1978; the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97–241, Title III, August 24, 1982; Pub. L. 97–116, 75 Stat. 1611, 1612, 1613 (8 U.S.C. 1182(a)(15)(J)), Pub. L. 97–241, 96 Stat. 291 Pub. L. 87–256, 75 Stat. 527, as amended; Delegation Order No. 85–5, June 27, 1985, 50 FR 27393.

2. Section 514.13(b) introductory text, (b)(5) and (b)(8) are revised to read as follows:

§ 514.13 Sponsor obligations—Specific.

* * * * *

(b) *Teenager-Exchange Visitors.* The Teenager-Exchange-Visitor Program is designed to give teenage students from other countries an opporutnity to spend from six months to one year studying at a high school or other educational institution in the United States. Under this program a foreign student is placed by the Exchange-Visitor sponsor with a United States family which serves as the host family for the duration of the visit. The primary purpose of this program is to improve the foreign student's knowledge of American culture and language through active participation in family, school and community life. A secondary purpose is to improve American knowledge of a foreign culture. Where a proposed program satisfies the statutory purposes of the program, the Agency will consider designating a program of less than six months but not less than three months in duration. This sub-section sets forth the specific criteria and sponsor obligations applicable to the Teenager Exchange-Visitor Program.

* * * * *

(5) *Dispersion of Students.* Each sponsor shall make every effort to ensure that foreign students are widely dispersed throughout the United States. Unless the Sponsor obtains an exception, under no circumstances shall a sponsor place more than four foreign students or more than two of the same nationality in a single school. An exception will be granted by the Agency, exercising its discretion, upon consideration of information supplied by the Sponsor which includes:

(i) If a teenager is being moved from one school to another, why it is necessary to change the original placement, and why the proposed community is the *only* satisfactory placement for the teenager;

(ii) The number of students in the proposed school;

(iii) The number of foreign students in the proposed school and the country of each

(A) from all exchange programs, and

(B) from the sponsor's program;

(iv) The number of alien residents; and

(v) A letter from the principal, superintendent, or other official of the school district responsible for foreign students, explaining how an additional foreign student would enhance the experience and program of the school.

Should sufficient cause be shown to warrant that an exception be granted, in no case will more foreign exchange students be permitted in the school than constitutes one percent of the student body, further, no organization may occupy more than fifty percent of the places.

* * * * *

(8) *Changes in Host Family Assignments:* Placement arrangements shall be made with a single host family for the entire academic year or other authorized period of the Exchange Visitor student's visit. Where the program, as designed, includes a stay with more than one host family, a specific designation may be granted if the sponsor justifies such a designation in its application. A change in the host family assignment of a student may be made by the sponsor during such period when unforeseen events make a change necessary in the best interests of the student. "Welcoming families", "receiving families", arrival families", or "temporary families" shall not be used. Reports of any such changes and the reasons therefore shall be retained by the sponsor and upon request made available to the Agency for inspection and retention. No more than one teenage Exchange-Visitor shall be placed with any one host family at any one time without the prior written permission of the Agency.

* * * * *

Dated: July 5, 1985.

C. Normand Poirier,

Acting General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 85–18509 Filed 8–5–85; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8042]

Income Tax; Property Transferred in Connection With the Performance of Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the regulations relating to property transferred in connection with the performance of services. These regulations reflect the changes made to the applicable tax law by the Economic Recovery Tax Act of 1981, and revise certain provisions of the existing regulations. The regulations affect taxpayers performing services and taxpayers transferring property in connection with the performance of such services, and provide them with the guidance needed to comply with the law.

DATES: Effective August 6, 1985. The amendments to § 1.83–3(e) apply to property transferred after June 30, 1969. The rules added by paragraphs (j) and (k) of § 1.83–3 apply to property transferred after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Bruce Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, the Federal Register published proposed amendments (48 FR 52079) to the Income Tax Regulations (26 CFR Part 1) under section 83 of the Internal Revenue Code. These amendments were proposed to conform the regulations to section 252 of the Economic Recovery Tax Act of 1981 (95 Stat. 260, 26 U.S.C. 83(c)) and make certain corrective and clarifying changes to the existing regulations under section 83. Twelve written comments responding to this notice were received. No requests for a public hearing were received and accordingly none was held. After consideration of all written comments regarding the proposed amendments, all but one of those amendments are adopted as revised by this Treasury decision.

Public Comments

Period of Section 16(b) Restriction

Section 83(c)(3) states that property is nontransferable and subject to a substantial risk of forfeiture so long as the sale of such property at a profit could subject the seller to suit under section 16(b) of the Securities Exchange Act of 1934 ("the 1934 Act"). The proposed regulations under § 1.83–3(j) provided that for purposes of section 83 the section 16(b) restriction would be considered to have lapsed after its initial six-month period, notwithstanding any extension of such restriction under the rules of section 16(b) of the 1934 Act. Six comments suggested that for purposes of section 83 the section 16(b) restriction should not lapse after a single six-month period, but rather should continue so long as a suit is maintainable under section 16(b) of the 1934 Act. This suggestion was not adopted because the legislative history of section 83(c)(3) provides that stock subject to the section 16(b) restriction will be treated as being subject to a substantial risk of forfeiture and nontransferable for the six-month period during which that section applies.

Further, five comments were received requesting additional clarification relating to the following issues:

(1) The effect under section 83 of simultaneous restrictions (*i.e.*, performance restrictions in addition to a section 16(b) restriction);

(2) The effect of a section 83(b) election on the section 16(b) restriction;

(3) The effect under section 83 of the loss of insider status prior to the expiration of the six-month period;

(4) The day on which a section 16(b) restriction period ends (see *Colonial Realty Corp.* v. *McWilliams*, 381 F. Supp. 26 (S.D.N.Y. 1974)).

(5) The application of section 83 to purchases exempt under rule 16b–3 of the 1934 Act (17 CFR 240.16b–3); and

(6) The effect of a section 16(b) restriction on the determination of the readily ascertainable fair market value of a nonqualified stock option under § 1.83–7.

The final regulations respond to issues (1), (2), and (3) (see examples (1) and (2) of § 1.83–3(j)(2)) and issue (6) (see the last line in § 1.83–3(j)(1)). The final regulations do not provide any additional guidance with respect to issues (4) and (5) because these issues relate primarily to the application of section 16(b) of the 1934 Act and only incidentally to section 83.

Employer's Deduction Under § 1.83–6

The amendments to § 1.83–6 as proposed in the November 16, 1983, notice of proposed rulemaking are not adopted by this Treasury decision. Those amendments remain under study by the Service.

Special Analyses

Although a notice of proposed rulemaking soliciting public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations are not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The Treasury Department has determined that this final regulation is not a major rule under Executive Order 12291 or the Treasury and OMB implementation of the Order Dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required.

Drafting Information

The principal authors of these regulations are Bruce H. Jurist and Philip R. Bosco of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.61–1–1.281–4

Income taxes, taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

Accordingly, after careful consideration of all comments received, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in Part:

Authority: 26 U.S.C. 7805. * * *.

Par. 2. Section 1.83–3 is amended by revising paragraph (e) and adding new paragraphs (j) and (k). The amended section reads as follows:

§ 1.83–3 Meaning and use of certain terms.

* * * * *

(e) *Property.* For purposes of section 83 and the regulations thereunder, the term "property" includes real and personal property other than either money or an unfunded and unsecured promise to pay money or property in the future. The term also includes a beneficial interest in assets (including money) which are transferred or set aside from the claims of creditors of the transferor, for example, in a trust or escrow account. See, however, § 1.83–8(a) with respect to employee trusts and annuity plans subject to section 402(b) and section 403(c). In the case of a transfer of a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection, only the cash surrender value of the contract is considered to be property. Where rights in a contract providing life insurance protection are substantially nonvested, see § 1.83–1(a)(2) for rules relating to taxation of the cost of life insurance protection.

* * * * *

(j) *Sales which may give rise to suit under section 16(b) of the Securities Exchange Act of 1934*—(1) *In general.* For purposes of section 83 and the regulations thereunder if the sale of property at a profit within six months after the purchase of the property could subject a person to suit under section 16(b) of the Securities Exchange Act of 1934, the person's rights in the property are treated as subject to a substantial risk of forfeiture and as not transferable until the earlier of (i) the expiration of such six-month period, or (ii) the first day on which the sale of such property at a profit will not subject the person to suit under section 16(b) of the Securities Exchange Act of 1934. However, whether an option is "transferable by the optionee" for purposes of § 1.83–7(b)(2)(i) is determined without regard to section 83(c)(3) and this paragraph (j).

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

Example (1). On January 1, 1983, X corporation sells to P, a principal officer of X, in connection with P's performance of services, 100 shares of X corporation stock at $10 per share. At the time of the sale the fair market value of the X corporation stock is $100 per share. P, as a principal officer of X, is liable to suit under section 16(b) of the Securities Exchange Act of 1934 for recovery of any profit from any sale and purchase or purchase and sale of X corporation stock within a six-month period, but no other restrictions apply to the stock. Because the section 16(b) restriction is applicable to P, P's per share. P must include $24,000 (100 shares of X corporation stock × $240 ($250 fair market value per share less $10 price paid by P for each share)) in gross income as compensation on June 30, 1983. If, in this example, restrictions other than section 16(b) applied to the stock, such other restrictions (but not section 16(b)) would be taken into account in determining whether the stock is subject to a substantial risk of foreiture and is nontransferable for periods after June 29, 1983.

Example (2). Assume the same facts as in example (1) except that P is not an insider on

or after May 1, 1983, and the section 16(b) restriction does not apply beginning on that date. On May 1, 1983, P must include in gross income as compensation the difference between the fair market value of the stock on that date and the amount paid for the stock.

Example (3). Assume the same facts as in example (1) except that on June 1, 1983, X corporation sells to P an additional 100 shares of X corporation stock at $20 per share. At the time of the sale the fair market value of the X corporation stock is $150 per share. On June 30, 1983, P must include $24,000 in gross income as compensation with respect to the January 1, 1983 purchase. On November 30, 1983, the fair market value of X corporation stock is $200 per share. Accordingly, on that date P must include $18,000 (100 shares of X corporation stock × $180 ($200 fair market value per share less $20 price paid by P for each share)) in gross income as compensation with respect to the June 1, 1983 purchase.

(3) *Effective date.* This paragraph applies property transferred after December 31, 1981.

(k) *Special rule for certain accounting rules.* (1) For purposes of section 83 and the regualtions thereunder, property is subject to substantial risk of forfeiture and is not transferable so long as the property is subject to a restriction on transfer to comply with the "Pooling-of-Interests Accounting" rules set forth in Accounting Series Release Numbered 130 ((10/5/72) 37 FR 20937; 17 CFR 211.130) and Accounting Series Release Numbered 135 ((1/18/73) 38 FR 1734; 17 CFR 211.135).

(2) *Effective date.* This paragraph applies to property transferred after December 31, 1981.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: July 8, 1985.

Ronald A. Pearman,

Assistant Secretary of the Treasury.

[FR Doc. 85-18455 Filed 8-5-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD2 85-25]

Special Local Regulations; Great Ohio River Flatboat Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 756.0 to 804.0, OHIO RIVER. The "GREAT OHIO RIVER FLATBOAT RACE", an approved marine event, will be held on August 7 thru 10, 1985, at Henderson, Kentucky. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations will be effective from 8:00 a.m. on August 7, and terminate at 6:00 p.m. on August 10, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Ohio River between miles 756.0 and 804.0 during the "GREAT OHIO RIVER FLATBOAT RACE", August 7 thru 10, 1985. This event will consist of float and rowing races (circa 1820), which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was not received until May 20, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information: The drafters of this regulation are BMCM W.L. Giessman, USCGR, project officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG, project attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-0226.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 U.S.C. 108; 33 CFR 100.35; 49 CFR 1.46(b).

2. Section 100.35-0226 is added to read as follows:

§ 100.35-0226 Ohio River, mile 756.0 through 804.0.

(a) *Regulated Area.* The area between Mile 756.0 and 804.0 Ohio River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 8:00 a.m. and 6:00 p.m. on August 7, 8, 9, and 10, 1985. All times listed are local time. These times represent a guideline for possible river closures as this event proceeds down river. Mariners will be afforded time between such closure periods to transit the area.

(b) *Special Local Regulations.* The Coast Guard will maintain a patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "COAST GUARD PATROL COMMANDER". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

(c) The Patrol Commander may direct the anchoring, mooring or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel.

Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35-0226 will be effective from 8:00 a.m. on August 7, and terminate at 6:00 p.m. on August 10, 1985 (local time).

Dated: July 16, 1985.

B.F. Hollingsworth,

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

[FR Doc. 85-18498 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 74

Administration of Grants; Audits of State and Local Governments, Implementation of the Single Audit Act of 1984 and OMB Circular A-128

AGENCY: Department of Health and Human Service (HHS).

ACTION: Interim final rule with request for comments.

SUMMARY: These amendments to 45 CFR Part 74 implement for HHS the Single Audit Act of 1984 by requiring recipients that are governments to comply with Office of Management and Budget (OMB) Circular A-128. That circular provides Governmentwide standards for implementing the Act. The Act, Circular A-128, and these amendments replace Attachment P to OMB Circular A-102. Attachment P contained the previous Federal policy on non-Federal audits of governmental recipients of Federal grants.

DATES: Interim rule effective August 6, 1985; comments must be received by October 7, 1985.

ADDRESS: Comments on these amendments should be addressed to Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Room 513D, 200 Independence Avenue SW., Washington, D.C. 20201; HHS will share any comments received with other Federal agencies which are implementing the Single Audit Act of 1984 by similar actions.

FOR FURTHER INFORMATION CONTACT: John Strauch, (202) 245-0481 or 245-7565.

SUPPLEMENTARY INFORMATION: In § 74.62(a), 45 CFR Part 74 requires State, local, and Indian Tribal governments that receive HHS grants or cooperative agreements to comply with Attachment P to OMB Circular A-102. Attachment P required each recipient government to have itself periodically audited on an organization-wide basis by independent non-Federal auditors.

In October 1984, the Single Audit Act of 1984 was enacted. The Act continues the same basic policies as Attachment P, although it differs in some details.

The Act requires the Director, OMB, to prescribe policies, procedures and guidelines to implement the Act. OMB did that by issuing Circular A-128 "Audits of State and Local Governments."

OMB published a draft of Circular A-128 for public comment in the **Federal Register** at 49 FR 50134-50138, 12/26/84. After considering comments received, OMB issued the Circular in final form as of April 12, 1985. That version of the Circular was published in the **Federal Register** at 50 FR 19114-19119, 5/6/85. It superseded Attachment P to OMB Circular A-102.

The Act also requires Federal agencies such as HHS to issue whatever amendments are necessary to conform their regulations to the OMB implementation. These amendments to 45 CFR Part 74 carry out that statutory requirement.

The Single Audit Act and OMB Circular A-128 apply to recipient fiscal periods that begin on or after January 1, 1985. Under the Act, State, local, and Indian Tribal governments are divided into three categories, as follows:

1. Governments that receive $100,000 or more in total Federal financial assistance in one of its fiscal years must, for that year, comply with the audit requirements of the Act rather than any audit requirements of the particular programs from which their funds are derived.

2. Governments that receive $25,000 or more, but less than $100,000 in total Federal financial assistance in a fiscal year, may choose to have an audit made in accordance with either the Single Audit Act or the statute(s) and regulations governing the program(s) from which their funds are derived.

3. Governments which receive less than $25,000 in total Federal financial assistance in a fiscal year are exempt both from the Single Audit Act and from any audit requirements of the Federal programs from which their funds are derived.

For purposes of the foregoing, total Federal financial assistance includes not only Federal funds received directly from the Federal Government, but also Federal funds received as a subrecipient.

OMB Circular A-128 requires recipients to furnish copies of their audit reports to each Federal agency from which they receive financial assistance. To minimize the burden on HHS recipients, these amendments specify that copies for HHS are to be submitted only to the responsible HHS Regional Inspector General for Audit. These officials will distribute copies as appropriate within the Department.

Executive Order 12291

The Department has determined that this rule is not a major rule under Executive Order 12291. The major substantive difference from Attachment P to Circular A-102 is the exemption of small recipients (those receiving total awards of less than $25,000 a year). Therefore a net reduction in impact is expected.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant impact on a substantial number of small entities. Since audits of small organizations are not of substantial expense and since most entities receiving grants have audits performed for their own purposes, the elimination of coverage discussed above is unlikely to create a significant economic impact on small entities although, of course, the amount of audit work and paperwork will be decreased. Therefore, a regulatory flexibility analysis is not required by 5 U.S.C. 603.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), approval for the collection of information requirements in this regulation will be obtained by OMB.

Waiver of Notice of Proposed Rule Making

Notice of proposed rule making and delay of effective date have been found to be unnecessary in this matter and are hereby waived pursuant to 5 U.S.C. 553(b)(B). The reasons for this decision are as follows:

(1) The Single Audit Act of 1984 applies to recipient fiscal periods that begin on or after January 1, 1985. Delay in making these amendments effective

would have no bearing on the effective date of the Act.

(2) Public comments on implementing the Act have been sought and considered by OMB in developing Circular A–128.

List of Subjects in 45 CFR Part 74

Accounting, Administrative practice and procedures, Grant programs—health, Grant programs—social programs, Grants administration.

Accordingly, 45 CFR Part 74 is amended as set forth below.

Dated: June 27, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 74—[Amended]

1. The authority citation for Part 74 is revised to read as follows:

Authority: 5 U.S.C. 301; sec. 74.62(a) and Appendix J also issued under sec. 7505, Pub. L. 98–502, 98 Stat. 2333 (31 U.S.C. 7505).

2. In § 74.62, paragraph (a) is revised to read as follows:

§74.62 Non-Federal audits.

(a) *Governmental recipients*—(1) *Fiscal periods of recipients beginning before January 1, 1985.* Recipients that are governments shall comply with the requirements concerning non-Federal audits in OMB Circular A–102, including any amendments to those requirements published in the **Federal Register** by OMB.[1]

(2) *Fiscal periods of recipients beginning on or after January 1, 1985.* Recipients that are governments shall comply with OMB Circular A–128, including any amendments published in the **Federal Register** by OMB. The Circular is codified verbatim as Appendix J to this part.

(3) *Submission of audit reports.* All copies of audit reports that a recipient is required under OMB Circular A–128 to submit to HHS shall be addressed to the HHS Regional Inspector General for Audit responsible for the HHS region in which the recipient is located. The HHS Office of Inspector General will distribute copies as appropriate within the Department. Recipients therefore are not required to send their audit reports to any HHS officials, other than the responsible Regional Inspector General for Audit.

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Appendix I—[Reserved]

3. Appendix I is added and reserved.

4. Appendix J is added to read as follows:

Appendix J—OMB Circular A–128, "Audits of State and Local Governments"

Circular No. A–128

April 12, 1985.

To the Heads of Executive Departments and Establishments

Subject: Audits of State and Local Governments.

1. *Purpose.* This Circular is issued pursuant to the Single Audit Act of 1984, Pub. L. 98–502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

2. *Supersession.* The Circular supersedes Attachment P, "Audit Requirements," of Circular A–102, "Uniform requirements for grants to State and local governments."

3. *Background.* The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive $100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. It specifies that the Director shall designate "congnizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.

4. *Policy.* The Single Audit Act requires the following:

a. State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.

b. State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.

c. State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A–102, "Uniform requirements for grants to state or local governments."

5. *Definitions.* For the purposes of this Circular the following definitions from the Single Audit Act apply:

a. "Cognizant agency" means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.

b. "Federal finanical assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of States and local governments.

c. "Federal agency" has the same meaning as the term 'agency' in section 551(1) of Title 5, United States Code.

d. "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

e. "Generally accepted government auditing standards" means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions,* developed by the Comptroller General, dated February 27, 1981.

f. "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

g. "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

h. "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of government, and any other instrumentality of local government.

j. "Major Federal Assistance Program," as defined by Pub. L. 98–502, is described in the Attachment to this Circular.

k. "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

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[1] OMB Circulars A–102 and A–110 are available on request from the Office of Management and Budget, Publications Room, New Executive Office Building, Washington, D.C. 20503. Here is a summary of some of the main provisions concerning non-Federal audits in those two circulars:

(1) Each recipient must have itself audited by non-Federal auditors at least every two years.

(2) The recipient's auditors must meet certain standards of independence.

(3) The audit is to be performed on an organization-wide basis, with approrpiate sampling of grant-related transactions. Awarding parties may not impose grant-by-grant (or subgrant-by-subgrant) audit requirements.

l. "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has governmental functions and any Indian tribe.

m. "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

6. *Scope of audit.* The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

d. The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. *Frequency of audit.* Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

8. *Internal control and compliance reviews.* The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

a. *Internal control review.* In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the receipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. *Compliance review.* The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

—The amounts reported as expenditures were for allowable services, and

—The records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

—Matching requirements, levels of effort and earmarking limitations were met,

—Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

—Amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of Circular A-102, "Uniform requirements for grants to State and local governments."

(c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

9. *Subrecipients.* State or local governments that receive Federal financial assistance and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

a. Determine whether State or local subrecipients have met the audit requirements of this Circular and whether subrecipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

b. Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

10. *Relation to other audit requirements.* The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to

make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisons of this Circular do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. *Cognizant agency responsiblities.* The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. *Illegal acts or irregularities.* If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (see also paragraph 13(a)(3) below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. *Audit Reports.* Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance.* Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

—A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

—Negative assurance on those items not tested;

—A summary of all instances of noncompliance; and

—An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

b. The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

g. Recipients of more than $100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

14. *Audit Resolution.* As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. *Audit workpapers and reports.* Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

16. *Audit Costs.* The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, "Cost principles for State and local governments."

b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate

documentation demonstrates higher actual cost.

17. *Sanctions.* The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

—Withholding a percentage of assistance payments until the audit is completed satisfactorily,
—Withholding or disallowing overhead costs, and
—Suspending the Federal assistance agreement until the audit is made.

18. *Auditor Selection.* In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of Circular A-102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. *Small and Minority Audit Firms.* Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontrating opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

20. *Reporting.* Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with Circular.

21. *Regulations.* Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. *Effective date.* This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A-102 shall continue to be observed.

23. *Inquiries.* All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395-3993.

24. *Sunset review date.* This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman,

Director.

Circular A-128 Attachment

Definition of Major Program as Provided in Pub. L. 98-502

"Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between $100,000 and $100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of $300,000, or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed $100,000,000, the following criteria apply:

Total expenditures of Federal financial assistance for all programs		Major Federal assistance program means any program that exceeds
More than	But less than	
$100 million	1 billion	$3 million
1 billion	2 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
Over 7 billion		20 million

[FR Doc. 85-18542 Filed 8-5-85; 8:45 am]

BILLING CODE 4150-04-M

Office of Child Support Enforcement

45 CFR Parts 301, 302, 303, 304 and 307

Child Support Enforcement Program; Implementation of Child Support Enforcement Amendments of 1984

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

ACTION: Final rule; corrections.

SUMMARY: This document makes several corrections to the Child Support Enforcement program final regulations that appeared in the **Federal Register** on May 9, 1985 (50 FR 19608). These corrections are in addition to those published in the **Federal Register** on June 7, 1985 (50 FR 23958).

In addition to the corrections to the regulatory language, there were two errors in the amendatory language. The amendatory language on page 19648, second column, at E. should have read "By revising § 302.51 (a) and (e)". In addition, on page 19657, second column, in the amendatory language at 3.A., first line, "§ 307.16" should have read "§ 307.10".

FOR FURTHER INFORMATION CONTACT: Gail Blatt, (301) 443-5350.

Accordingly, OCSE, HHS, is correcting FR doc. 85-11021, 45 CFR Parts 301 through 304 and 307 to read as follows:

§ 301.1 [Corrected]

1. On page 19647, second column, § 301.1, in the definition of "overdue support", tenth line, insert the word "but" after the comma.

§ 302.5 [Corrected]

2. On page 19648, third column, in § 302.51, paragraph "(c)" should be designated paragraph "(e)".

3. On the same page, third column, in § 302.51(e)(3), eighth line, "represents" should read "represent".

§ 302.52 [Corrected]

4. On page 19649, second column, in § 302.52(b)(5), ninth line, "sections" should read "section".

5. On page 19651, first column, in § 303.52(a), in the definition of "Total IV-D administrative costs", third line, "state" should read "State".

6. On the same page, first column, in § 303.52(b)(1) twelfth through fourteenth lines, delete the words "and the State's non-AFDC collections to the State total administrative costs".

7. On the same page, second column, in § 303.52(b)(4)(ii), third line, delete the words "and parents residing".

§ 303.72 [Corrected]

8. On page 19652, first column, in § 303.72(a)(5), fifth line, substitute a period for the comma.

9. On the same page, first column, in § 303.72(b)(2) introductory text, third line, substitute a colon for the semi-colon.

9a. On the same page, third column, in the title of § 303.72(f), second line, *"interstate"* should read *"intrastate"*.

10. On the same page, third column, in § 303.72(f)(2), last line, substitute a period for the comma.

§ 303.100 [Corrected]

11. On page 19654, second column, in § 303.100(c)(3), last line, substitute a semi-colon followed by the word "and" for the period.

12. On the same page, third column, in § 303.100(e)(2), the second sentence which reads in part "The State must reduce . . ." is designated as a new paragraph (e)(3).

13. On page 19655, first column, in § 303.100(g)(5)(iii), last line, substitute a semi-colon followed by the word "and" for the period.

§ 303.102 [corrected]

14. On page 19655, third column, in § 303.102(a)(1), third line, "act" should read "Act".

15. On page19656, first column, in § 303.102(g)(1)(i), second line, "(2) or" should read "(ii)".

16. On the same page, same column, in § 303.102(g)(1), ninth line, add "and" following the semi-colon.

17. On the same page, same column, in § 303.102(g)(1)(iii), last three lines, delete the words "and must credit amounts offset on individual IV–D payment records".

18. On the same page, same column, in § 303.102(h), sixth line, "state" should read "State".

§ 303.105 [corrected]

19. On the same page, second column, in § 303.105(c), third line, the first "of" should read "to".

§ 304.95 [corrected]

20. On page 19657, first column, in § 304.95(f), first line, "state" should read "State".

§ 307.30 [corrected]

21. On the same page, third column, in § 307.30(b), the title should be italicized.

22. On page 19658, second column, add 5 asterisks after the first paragraph.

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

Approved: July 29, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-18589 Filed 8-5-85; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 84-27]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Co-Loading Practices by NVOCCs

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: On May 8, 1985, the Commission deferred the effective date of its Final Rule until August 13, 1985, in order to consider comments of certain Non-Vessel Operating Common Carriers (NVOCCs). The Commission has decided to implement the Final Rule without any substantive change. However, the language of the Rule is modified to clarify that all NVOCCs are required to comply with these requirements whatever the type of co-loading relationship that exists between the participating parties. The Rule has also been modified to clarify that the name of any NVOCC with which a shipment has been co-loaded shall be shown on the face of the bill of lading in a clear and legible manner.

EFFECTIVE DATE: September 5, 1985.

FOR FURTHER INFORMATION CONTACT:

Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5796

John Robert Ewers, Director, Office of Regulatory Overview, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523–5827

SUPPLEMENTARY INFORMATION: The Final Rule governing co-loading practices of Non-Vessel-Operating Common Carriers (NVOCCs), originally scheduled to become effective on May 15, 1985 (Federal Register Notice 50–14704, April 15, 1985), was deferred until August 13, 1985, due to an uncertainty as to its application expressed by segments of the NVOCC industry. Questions were raised both with respect to the intended application of the Rule as it involves the co-loading of cargo under a carrier-to-carrier agreement and the documentation requirements.

The application of the Rule was alleged to be unclear in a situation where: (1) Two or more NVOCCs co-load pursuant to the terms of a carrier-to-carrier agreement, and (2) the NVOCC with which the cargo is co-loaded does not issue a bill of lading or assume the liability and responsibility for the cargo as is customary in a shipper-carrier arrangement. The Commission believes that the Rule is clear as to its application in the described circumstances. However, to avoid any further possible misunderstanding, modifications of a non-substantive nature have been made to the Final Rule. In the interest of clarity, the Rule has also been reorganized.

"Co-loading", which is defined in 46 CFR 580.5(d)(14)(i) as "the combining of cargo, in the import or export foreign commerce of the United States, by two or more NVOCCs for tendering to an ocean carrier under the name of one or more NVOCCs", recognizes no exception for co-loading performed pursuant to an agreement between or among NVOCC's. Where a carrier-to-carrier agreement exists, the Rule would require the NVOCC which receives the cargo from the shipper to issue the shipper a bill of lading annotating thereon, for shipper informational purposes, the name of the NVOCC to which the cargo has been tendered (46 CFR 580.5(d)(14)(iii)). The publishing NVOCC's tariff need only relate that co-loading is performed subject to a carrier-to-carrier agreement (section 580.5(d)(14)(ii)(B)).

In response to inquiries received with respect to application of the documentation requirements, the Commission has revised § 580.5(d)(4)(iii) of its Final Rule as previously published, to clarify that this requirement is applicable to any NVOCC which co-loads under either a shipper-to-carrier or a carrier-to-carrier arrangement and to require additionally that the annotation revealing the name of any NVOCC with which cargo has been co-loaded be shown on the face of the bill of lading in a clear and legible manner. This clarification should satisfy those concerned with the manner in which the annotation is to be revealed on the bill of lading. It will also affirm that the annotation requirement is intended to apply in situations where the co-loading involves either a shipper-to-carrier or carrier-to-carrier relationship.

The Commission has determined that this Final Rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(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, innovations, or on the ability of United States-based

enterprises to compete with Foreign-based enterprises in domestic or export markets.

Collection of Information requirements contained in this regulation have been approved by the Office of Management and Budget under provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned control number 3072.0046.

List of Subjects in 46 CFR Part 580

Cargo, Cargo vessels, Exports, Harbors, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

PART 580—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 8 and 17 of the Shipping Act of 1984 [46 U.S.C. app. 1707 and 1716] the Federal Maritime Commission is amending Title 46 CFR Part 580 as follows:

1. The authority citation to Part 580 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707, 1709, 1712, 1714–1716 and 1718.

2. Section 580.5 is amended by adding paragraph (d)(14) to read as follows:

§ 580.5 Tariff contents.

* * * * *

(d) * * *

(14) *Special Rules and Regulations applicable to co-loading activities of Non-Vessel-Operating Common Carriers (NVOCCs).*

(i) *Definition.* For the purpose of this section, "Co-loading" means the combining of cargo, in the import or export foreign commerce of the United States, by two or more NVOCCs for tendering to an ocean carrier under the name of one or more of the NVOCCs.

(ii) *Filing Requirements.* All tariffs filed by an NVOCC shall contain a rule describing its co-loading activities as follows:

(A) If an NVOCC does not tender cargo for co-loading, its tariff(s) shall so indicate.

(B) If two or more NVOCCs enter into an agreement which establishes a carrier-to-carrier relationship for the co-loading of cargo, then the existence of such agreement must be noted in each of the NVOCC's tariffs.

(C) If two NVOCCs enter into a co-loading arrangement which results in a shipper-to-carrier relationship, the tendering NVOCC shall describe in its tariff its co-loading practices and specify its responsibility to pay any charges for the transportation of the cargo. A shipper-to-carrier relationship shall be presumed to exist where the receiving NVOCC issues a bill of lading to the tendering NVOCC for carriage of the co-loaded cargo.

(iii) *Documentation Requirements.* NVOCCs which tender cargo to another NVOCC for co-loading whether under a shipper-to-carrier or carrier-to-carrier relationship shall annotate each applicable bill of lading with the identity of any other NVOCC to which the shipment has been tendered for co-loading. Such annotation shall be shown on the face of the bill of lading in a clear and legible manner.

(iv) *Co-Loading Rates.* No NVOCC shall offer special co-loading rates for the exclusive use of other NVOCCs. If cargo is accepted by an NVOCC from another NVOCC which tenders that cargo in the capacity of a shipper, it must be rated and carrier under tariff provisions which are available to all shippers.

* * * * *

3. Section 580.91 is amended by adding the following entry numerically to the Table at the end thereof:

§ 580.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

580.5(d)(14)	3072–0046

* * * * *

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–18512 Filed 8–5–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–231; RM–4905; RM–4906; FCC 85–385]

Implementation of BC Docket No. 80–90 to Increase the Availability of FM Broadcast Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action allots Channel 300A to East Ridge, Tennessee as its first local service in response to a request from Louis Todd. Conflicting requests to allot Channel 300 to South Pittsburg, Tennessee; Jasper, Tennessee or Calhoun, Georgia have been denied. Several other counterproposals concerning four sets of communities are held in abeyance and will be considered at a later date.

EFFECTIVE DATE: September 6, 1985.

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

FOR FURTHER INFORMATION CONTACT: Mark Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Third Report and Order

In the matter of implementation of BC Docket 80–90 to increase the availability of FM broadcast assignments; FCC 85–385, MM Docket 84–231, RM–4905, RM–4906.

Adopted: July 23, 1985.

Released: July 31, 1985.

By the Commission.

1. The Commission has before it the *Further Notice of Proposed Rule Making*, 50 FR 2835, published January 22, 1985, which proposed to make new FM allotments to various communities in response to five counterproposals filed in this proceeding.[1] On the same date, the Commission published the *First Report and Order* in this proceeding, 50 FR 3514, allotting new FM channels to 689 communities.[2]

[1] The five counterproposals involved the following sets of communities:

	Present	Proposed
(1) Corbin, Kentucky	257A, 296A	257A, 297C2
Jellico, Tennessee		294A
(2) Jacksonville, North Carolina	221A, 288A	221A, 254C1 or 254A, 288A
Kinston, North Carolina	236, 249A	236, 249A, 254A
(3) Calhoun, Georgia		300A
East Ridge, Tennessee		300A
Jasper, Tennessee		300A
South Pittsburg, Tennessee		300C2 or 300A
(4) Vergennes, Vermont	292A	294C2
(5) LaCrosse, Wisconsin	227, 240A, 285A	227, 239C2, 285A

[2] In the *Second Report and Order*, 50 FR 15558, published April 19, 1985, the Commission considered the matter of (1) special treatment for daytime-only AM licensees which apply for FM channels in the same community; (2) a random selection system for making the 689 allotments available for application; and (3) lifting the restrictions on filing petitions for new allotments.

2. The *First Report and Order, supra* set forth six priority factors for comparing counterproposals with the original 684 proposed communities. The six categories of service and the assigned numerical weights are as follows:

(1) First aural services–4.
(2) Second aural service–3.
(3) First local service–3.
(4) First fulltime local service–2.
(5) Minority service–2.
(6) Public radio service–2.

3. We are now in a position to resolve one of the five counterproposals, that of South Pittsburg, Tennessee. The remaining proposals will be considered in a separate decision. The counterproposal of Marion County Broadcasting Service, Inc. ("Marion County Broadcasting"), licensee of daytime only AM Station WEPG, South Pittsburg, Tennessee, requested the allotment of Channel 300C2 or in the alternative 300A, to South Pittsburg, Tennessee as a first fulltime local service. This proposal conflicts with the Commission's proposal to allot Channel 300A to Calhoun, Georgia as a first fulltime local service and to counterproposals for Channel 300A at Jasper or at East Ridge, Tennessee as a first local service to either community. The following parties submitted comments in response to the *Further Notice:* Marion County Broadcasting, Booker T. Washington Service, Inc. ("BTW"), licensee of Station WENN–FM, Birmingham, Alabama; Cherokee Broadcasting Company, licensee of daytime only AM Station WJTH, Calhoun, Georgia; Dr. Leon Gresham proponent for Calhoun and Louis Todd, proponent for East Ridge. Reply Comments were filed by Marion County Broadcasting, BTW, and by Eaton Govan, III.

4. In its comments Marion County Broadcasting submitted an alternate three of the four communities.[3] It alleges that the South Pittsburg proposal would permit service to an underserved area of approximately 4,878 persons currently receiving only one aural nighttime service.

5. BTW opposes the allotment of a Class C2 channel to South Pittsburg stating that its application for a transmitter site relocation would be foreclosed thereby. BTW relates that the need for the site change is based on air hazard concerns. On May 30, 1984, BTW filed an application to improve its station's facilities through a relocation of the transmitter site and an increase in the antenna height above average terrain. In response to concerns raised thereafter by the Federal Aviation Administration, this proposal was amended to specify operation from a new location which would be acceptable to the FAA. This proposal was accepted for filing on December 7, 1984.[4] BTW has no objection to the allocation of a Class A channel at any of the communities under consideration.

6. Todd comments that it supports the allotment of Channel 300A to East Ridge which is without local broadcast service, compared to Calhoun, a smaller community with two AM stations. Todd alleges that Channel 300C2 may be allotted to East Ridge from the same general area identified for South Pittsburg. Todd refers to the Commission's allotment criteria and the numerical weights assigned thereto, which, in his opinion, favor the allotment of Channel 300 to East Ridge.

7. The choice to be made among the four communities rests on allotment priorities for the established criteria as outlined earlier. As for Marion County Broadcasting's claim of first and second nighttime aural service, our engineering analysis shows that the area in question already receives at least two fulltime services.[5] Thus the proposal would not cover any underserved area. In comparing the needs of each community we find the Calhoun, Georgia, has two daytime only AM stations (WEBS and WJTH); and South Pittsburg, Tennessee, has one daytime only AM Station (WEPG). East Ridge and Jasper Tennessee, are both without local service which represents the highest priority factor. None of the other enumerated criteria are applicable. Thus, we consider it appropriate to allot the channel to East Ridge (population 21,236) which is a significantly larger community than Jasper (population 2,633). Accordingly we shall allot Channel 300A to East Ridge, Tennessee.[6]

8. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, it is ordered, That effective September 6, 1985, the Table of FM Allotments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
East Ridge, Tennessee	300A

9. The window period for filing applications will be announced at a future date in accordance with the random selection list (See Public Notice of May 8, 1985). Channel 300 is listed as No. 23 on the *Notice*.

10. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–18636 Filed 8–5–85; 8:45 am]

BILLING CODE 6712–01–M

[3] The plan would allot Channel 300C2 to South Pittsburg, Channel 270A to East Ridge with a 6.8 mile east site restriction and Channel 298A to Calhoun, Georgia. However a Channel 270A allotment at East Ridge would be short spaced to: (1) Station WCHU–FM (Channel 272A), Soddy-Daisey, Tenn.; (2) the ten mile buffer zone for Station WDRM(FM) (Channel 271), Decatur, Alabama; (3) and Station WVSV (Channel 269A), Stevenson, Alabama. A Channel 298A allotment at Calhoun would not provide the full ten mile buffer zone protection for Station WYHY(FM), Lebanon, Tennessee.

[4] The Commission first became aware of measurements which detected FM interference to aircraft using the Birmingham Airport as early as 1978. See *Interference in Communications and Navigation Avionics from Commercial FM Stations*, U.S. Department of Transportation, Federal Aviation Administration, Report No. FAA–RD–78–35, July 1978. The present site relocation application is a culmination of attempts to help alleviate long standing aircraft interference problems at the Birmingham airport.

[5] Fulltime service is provided by Station WDEF(FM), Chattanooga, Tennessee, and Station WSB(AM), Atlanta, Georgia.

[6] The allotment of a Class A to East Ridge will enable Station WENN–FM, Birmingham, Alabama to move its transmitter site to a location that satisfies the air hazard concerns expressed by the FAA.

Proposed Rules

Federal Register
Vol. 50, No. 151
Tuesday, August 6, 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 Parts 907 and 908

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Proposed Selection Criteria for Committee Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets the criteria the Secretary will apply in selecting grower and handler members to serve on the Navel Orange Administrative Committee (NOAC) and the Valencia Orange Administrative Committee (VOAC). The proposal clarifies what constitutes a cooperative marketing organization that would qualify to have membership representation on the committees under these orders and the eligibility of individuals to serve on the committee.

DATE: Comments on the proposed rule are due by August 21, 1985.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretay's Memorandum 152–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a signficiant economic impact on a substantial number of small entities.

This proposed rule would be issued under Marketing Orders 907 and 908, as amended (7 CFR Parts 907 and 908 (50 FR 1429)), regulating the handling of navel and Valencia oranges, respectively, grown in Arizona and designated parts of California. The marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended. The proposed rule is based in part on the March 19, 1985, request of NOAC and VOAC that a definition be established for the type of cooperative organization which would qualify to have membership representation on the committee. It is hereby found that this action will tend to effectuate the declared policy of the act.

Pursuant to §§ 907.23 and 908.23, the Secretary selects persons to serve as members, alternates and additional alternates on the NOAC and VOAC. Such persons are nominated under §§ 907.22 and 908.22.

Four grower members and three handler members (and their alternates and additional alternates) are selected to represent cooperative marketing organizations and two grower members and one handler member (and their alternates and additional alternates) are selected to represent independent and other marketing organizations (independents). However, there are cooperatives which do not sell or otherwise handle their members' oranges.

The proposed rule is issued for the purpose of clarifying the criteria which the Secretary will use in selecting committee members. The proposed rule also defines "cooperative marketing organization" for such purpose.

It is intended that the independent grower and handler membership category represent the independent point of view, not the cooperative viewpoint. Therefore, only growers who are not members of a cooperative marketing organization, as defined in § 907.123(a) and § 908.123(a), and are not members of a Capper-Volstead cooperative, which is in any way involved in the marketing or handling of citrus or citrus products, would be eligible to serve on the committees as representatives of independent growers. Growers who are not members of a cooperative marketing organization could vote for nominees for independent candidates.

Handlers who market oranges for cooperative marketing organizations or Capper-Volstead cooperatives, but are not members or principals of such cooperative marketing organizations or cooperatives involved in the handling or marketing of citrus or citrus products, would be considered to be independent. They would be eligible to be nominated and serve as representatives of independent handlers.

A 15-day comment period is considered to be adequate because (1) the proposed rule would establish the selection criteria used by the Secretary and contains no requirements on handlers; and (2) nominations for those positions on the committee should begin shortly because they have been delayed since last fall.

List of Subjects in 7 CFR Parts 907 and 908

California, Arizona, Oranges (navel), Oranges (Valencia).

The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

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

The proposals are to add new §§ 907.123 and 908.123 as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 907.123 Selection criteria.

(a) For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers that:

(i) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292);

(ii) has its entire organization and all of its activities under the control of its members, i.e., producers; and

(iii) has authority and is engaged in making collective sales of citrus or citrus products, including oranges, or otherwise performs handling functions as defined in § 907.10 for the producers hereof.

(b) Pursuant to § 907.23 the Secretary shall select committee members, and their respective alternates and additional alternates, as follows:

(i) Three grower members who shall be affiliated with the cooperative marketing organization which handled more than 50 percent of the total volume of oranges during the fiscal year in which nominations are made, and two handler members to represent such an organization;

(ii) one grower member who shall be affiliated with any of the other cooperative marketing organizations which handled oranges, and one handler member to represent such organizations; and

(iii) two grower members not affiliated with any cooperative marketing organziation, or any Capper-Volstead cooperative organization which is in any way involved in the handling or marketing of citrus or citrus products, and one handler member who is not a member or principal of any cooperative marketing organization or other Capper-Volstead cooperative involved in the handling or marketing of citrus or citrus products to represent all handlers which are not cooperative marketing organizations.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 908.123 Selection criteria.

(a) For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers that:

(i) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292);

(ii) has its entire organization and all of its activities under the control of its members, i.e., producers; and

(iii) has authority and is engaged in making collective sales of citrus or citrus products, including oranges, or otherwise performs handling functions as defined in § 908.11 for the producers thereof.

(b) Pursuant to § 908.23 the Secretary shall select committee members, and their respective alternates and additional alternates, as follows:

(i) three grower members who shall be affiliated with the cooperative marketing organization which handled more than 50 percent of the total volume of oranges during the marketing year in which nominations are made, and two handler members to represent such an organization;

(ii) one grower member who shall be affiliated with any of the other cooperative marketing organizations which handled oranges, and one handler member to represent such organizations; and

(iii) two grower members not affiliated with any cooperative marketing organization, or any Capper-Volstead cooperative organization which is in any way involved in the handling or marketing of citrus or citrus products, and one handler member who is not a member or principal of any cooperative marketing organization or other Capper-Volstead cooperative involved in the handling or marketing of citrus or citrus products to represent all handlers which are not cooperative marketing organizations.

Dated: August 1, 1985.

Thomas R. Clark,

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

[FR Doc. 85-18662 Filed 8-5-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-85-7]

Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before October 18, 1985.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 31, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
24397	AFA/Joint Counsel of Flight Attendant Unions.	*Description of Petition:* The Joint Counsel of Flight Attendant Unions (JCFAU) seeks to establish maximum duty time limits and minimum hours of rest for flight attendants. These rules are necessary to protect flight attendant health, to assure and enhance safety in air commerce, to eliminate discrimination and to provide fair labor standards for this class of workers. The petitioners propose that air carriers be required to limit periods of work to a maximum of 14 scheduled duty hours (flag) and 13 scheduled duty hours (domestic) with reductions in scheduled duty limits under specified conditions. An extension of duty time is allowable for long range non-stop flights. The petition would limit a flight attendant's monthly and yearly cumulative duty hours to maximums of 200 and 2,000 hours, respectively. The petition proposes that air carriers be required to provide the following rest provisions for flight attendants: 10 hours release-to-report at the domestic layover point; 14 hours release-to-report at a flag layover point; and 12 hours release-to-report at domicile (both flag and domestic). Additional rest requirements are specified for long range non-stop flights. Air carriers would be required to provide a flight attendant at least 8 24-consecutive-hour periods at domicile (domestic) or 10 24-consecutive-hour periods at domicile (flag) during each calendar month. Additionally, each flight attendant shall be provided at least 1 24-consecutive-hour period free from all duty during any 7 consecutive calendar days. *Regulations Affected:* 14 CFR §§ 121.470, 121.471, 121.480, 121.481, 121.483, 121.485, 121.487, 121.489, 121.491, 121.500, 121.503, 121.505, 121.507, 121.509, 121.513, 121.515, 121.517, 121.519, 121.521, 121.523, 121.525, and 135.261.

Note.—This petition was previously published with an Association of Flight Attendants petition. The comment period for this petition is being extended to October 18, 1985, and the summary provided by Joint Counsel published in accordance with their request.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
23751	Bell Helicopter Textron Inc	*Description of Petition:* To amend registration marks requirements as follows. (1). FAR 45.27(a) be amended to read ". . . horizontally on both side surfaces (tailboom) the marks . . ." (2). FAR 45.29(b)(3) be amended to read ". . . must be at least six inches high. . . ." (3). FAR 45.29(f) be amended to read "If the surface authorized for displaying required marks under 45.25 is not large enough for displaying the required marks under 45.25, then marks as large as practicable shall be displayed." *Regulations Affected:* 14 CFR 45.27(a), 45.29(b)(3), and 45.29(f). Denied July 16, 1985.
22773	T.W. Smith Engine Co	*Description of Petition:* To delete § 91.175 which allows aircraft engine manufactures to designate their overhauled engines as being "zero time engines." Regulation Affected: 4 CFR Part 91 Denied July 12, 1985

[FR Doc. 85-18555 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 25

[Docket No. 23690; Ref. Notice 83-8]

Flight After Structural Failure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: This notice withdraws Advance Notice 83-8, published in the Federal Register on July 11, 1983, 48 FR 31842. The advance notice considered the need to amend the airworthiness standards for transport category airplanes by including a requirement that an airplane be capable of continued safe flight and landing after failure of any single, principal structural element and/or obvious partial failure of a large external skin. The objective of the proposal was to consider the development of an airworthiness standard for designing transport category airplanes not only for the secondary effects of single element failures but also to provide adequate residual strength for otherwise noncatastrophic, complete failures of primary structure. Notice 83-8 is being withdrawn because the record fails to support the need for further rulemaking action on this subject.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch, ANM-112, Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2112.

SUPPLEMENTARY INFORMATION:

Background

In December 1979, following the DC-10 engine pylon failure in Chicago, the National Research Council of the National Academy of Sciences was requested by the Secretary of Transportation to form a committee to assess certain procedures and practices used by the FAA to assure the airworthiness of commercial passenger airplanes. The Committee, which became known as the Low Committee, included distinguished members of the aviation community with special knowlege of airplane design and FAA certification procedures. During the Committee's subsequent investigation, attention was focused on airplane airworthiness with emphasis on FAA approval of the design, fabrication, and production of large passenger airplanes and the maintenance and continuing airworthiness of such airplanes after being placed in commercial service.

The results of the Committee's investigation was published in June 1980 in a report entitled, "Improving Aircraft Safety." One of the recommendations contained in the report is that the FAA develop a rule requiring assurance that an airplane be designed to continue to fly after structural failure, unless that failure itself prevents the airplane from flying. In reponse to this recommendation, the FAA published Advance Notice No. 83-8 [48 FR 31842; July 11, 1983] which proposed specific changes to Part 25 of the Federal Aviation Regulations (FAR) and also invited interested persons to submit specific comments, suggestions, and recommendations to assist the FAA in determining the future course of action regarding this rulemaking activity.

Discussion of Comments

In response to the advance notice, comments were received from organizations and individuals representing widely varied interests. The twenty commenters that responded included domestic and foreign aircraft manufacturers and trade organizations representing such manufacturers, domestic and foreign airline trade organizations, an organization representing professional pilots, a consumer advocate organization, other U.S. government agencies, and foreign airworthiness authorities, as well as individuals, including a former member of the Low Committee.

The majority of commenters oppose adoption of the proposed rulemaking. Although the reasons given for such opposition vary, most commenters believe that the proposal, if adopted, would result in heavier, more costly airplane structure with no commensurate increase in the level of safety. Many commenters believe that the proposal would dictate the use of fail-safe design and thereby negate the benefits of the damage-tolerant design concept which was incorporated in § 25.571 of the FAR in 1980. Reversion to a fail-safe design was described by commenters as being undesirable in that such a design would be more complex, fatigue prone and difficult to inspect, and less safe and economical than a damage tolerance approach.

Another common criticism is that the proposal appears to set forth a complete structural design philosophy, rather than to emphasize the consequences of structural failures on airplane systems. Commenters, including a former member of the Low Committee, assert that the secondary effect of such failures on systems was the true concern of the Committee's recommendation. There was also an opinion generally held among the commenters that the essence of the Low Committee's recommendation could be met under existing Part 25 standards.

Three commenters support the proposal; however, their comments appear to have been based on an assumption that there would be a substantial increase in the level of safety rather than on a studied determination that there would, in fact, be such an increase.

Reasons for the Withdrawal

Based on the information and comments received in response to Advance Notice No. 83-8, the FAA has

determined that there is not adequate justification for further rulemaking. Based on the record of this proceeding and the requirements of Executive Order 12291 [46 FR 13193; February 19, 1981], the rulemaking should be terminated.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the advance notice or proposed rulemaking now pending. Therefore, Advance Notice 83–8 [48 FR 31842; July 11, 1983] is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject.

[Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)]

Issued in Seattle, Washington, on June 7, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–18552 Filed 8–5–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 84N–0101]

New Drug and Antibiotic Application Review; Proposed User Charge

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations governing the approval for marketing of new drugs and antibiotic drugs for human use by initiating a program that would impose charges to recover the cost of reviewing new drug and antibiotic applications for marketing and certain supplemental applications. In this effort, persons seeking FDA's approval to market a new drug or an antibiotic drug would be assessed a charge for the review of each new drug application, abbreviated new drug application, and antibiotic marketing application. A charge would also be assessed for the review of supplemental applications that propose certain labeling changes.

DATES: Comments by September 5, 1985. Proposed effective date: October 1, 1985, or 30 days after any final rule published after September 1, 1985. See Supplementary Information for additional information regarding this effective date.

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

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drugs and Biologics (HFN–360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20847, 301–443–3640.

SUPPLEMENTARY INFORMATION: Part 314 (21 CFR Part 314) sets forth the regulations governing the approval for marketing of new drugs. In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA published a final rule revising these regulations, as part of a broader agency plan to improve the new drug approval process.

FDA is proposing to revise further Part 314 to initiate a program that would impose a user charge upon a person (the applicant) who seeks FDA's approval for marketing a new drug or antibiotic drug for human use and who seeks FDA's approval to make certain changes in the labeling of an approved new drug or antibiotic drug. Such charges are both appropriate under current law and warranted by the fact that the applicant derives specific benefits from FDA approval. Further, the growing Federal deficit makes the implementation of such charges now advisable, and is in keeping with the Administration's objectives of assessing such charges in instances when they are appropriate.

Statutory Authority for User Charge

Under Title V of the Independent Offices Appropriation Act (IOAA) of 1952, 31 U.S.C. 9701 (formerly 31 U.S.C. 483a), a Federal agency may charge for the services it provides, when such services confer a special benefit upon an identifiable recipient. Specifically, the IOAA states:

> It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by a Federal agency * * * to or for any person * * * except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, as he shall determine * * * to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

Congress enacted this legislation because of concern "that the Government is not receiving full return from many of the services for which it renders to special beneficiaries." H. Rept. 384, 82d Cong., 1st Sess. 2.

In 1959, the Bureau of the Budget (now the Office of Management and Budget) issued Circular A–25, which sets forth general policies and guidelines for developing an equitable and uniform system of charging for Government services under the IOAA.

Under Circular A–25, a charge may be imposed whenever a Government service "provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large." However, a user charge is inappropriate when the identity of the "ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public." This formulation of the principles for delineating the applicability of the OIAA to Government services has been accepted by the Supreme Court. *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345, 349,350 (1974).

The IOAA provides that Government agencies are to try to recover, through a user charge, the "direct and indirect cost" of any service. See generally *National Association of Broadcasters* v. *Federal Communications Commission*, 554 F.2d 1118, 1129 n.28 (D.C. Cir. 1976). Giving guidance in interpreting this provision, Circular A–25 states that the cost computation shall include salaries, employee leave, indirect personnel costs, travel, rent, postage, and the maintenance, operation, and depreciation of buildings and equipment. Circular A–25 also directs Federal agencies, when computing the actual cost of the service, to recover a proportionate share of management and supervisory expenses, and the costs of enforcement and regulation.

Applicability of User Charges to FDA Activities

FDA has examined the applicability of user charges to activities performed under the Federal Food, Drug, and Cosmetic Act (the act). This notice proposes that such charges be imposed on the agency's new drug and antibiotic review and approval activities, including the review and approval of supplemental applications that propose certain changes in the labeling of a new drug or antibiotic.

FDA believes that a user charge could be imposed on other of its premarket approval activities, including, but not limited to food and color additive petitions, applications for medical

devices for human use, and new animal drug applications. FDA, however, has determined that for now it will limit its proposed user charges to its new drug and antibiotic application review and approval activity, including its review of certain supplemental applications, in order to gain some experience in the administration of such user charges. As a result of FDA's experience with user charges for this activity, FDA will consider extending user charges to some or all of its other premarket approval activities in the future. The agency invites comments to identify specific FDA activities, including activities that do not necessarily involve approval functions, for which a user charge could or should be imposed under the IOAA.

New Drug and Antibiotic Application Review Activities

Under the act, a "new drug" may not be introduced or delivered for introduction into interstate commerce unless FDA has approved an application with respect to that drug (21 U.S.C. 335(a)). Failure to comply with this provision may result in the imposition of civil or criminal sanctions.

To market a new drug lawfully, a manufacturer must first obtain FDA's approval of a new drug application. The act provides for FDA's review and approval of applications that demonstrate by scientific evidence that a drug is safe and effective for the conditions listed in its proposed labeling. See 21 U.S.C. 335(d). To obtain the evidence needed to show a drug's safety and effectiveness, the applicant generally must perform investigational studies of the drug in animals and humans usually under a "Notice of Claimed Investigational Exemption for a New Drug" (IND). When the applicant believes that the investigational studies have shown that the drug is safe and effective, the applicant then submits a new drug application to FDA.

After a new drug application is approved, the applicant is required to submit to FDA a supplemental application to provide for certain changes in the conditions originally approved by FDA in the application.

Antibiotic drugs are subject to similar approval requirements; thus, the interstate shipment of unapproved antibiotics violates the act. Applications to market new antibiotic drugs are commonly referred to as "Form 5" applications, rather than "new drug" applications, but both types of applications are generally subject to the same procedures under the recently revised regulations in 21 CFR Part 314.

Like the pioneer drug product, i.e., the drug product receiving the first approved application, different manufacturers' versions ("duplicates") of that drug product also require premarket approval by FDA. FDA has for many years used an abbreviated, although related, procedure for approving duplicate versions of drug products that were first approved for marketing before October 10, 1962, the date of enactment of the 1962 Drug Amendments to the act. See 21 CFR 314.55. Essentially, the applicant submitting an abbreviated application must establish that its product is equivalent in safety and effectiveness (generally by bioavailability data) to the pioneer drug product. 21 CFR 314.55(e). The abbreviated application (formerly Form 6) for an antibiotic is similar in nature, but the submission of Form 6 applications has not been limited to antibiotics approved before 1962.

Recently, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) which amended the Federal Food, Drug, and Cosmetic Act to extend eligibility for the submission of abbreviated applications to duplicate versions of drug products first approved after the 1962 Drug Amendments. Title I of the new statute generally extends the procedures used to approve duplicate versions of pre-1962 drug products to post-1962 drug products.

Regardless of whether the application takes the form of a full new drug or antibiotic application, or abbreviated new drug or antibiotic application, the applicant must also show that the drug product or antibiotic will be manufactured properly. 21 U.S.C. 355(b)(4).

Applicability of User Charges to New Drug and Antibiotic Review and Approval Activities

FDA is proposing to revise its regulations governing the approval for marketing of new drugs and antibiotic drugs for human use (21 CFR Part 314) by imposing a user charge for its new drug and antibiotic application review and approval activities, i.e., review and evaluation of new drug applications, and abbreviated new drug applications, including those supplemental applications in which applicants are seeking FDA's approval to make certain changes in the labeling of approved new drugs and antibiotic drugs for human use.

User charges are appropriate for drug and antibiotic application review and approval activities, including the review and approval of certain supplemental applications, because identifiable individuals obtain a special benefit. The benefit accruing to an applicant under FDA's new drug and antibiotic application review and approval activity is that the applicant may lawfully market its new drug or antibiotic upon gaining FDA approval. Securing FDA approval is a statutory prerequisite to the marketing of a new drug or antibiotic. Because this approval is unique to the applicant, providing an economic and business reward to it alone, FDA review of the application confers " 'special benefits * * * above and beyond those which accrue to the public at large.' " *Federal Power Commission* v. *New England Power Co., supra*, 415 U.S. at 349 n.3 (quoting Circular A–25).

Furthermore, review by FDA benefits applicants by helping to ensure that they will market only safe and effective drug products. This, in turn, enhances public confidence in applicants' drug products. These factors also help support the imposition of user charges under the IOAA. See *Mississippi Power & Light Co.* v. *United States Nuclear Regulatory Commission*, 661 F.2d 223, 229 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980).

The agency recognizes that FDA's new drug product and antibiotic review and approval activities also serve the public interest, by making available safe and effective therapies. However, as the courts have recognized in construing the IOAA, the existence of a public benefit does not preclude the imposition of a user charge, provided that the service confers a distinct benefit upon identifiable beneficiaries. *National Cable Television Ass'n, Inc.* v. *United States*, 415 U.S. 336, 343 (1974); *Electronic Industries Ass'n* v. *Federal Communications Commission*, 554 F.2d 1109, 1113 (D.C. Cir. 1976). This requirement is met here, for the applicant seeking approval to market its drug product or antibiotic constitutes a discrete, identifiable beneficiary of a Government service.

In proposing that user charges be instituted, the agency is aware that Circular A–25 gives the licensing of biological products as an example of a situation in which the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public. However, since Circular A–25 was issued, it has become clear that a user charge is appropriate when a Federal agency reviews an application which, if approved, will allow the applicant to comply with Federal law when conducting an activity. See, e.g., *Nevada Power Co.* v. *Watt*, 711 F.2d 913, 930 (10th Cir. 1983); *New England Power Co.* v. *NRC*, 683 F.2d 12, 14 (1st Cir. 1982); *Mississippi Power Light Co.* v. *NRC*,

supra, 661 F.2d at 229. The review and approval of antibiotic products or new drugs is not a situation in which the beneficiary of the agency action is unknown and the service promotes an independent public goal, as this concept has been treated in the case law. An applicant receives a direct, tangible, and special benefit by having an approved new drug or antibiotic application. Accordingly, FDA regards Circular A–25's nonbinding, illustrative example as inapplicable to its new drug and antibiotic approval activities.

FDA, after careful consideration, has now concluded that such charges are appropriate. The agency believes it is both fair and consistent with the provisions of current law that the drug sponsors should pay for services which clearly confer upon them a substantial economic benefit. The agency consequently is proposing to charge sponsors for the full cost of new drug and antibiotic application review, although FDA would exempt such functions as reviewing orphan drug applications. FDA will institute these charges in accordance with existing law and in a way that will not jeopardize the integrity of FDA's drug review activities. Further, FDA believes that, in the current period of intense and growing concern about the size of the Federal deficit, failure to invoke currently available law to assess these charges to help reduce the size of the deficit could be viewed as not fully responding to the agency's public trust.

Determination of Recoverable Costs

In accordance with the IOAA, an identifiable recipient may be assessed a reasonable charge for a measurable unit of Government service from which it derives a special benefit. A reasonable charge is an equitable share of the cost of providing a service among the class of persons receiving that service, e.g., persons submitting new drug applications.

The first step in the process of obtaining FDA approval for marketing of a new drug in this country is, in almost all cases, the obtaining of permission for the testing of that drug by the filing of an IND under 21 U.S.C. 355(i). A significant portion of the expenditures by FDA on the drug approval process is attributable directly to the review of protocols and studies submitted as part of IND's.

However, the agency has decided that no charge should be proposed for submissions at the investigational stage. The primary reason for this decision is that FDA does not wish to discourage research by imposing an additional cost on research activities that may not produce a benefit (i.e., marketable product) to the researcher. The agency views the fostering of an environment that encourages innovation and the development of new knowledge as an important part of its mission. FDA therefore believes that the imposition of any charge at the earliest stages of research could have a chilling effect on a sponsor's willingness to undertake important truly innovative research, give the remoteness and uncertainty at that point in time of discovering a product that can ultimately be marketed. In addition, many IND's are not directly aimed at developing a drug for ultimate approval or do not ultimately contribute to such approval. For example, many IND's are submitted by individual academic researchers who are conducting early "basic research," and, they themselves would not have the resources necessary to carry the project through to full scale drug development. Moreover, so-called "treatment IND's" are designed to allow physicians to obtain investigational drugs primarily for treatment use; a situation that is not designed to and would not by itself contribute to development of a new drug application or an expansion of the uses of a drug. FDA estimates that only approximately half of the agency's IND review resources are dedicated to products that ultimately result in the submission of a new drug application to FDA.

For this reason, FDA has concluded that it is appropriate to charge, as part of the cost for the total FDA processing and review of a full application, half of FDA's cost of IND reviews because that is the proportion that results in a full application providing a specific benefit (i.e., marketable product) for the applicant. This IND cost is then added to the cost of reviewing the application itself, but paid for only at the time the application requesting marketing approval is submitted. Thus, this proposal charges for the IND review process only for those IND's that result in full applications. Because abbreviated applications are not normally preceded by IND's no cost attributable to review of IND's has been added to the cost of reviewing abbreviated applications.

The cost to FDA of reviewing and approving full new drug and antibiotic applications in FY 1986, including related IND costs, is estimated to be $18.9 million, and the cost for abbreviated new drug and antibiotic applications is estimated to be $6.9 million, for a total of $25.8 million. These figures include both the direct costs, such as salaries and equipment, and the indirect costs, such as rent, telephone service, and a proportionate share of management and supervisory costs. Most of the $18.9 million for full applications represents FDA's direct expenses for reviewing and approving applications. The remainder represents the indirect costs mentioned above as well as the costs of such activities as obtaining consultants to review applications and of drafting guidelines that enable sponsors to comply more easily with FDA's requirements for securing approval of their applications.

In computing the costs described above, FDA has deducted the following items that are part of the agency's drug review budget: intramural research related to new drug evaluation; bioresearch monitoring activities; and postmarketing activities, such as reviewing periodic reports and reports of adverse reactions.

The statutes clearly authorizes the agency to recover the full $25.8 million costs attributable to activities that are prerequisites to approval of new drug and antibiotic applications, as that approval provides a substantial benefit to the private party that will be charged the costs. See, e.g., *Nevada Power Co.* v. *Watt*, *supra*, 711 F.2d at 930, 933; *Mississippi Power & Light Co.* v. *USNRC*, *supra*, 601 F.d at 229–230; *Electronic Industries Ass'n* v. *FCC*, *supra*, 554 F.2d at 1115.

In FY 1986, as in any year, some of FDA's drug review budget will be spent on review of applications previously pending, and some will be spent on review of newly received applications. FDA believes it is nevertheless valid to use the $18.9 million cost to FDA in FY 1986 of reviewing and approving full new drug and antibiotic applications as the program cost to be borne by applicants filing full applications in FY 1986. Assuming that budgetary levels and the rate of new applications remain the same, the cost of reviewing the average application is mathematically equivalent to the amount determined by dividing the budget in any year by the number of new applications filed that year, even though the average application is pending in FDA for more than a year. Moreover, this approach is empirically reasonable considering the following:

(1) On the average, a full application is pending in FDA for approximately 2 years between receipt and approval (if it is approved). The length of time varies depending on the nature of the drug, the quality of the application, and available FDA resources. Any user charge is, therefore, a front-end charge for a review period that usually extends into one or more fiscal years after the one in which the application is submitted.

(2) FDA estimates that about 200 to 300 full new drug and antibiotic applications are pending in the agency at any time.

(3) FDA estimates that it will receive about 150 full applications each year.

Considering the average review time described in (1) above, and the relationship of new applications received to applications pending described in (2) and (3) above, it is reasonable to consider the $18.9 million figure as the program cost to calculate user charges for full applications.

Computation of User Charges

FDA is proposing to recover through a user charge a sum equal to the $25.8 million in program cost. FDA expects to receive approximately 150 full applications each year. This number is based on the average of the numbers of such applications received by FDA each year during the past 6 years. FDA estimates that the number of abbreviated new drug applications and abbreviated antibiotic applications received in FY 1986 will be approximately 700. Prior to enactment of the Drug Price Competition and Patent Restoration Act of 1984, FDA received approximately 400 abbreviated new drug and abbreviated antibiotic applications each year. FDA estimates that passage of that statute, which permits abbreviated applications for drugs approved after 1962, will increase submissions to approximately 700 abbreviated applications.

FDA has considered a variety of schedules for recovering the costs for these applications. Because of the complexity and variety of full applications and abbreviated applications, any method chosen will, unfortunately, be viewed by some as having real or potential inequities.

Three possible alternatives considered by FDA are described below:

Alternative 1

The simplest and most straightforward user charge would be an average cost charge for the two major classes of activity: (1) Full new drug and antibiotic marketing applications and (2) abbreviated applications. Recovery of $18.9 million from the 150 full applications FDA expects to receive in 1986 would require a user charge of $126,200 per full application. Similarly, recovery of $6.9 million from the 700 abbreviated applications anticipated in 1986 would require a user charge of $9,900.

This alternative would be the easiest for FDA to administer. The agency recognizes that the effort required to review both full and abbreviated applications varies consistently from application to application. However, FDA believe inequities in particular cases are offset by the fact that there are relatively fixed groups of potential applicants of both full and abbreviated applications, and most of these applicants are primarily engaged in the business of drug manufacturing. Thus, most applicants will submit a number of applications over time, and any inequities attributable to a uniform charge will tend to average out. Therefore, this option is both simple to administer and equitable over the long run.

Alternative 2

A second approach considered would attempt to divide both full and abbreviated applications into subclasses of more comparable review effort.

For example, full applications could be divided in two groups: (1) Those involving the first use of a new chemical entity; and (2) those adapting, modifying, or duplicating a previously approved chemical entity. Applications in the first group generally involve much more extensive review effort than those in the second. FDA does not record any information that would permit a computation of this difference in effort, but there may be a sufficient general recognition of this differential to warrant the consideration of a greater charge for new chemical entity applications. If, for example, FDA were to propose a charge for a new chemical entity application at twice the rate for other full applications, the charges would be $199,200 and $99,600, respectively. These rates assume that 40 of the anticipated 150 full applications submitted in 1986 would involve the first use of a new chemical entity.

A comparable tiering of user charges for abbreviated applications is also possible. Most applicants submit several applications for a single chemical entity concurrently to permit marketing of different strengths or dosages of the drug. On average, between two and three concurrent applications are submitted for each chemical entity. Generally, these applications for additional strengths and dosages required substantially less review effort than the parent application. If a smaller charge for these concurrent applications were established, the charges to applicants who submit larger numbers of concurrent applications could be substantially reduced. For example, if the anticipated 700 annual abbreviated application submissions were equally divided between parent applications and concurrent applications for additional strengths and dosages, FDA could recover $6.9 million by charging a reduced rate of $1,800 for 350 concurrent applications while raising the charge for 350 parent applications to $18,000. The alternative would save an applicant with four concurrent applications on the same chemical entity about 40 percent of the charge in Alternative 1.

This alternative, however, raises a number of issues that would need resolution before implementation. For example, the charges for full applications involving new salts or esters of previously approved chemical entities would have to be defined, and the different categories of concurrent abbreviated applications that would be entitled to lower rate would need careful definition. Obviously, the central problem would be establishing a basis for the differential rates other than the assumption in the examples cited above.

Alternative 3

The third approach FDA considered would identify certain categories of full applications that are most similar to abbreviated applications in terms of review effort, and to allow such applications the lower abbreviated application charge. Full applications for already marketed products, such as some large volume parenterals, are candidates for this classification because these applications rarely contain original clinical evidence of safety or effectiveness. If these applications, numbering an estimated 28 per year, were charged at the abbreviated application rates in Alternative 1 or Alternative 2, the user charges for the remaining full applications sufficient to recover full costs would rise to $152,900 in Alternative 1, and $230,000 (new chemical entity applications) and $115,100 (other full applications) in Alternative 2.

These three alternatives demonstrate the sensitivity of the user charges for full applications and abbreviated applications to the categorization of applications and assumptions about the relative costs of review efforts. Because FDA does not have data to support the hypothetical differential assumed in Alternative 2 or Alternative 3, the agency concludes that the average cost charges calculated in Alternative 1 are based on the smallest practicable class for assessing user charges at this time, particularly because any inequities in charges for individual applications will tend to balance out for any given applicant in the long run.

Alternative 1 also presents another advantage: Because the categorization of applications under that proposal is

self-evident, it will not require FDA reviewers and administrative personnel to become involved in making judgments about the category into which a particular application appropriately falls. The difference in the charges for different kinds of applications in other possible options can be significant. These options thus present the possibility that the attention of FDA personnel would be inappropriately directed from reviewing applications to resolving categorization disputes (e.g., determining whether an application is or is not for a "new chemical entity").

One additional alternative that was considered and rejected was the implementation of a detailed cost accounting system to be used to record resources actually spent on each individual document. This approach was viewed as undesirable for several reasons. First, there would be considerable expense involved in establishing and maintaining such a system. Those expenses would not in any way enhance the new drug evaluation process, but would serve only the administrative purpose of providing accurate cost information. Further, the costs of establishing and maintaining such a system would also have to be passed back to the applicant, in effect increasing any user fees that would be established. The agency does not have available resources to dedicate to such a cost accounting system, and even if it did, the establishment of such a system solely to administer user charges is precluded by OMB Circular A–25, which states:

> Costs shall be determined as estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose.

FDA decided to try to keep its cost computations as simple as possible, and to avoid adding any unnecessary resource demands.

Although FDA has chosen Alternative 1 as its proposed regulation, it has discussed other possible approaches in this preamble to alert the public to the fact that other methods of computations are being given serious consideration and that some such methods would significantly increase the charges levied on some applications. The public is specifically invited to comment on what method of computation is most practical and most equitable. Because this proposal gives notice that user charges are contemplated and that FDA will choose the computation method that appears at the end of the comment period to be both the most equitable and the most practical in light of all the circumstances, FDA does not anticipate that it will repropose this regulation if it ultimately adopts a different computation method. Interested persons should prepare their comments accordingly.

A statement detailing the costs used in this proposal is on file in the Dockets Management Branch (address above).

Effectiveness Supplements

Current regulations in § 314.70 (21 CFR 314.70) require the holder of an approved application to submit a supplemental application to provide for certain changes in the conditions of the approved application. The submission of supplemental applications enables FDA to maintain surveillance over changes made in approved new drug and antibiotic applications which may affect the drug product's conditions of use, labeling, safety, effectiveness, or identity, strength, quality, and purity.

The agency proposes to impose a user charge of $16,400 for each supplemental application that proposes a change in the labeling of a drug product to include: (1) A new indication or a significant modification of an existing indication, including removal of a major limitation to use, such as second-line status; (2) a new route of administration; (3) a new dosage regimen, including an increase or decrease in daily dosage, or in a change in frequency of administration; (4) a comparative claim naming another drug, including a comparative pharmacokinetic claim; or (5) a change in labeling sections other than the indications section that would be expected to increase significantly the size of the patient population to be given the drug product, such as addition of instructions for pediatric use. FDA believes these changes are of a type that may affect the agency's previous conclusions about the safety and effectiveness of a drug product and therefore require approval by FDA before the change can be made.

Although FDA has no clear quantitative historical data on which to estimate the number of supplements of this type that FDA receives annually, it believes that the number would be less than 100. FDA's experience in processing supplemental applications is that they take about one-fifth as much time and resources as processing a "full" application. By then excluding from the "full" application charge the cost to FDA of reviewing IND's, the charge for each supplemental application of the type described above would be $16,400.

Orphan Drugs Exemption

The agency is not proposing to impose a user charge for applications submitted for those drugs designated as "orphan drugs" under the Orphan Drug Act (Pub. L. 97–414) (Section 526 of the Federal Food, Drug, and Cosmetic Act). Because orphan drugs, by statutory definition, are developed primarily for public health reasons and not for the benefit of the applicants, the agency believes imposing a user charge for orphan drugs would not now be appropriate.

Terms of Payment

The agency proposes to require full payment of the user charge at the time an application or supplemental application is submtted for review. Under this proposal, the user charge would apply only to initial application submissions. Thus, an applicant would not be assessed a charge for a resubmission of or amendments to an application. Failure of an applicant to pay the charge would be reason for FDA to return the application or supplemental application to the applicant without review. Withdrawal of an application or supplemental application or failure of an application of supplemental application to be approval for any reason would have no effect on the applicability of the user charge.

The agency considered collection fees at the end of the review process, rather than at the beginning, but rejected that option. The agency has a precedent under the current certification programs for insulin and colors (and the previous program for antibiotics) which requires that funds be paid before work begins. Following this precedent seems desirable for three reasons. First FDA expends a large proportion of its resources on concurrent reviews at the early stages of evaluation, and it is appropriate that fees be paid before this resource expenditure is made by the agency. Second, since the fee applies regardless of the outcome of review, there is no reason to delay collection. Finally, prepayment will prevent any subsequent disputes regarding payment, and will further ensure that payment is completely independent of the applicant's satisfaction or dissatisfaction with FDA's ultimate decision on the drugs's approvability.

User Charge Annual Increases

The agency also proposes that the charges imposed by this regulation be automatically adjusted each year on October 1. To do this, the agency will reference the implicit price deflators for the gross national product available in July of each year for the most recent 12-month period, and apply the percentage change over the preceding year to

increase all fees for the fiscal year beginning the next October 1. This will allow the charges to be increased automatically to keep pace with cost increases the agency may encounter. On or before September 15, 1986, and each September 15 thereafter, the agency will publish a notice in the **Federal Register** of the fees to be effective on the following October 1.

FDA believes it important to incorporate into the user charge program an automatic annual adjustment to compensate for increased program costs. The agency solicits comments on whether an index other than that being proposed would be more desirable.

Proposed Effective Date

The agency proposes that any final rule based on this proposal be effective on October 1, 1985, unless the final rule is published after September 1, 1985. If the final rule is published after September 1, 1985, the agency proposes that the effective date of the final rule be 30 days after its date of publication in the **Federal Register**. Any new drug or antibiotic application for marketing and any supplemental application subject to this proposal received on or after the effective date would be required to be accompanied by the prescribed user charge. However, in order to preclude an influx of application and supplemental application submissions before October 1, 1985, FDA proposes that the prescribed user charges also apply to all full applications, abbreviated applications, and supplemental applications subject to this proposal that were received on or after August 6, 1985. An applicant would be required to pay the prescribed user charge no later than 30 days after the effective date of the final rule, or else FDA action on the application or supplemental application would be terminated.

Environmental and Economic Effects

The agency has determined pursuant to 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has examined the economic consequences of this proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The agency has considered the effects of $18.9 million of user charges per year upon firms submitting full applications, particularly with regard to any reduced incentive to conduct reseach or innovate new products. The agency concludes that the additional costs of user charges will have an imperceptible impact upon drug research incentives, because the costs of drug research are so large relative to the proposed user charges.

The agency has also considered the effects of $6.9 million of user charges upon firms submitting abbreviated applications. Most of these firms are much smaller than those submitting full applications, so there is reason to consider the financial burden of these charges upon applicants submitting abbreviated applications, and any possible effects on market prices for generic drugs. The agency observed that more than 30 firms, most of whom are relatively small, submitted more than 250 abbreviated applications for post-1962 drugs in the 6 weeks following the effective date for submission of abbreviated applications in the Drug Price Competition and Patent Term Restoration Act. This volume of applications, which, according to information available to FDA, cost the applicant from $25,000 to $100,000 each to prepare, demonstrate the market incentives for firms to enter the generic drug market and the financial capability to accomplish this entry. Weighed against these expenditures and industry profit potential, the incremental burden of user charges is likely to pose very minor barriers to market entry. At the worst, the proposed regulation may cause some firms to reduce slightly the number of abbreviated applications they might have submitted absent user charges. The number of competitors in the abbreviated application market, however, will ensure that vigorous price competition will be sustained.

On the basis of these considerations, the agency concludes that the proposed rule is not a major rule. The agency further certifies that the proposed rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 314

Administrative practice and procedures; Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Independent Offices Appropriation Act it is proposed that Part 314 be amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for Part 314 is revised to read as follows:

Authority: Secs. 501, 502, 503, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 355, 356, 357, 371); 21 CFR 5.10, 5.11; §§ 314.50(i), 314.55(a)(1), and 314.70(b)(4) also issued under sec. 9701 (31 U.S.C. 9701).

2. In § 314.50 by adding a new paragraph (i) to read as follows:

§ 314.50 Content and format of an application.

* * * * *

(i) *User charge.* (1) Unless the application is exempt under paragraph (i)(4) of this section, the applicant shall pay: (i) In fiscal year 1986 (October 1, 195 to September 30, 1986) whichever of the following user charges is applicable to the review of an application: (*a*) full application, $126,200.00; or (*b*) abbreviated application, $9,900.00; and (ii) in each subsequent year, the charge stated in a notice published in the **Federal Register** updating the charges to incorporate adjustments for cost increases. The charge will be automatically adjusted each year on October 1. The agency will reference the implicit price deflators for the gross national product available in July of each year for the most recent 12-month period, and apply the percentage change over the preceding year to increase all fees for the fiscal year beginning the next October 1.

(2) Except as provided in paragraph(i)(3) of this section, the applicant shall pay the user charge when submitting the application to the Food and Drug Administration. Payment shall be in the form of a check or a money order made payable to "Food and Drug Administration." If the agency does not receive the required user charge, the agency shall return the application to the applicant without review. Withdrawal of an application or failure of an application to be approved for any reason has no effect on the applicability of the user charge.

(3) For an application received by the Food and Drug Administration between August 6, 1985 and (effective date of final rule), the applicant shall pay the user charge on or before (date to be 30 days after effective date of final rule) or the agency shall return the application to the applicant.

(4) No user charge is imposed for the review of an application for a drug or antibiotic designated for a rare disease or condition under the orphan drug provisions of section 526 of the Act.

§ 314.55 [Amended]

3. In § 314.55 *Abbreviated application,* the first sentence of paragraph (e)(1) is amended by replacing the period with a comma and adding the phrase "and the user charge specified under paragraph (i) of that section."

4. In § 314.70 by adding new paragraph (b)(4), to read as follows:

§ 314.70 Supplements and other changes to an approved application.

* * * * *

(b) * * *

(4) *User charge.* (i) An applicant shall pay in fiscal year 1986 (October 1, 1985 to September 30, 1986) a user charge of $16,400 for each supplemental application that proposes a change in labeling to include: (*a*) A new indication or a significant modification of an existing indication, including removal of a major limitation to use, such as second-line status; (*b*) a new route of administration; (*c*) a new dosage regimen, including an increase or decrease in daily dosage, or in a change in frequency of administration; (*d*) a comparative claim naming another drug product, including a comparative pharmacokinetic claim; or (*e*) a change in labeling sections other than the indications section that would be expected to increase significantly the size of the patient population to be given the drug product, such as addition of instructions for pediatric use. In each subsequent year, the user charge will be automatically adjusted in accordance with the procedure described under § 314.50(i)(1)(ii).

(ii) Except as provided in paragraph (b)(4)(iii) of this section, the applicant shall pay the user charge when submitting the supplemental application to the Food and Drug Administration. Payment shall be in the form of a check or a money order made payable to "Food and Drug Administration." If the agency does not receive the required user charge, the agency shall return the supplemental application to the applicant without review. Withdrawal of a supplemental application that proposes a change described in this paragraph or failure of such a supplemental application to be approved for any reason has no effect on the applicability of the user charge.

(iii) For a supplemental application that proposes a change described in this paragraph that is submitted to the Food and Drug Administration between August 6, 1985 and (effective date of final rule), the applicant shall pay the user charge on or before (date to be 30 days after effective date of final rule) or the agency shall return the application to the applicant.

* * * * *

Interested persons may, on or before September 5, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. The agency has determined that a final rule based on this proposal should be effective by October 1, 1985, in order to be consistent with the Administration's budget for FY 1986. Accordingly, good cause exists for a comment period of less than 60 days. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 24, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-18657 Filed 8-2-85; 8:45 am]

BILLING CODE 4160-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 09 85-05]

Anchorage Grounds; Detroit River, Detroit, MI

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule; correction.

SUMMARY: This document corrects a proposed rule concerning the Anchorage Grounds in the Detroit River, Detroit, MI, that appeared on page 27622 in the **Federal Register** of Friday, July 5, 1985 (50 FR 27622). The action is necessary to correct typographical errors in the citation for the boundary descriptions.

ADDRESSES: Send comments to Commander Ninth Coast Guard District (mpes), 1240 East Ninth Street, Cleveland, Ohio 44199, Attention: Ensign George H. BURNS III.

FOR FURTHER INFORMATION CONTACT: Ensign George H. BURNS III, Ninth Coast Guard District, Marine Port and Enviornmental Safety Branch, Telephone Number (216) 961-1347.

Proposed Regulation

1. The Authority Citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. In docket number CGD09-85-05, FR Doc. 85-16019, published in the July 5, 1985 **Federal Register** on page 27623, § 110.206(a)(1) is corrected to read as follows:

§ 110.206 Detroit River, Michigan.

(a) *The anchorage grounds*—(1) *Belle Isle Anchorage.* The area in the Detroit River immediately downstream from Belle Isle on the U.S. side of the International Boundary lying within the following boundaries: beginning at a point bearing 250°T, 5400 feet from the James Scott Memorial Fountain (42° 20'6"N, 82° 59'57"W) at the West end of Belle Isle; thence 251°T, 4000 feet; thence 341°T, 800 feet; thence 071°T, 4000 feet; thence 161°T, 800 feet to the point of origin.

* * * * *

A.M. Danielsen,

Rear Admiral, Commander, Ninth Coast Guard District.

July 25, 1985.

[FR Doc. 85-18497 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL-2875-2]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Illinois

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

ACTION: Proposed rule.

SUMMARY: USEPA proposes to change the ozone attainment status designation for Monroe, Williamson and Macoupin Counties to attainment. This revision is based upon a request from the State of Illinois to redesignate these areas and on the supporting data the State submitted. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

DATE: Comments on this revision and on the proposed USEPA action must be received by September 5, 1985.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and

Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). Section 107(d)(5) of the Act, as amended in 1977, permits a State to request USEPA to rulemake on a change in the NAAQS attainment/nonattainment status of an area when the available data warrant such a change.

On July 20, 1984, the Illinois Environmental Protection Agency (IEPA) submitted a request to USEPA proposing redesignation to attainment of a number of areas for ozone and total suspended particulates (TSP). This redesignation request was modified by the State on February 28, 1985, and March 6, 1985. This notice of proposed rulemaking concerns the State's ozone redesignation request. The State's TSP redesignation request is the subject of a separate notice of proposed rulemaking. Specifically, today's proposed rulemaking concerns the State's request to change the ozone attainment status designation for Macoupin, Monroe, and Williamson Counties to attainment from nonattainment.

Ozone Redesignation Criteria

USEPA's policy as contained in the "Guideline for the Interpretation of Ozone Air Quality Standards" (EPA–450/4–79–003), provides that the NAAQS for ozone is violated when the annual average expected number of daily exceedances of the standard (0.12 parts per million (ppm), 1 hour average) is greater than or equal to 1.05 at any site in the area under consideration. A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 ppm (EPA–450/4–79–003).

Criteria for redesignation requests, as they pertain to ozone, are discussed in the following USEPA memoranda:

1. December 7, 1979, from Richard G. Rhoads to the Directors of Air and Hazardous Materials Divisions, Region I–X, "Criteria for Ozone Redesignations Under Section 107."

2. April 21, 1983, from Sheldon Meyers to Directors of Air Management Divisions, "Section 107 Designation Policy Summary."

3. December 23, 1983, from G.T. Helms to Chiefs of Air Program Branches, Region I–X, "107 Questions and Answers."

USEPA's policy on ozone redesignation is summarized as follows:

1. Generally, the most recent 3 years of quality-assured ozone monitoring data are to be considered. As little as 1 year of data may be considered if these are the only available data.

2. Even though 3 years of data may exist for a given site, less than 3 years of ozone data may be considered as adequate support for a redesignation to attainment. If less than 3 years of data are used, *no* exceedances of the ozone standard can have occurred during the most recent year or 2 years, and evidence must be provided to show that an emission control program, fully approved by the USEPA, has been implemented. Consideration of only the most recent year of data also requires the use of a state-of-the-art analysis to demonstrate that the State Implementation Plan (SIP) control strategy is sound and that actual, enforceable emission reductions are responsible for the recent air quality improvement.

3. The designation given for an area applies to whole counties. No subdivision of a county is allowed. Urban areas should have a single designation, with the designation area including the entire urbanized area and fringe areas of development.

4. The nonattainment area should be of sufficient size to include all significant impacting volatile organic compound emission sources.

Requested Ozone Redesignations and Supporting Data

IEPA's July 20, 1984, submittal as amended requested redesignations to attainment for ozone for the Counties of: Macoupin, Monroe, and Williamson. As support for these redesignations, the IEPA cited the 1981 through 1983 data contained in USEPA's National Aerometric Data Bank/Storage and Retrieval of Aerometric Data (NADB/SAROAD) data system. No other support data were submitted. USEPA, however, had available to it and utilized 1984 Ozone data in analyzing the State's redesignation requests.

Monroe County

No violations of the ozone NAAQS have been observed in Monroe County during the most recent 3 years (1982 through 1984). The average number of expected exceedances was less than 1.04 per year in Monroe County during the period. Monroe County is predominantly rural. Although it is located in the vicinity of the St. Louis urbanized area, both population data and an urban area map from the 1980 Census indicate that Monroe County contains an insignificant portion of the St. Louis urban area. In addition, Monroe County emissions account for only 2 percent of the total St. Louis demonstration area VOC emissions. For these reasons, redesignating Monroe County to attainment is consistent with USEPA's requirement for a unified urban area designation.

USEPA proposes to change the attainment status designation of Monroe County to attainment for the pollutant ozone.

Williamson County

No violations of the ozone NAAQS have been observed in Williamson county during the most recent 3 years (1982 through 1984). The average number of expected exceedances was less than one per year in Williamson County. It is rural and contains no major urbanized areas.

USEPA proposes to change the attainment status designation of Williamson County to attainment for the pollutant ozone.

Macoupin County

Macoupin County is rural and contains no major urbanized areas. No violations of the ozone NAAQS have been observed in Macoupin County during the period 1982 through 1984, the most recent 3 years for which data are available. It should be noted that the monitor in Macoupin County was moved a short distance in 1981 leaving both sites with an incomplete (relative to the ozone season, April through October) data cover set for that year. Considering both sites as one, however, the combined data cover more than 82 percent, which exceeds USEPA's minimal requirement of 75 percent of the days during the ozone season. USEPA's analysis utilized the 3 most recent years available to it, 1982 through 1984 rather than the three years submitted by the State. Based on this analysis, the annual average expected number of exceedances was 1.03.

The available data for Macoupin County indicates that this area is in attainment of the ozone NAAQS. USEPA, therefore, proposes to change the designation of Macoupin County to attainment for the pollutant ozone.

All interested persons are invited to submit written comment on the proposed redesignations. Written comments received by the data specified

above will be considered in determining whether USEPA will grant final approval for the redesignations. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final rulemaking action on the redesignation requests.

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

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(42 U.S.C. 7401–7642)

Dated: June 26, 1985.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 85–18594 Filed 8–5–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8560

Designated Wilderness Areas; Procedures for Management; Amendment Providing a Review Process for Mining Plans of Operation

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would establish procedures for reviewing plans of operations and continuing operations on unpatented mining claims within designated wilderness areas administered by the Bureau of Land Management. The proposed rulemaking is based on the Bureau's Wilderness Management Policy, published in the **Federal Register** on September 24, 1981 (46 FR 47180).

DATE: Comments should be received by September 5, 1985. Comments received or postmarked after the above date may not be considered as part of the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Main Interior Bldg. Room 5555, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David E. Porter, (202) 343–6064.

SUPPLEMENTARY INFORMATION: On February 25, 1985, the Department of the Interior published in the **Federal Register** (50 FR 7704) a final rulemaking providing procedures for the administration of wilderness areas on public lands under the jurisdiction of the Bureau of Land Management. By a notice published in the **Federal Register** on March 27, 1985 (50 FR 12020), the Department of the Interior withdrew § 8560.4–6(j) of that final rulemaking, which stated the requirements for approving plans of operations for unpatented mining claims existing before the date on which the wilderness areas were withdrawn from appropriation under the mining laws. Except for that provision, the final rulemaking for 43 CFR Part 8560 went into effect on March 27, 1985.

The proposed rulemaking would establish requirements to be met before the authorized officer of the Bureau of Land Management (BLM) can approve a plan of operations for a mining claim or allow previously approved operations to continue. The proposed rulemaking would require a mineral examination of the unpatented claim by a BLM mineral examiner to determine whether the claim was valid before the withdrawal and remains valid. If the examination report concludes that the claim was invalid because of the lack of discovery of a valuable mineral deposit, the proposed rulemaking would require that proposed operations on the claim be disallowed and a contest proceeding commenced to determine its status. The proposed rulemaking would allow insignificant surface disturbances for gathering samples to support the validity of the claim and for performing annual assessment work. The rulemaking would also allow producing operations to continue pending the administrative determination of the validity of the claim.

The principal author of this proposed rulemaking is David E. Porter, Division of Recreation, Cultural, and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

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

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rulemaking favors no demographic group, and applies equally to all users, regardless of size, operating or planning to operate a mine in any wilderness area administered by the Bureau. Information is required from the public for certain uses and activities in wilderness areas in accordance with existing procedures found in 43 CFR Parts 2800, 2880, 2920, 3045, 3205, 3809, 4100 and 8372. The information collection requirements of those procedures referred to in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 8560

Grazing land, Livestock, National Wilderness Preservation System, Oil and gas exploration, Penalties, Public Lands-mineral resources, Public lands-recreation, Recreation.

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and the Wilderness Act of 1964 (16 U.S.C. 1131), it is proposed to amend Group 8500, Subchapter H, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

GROUP 8500—WILDERNESS MANAGEMENT

PART 8560—WILDERNESS AREAS

1. The authority citation for Part 8560 continues to read as follows:

Authority: 43 U.S.C. 1701 et seq., 16 U.S.C. 1131 et seq.

2. Section 8560.4–6 is amended by adding paragraph (j) to read as follows:

§ 8560.4–6 Mining law administration.

* * * * *

(j) Prior to approving plans of operations or allowing previously approved operations to continue on unpatented mining claims after the date on which the lands were withdrawn from appropriation under the mining laws, the authorized officer shall cause a mineral examination of the unpatented mining claim to be conducted by a Bureau of Land Management mineral examiner to determine whether or not the claim was valid prior to the withdrawal and remains valid at the time operations are proposed. If the approved mineral examination report concludes that the claim lacks a

discovery of a valuable mineral deposit, or is invalid for any other reason, the authorized officer shall either deny the plan of operation or, in the case of an existing approved operation, issue a notice ordering the cessation of operations and shall promptly initiate contest proceedings to determine the status of the claim conclusively. However, neither the adverse conclusions of an approved mineral examination report nor the pendency of contest proceedings shall constitute grounds to disallow a plan of operations to the extent the plan proposes operations that will cause only insignificant surface disturbance and are for the purpose of: (1) Taking samples or gathering other evidence of claim validity to confirm and corroborate mineral exposures which are physically disclosed and existing on the claim prior to the withdrawal date, or (2) performing the minimum necessary annual assessment work as required by subsection 3851.1 of this title. Surface disturbance exceeding the insignificant level is permissible only when it is the minimum disturbance necessary to remove mineral samples to confirm and corroborate preexisting exposures of a valuable mineral deposit discovered prior to the withdrawal. The requirement in this subsection for a mineral examination shall not cause a suspension of the time limitations governing approval of operating plans contained in subsection 3809.1–6 of this title. Operations on producing mines shall be allowed to continue pending an administrative determination of claim validity. Once a final administrative decision is rendered declaring a claim to be null and void, all operations shall be disallowed and shall cease unless and until such decision is reversed in judicial review action.

Dated: July 3, 1985.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

[FR Doc. 85–18610 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 382

Bulk Preference Cargoes

AGENCY: Maritime Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Maritime Administration (MARAD) proposes to establish new administrative procedures and methodology for determining fair and reasonable rates for the carriage of dry and liquid bulk preference cargoes on United States commercial vessels. These proposed regulations would require operators to submit data on the operating and capital costs of their vessels. Based on this data, MARAD would calculate fair and reasonable guideline rates according to the method explained in the **SUPPLEMENTARY INFORMATION** Section of these proposed regulations.

DATE: Comments must be received on or before October 7, 1985.

ADDRESS: Comments should be addressed to: Secretary, Maritime Administration, Room 7300, Department of Transportation, Washington, D.C. 20590. Any commentor who desires acknowledgement of MARAD's receipt of comments should include a self-addressed and stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: James E. Caponiti, Acting Director, Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20590, Tel. (202) 382–6036.

SUPPLEMENTARY INFORMATION: Section 901(b)(1) of the Merchant Marine Act (the Act) of 1936, as amended (46 U.S.C. 1241(b)), requires that at least 50 percent of any equipment, materials or commodities purchased by the United States or for the account of any foreign nation without provision for reimbursement, or acquired as the result of funds or credit from the United States, should be transported on privately owned United States-flag commercial vessels to the extent that such vessels are available at fair and reasonable rates. The Comptroller General in 1955 stated that the term "fair and reasonable rate" did not necessarily mean the going market rate, but would appear to call for reasonable compensation, including a fair profit, for efficient vessels (Opinion B–95823, Feb. 17, 1955). Upon request, the Maritime Administration provides guideline rates to agencies to assist in the determination of fair and reasonable rates. Section 901(b)(2) of the Act provides the authority for the Maritime Administration (by delegation from the Secretary of Transportation) to issue regulations governing the administration of section 901(b)(1).

Proposed Data Submission Requirements

Pursuant to 46 CFR Part 381, government agencies must comply with section 901(b)(1) and must submit data to MARAD on United States- and foreign-flag carriage of preference cargoes under their control.

The proposed new Part 382 would require operators of United States-flag commercial vessels to submit specific data to MARAD regarding vessel operating and capital costs to be used by it in determining fair and reasonable guideline rates for the carriage of preference cargoes in United States-flag vessels. Data submissions would be required to be submitted not later than March 31 of each year and updated not less often than once every 12 months. The proposed regulation would apply only to the carriage of full shipload lots of dry and liquid bulk preference cargoes, except when port draft restrictions limit the amount of cargo that can be carried.

Required information on each vessel would include statistical information on the vessel (e.g., normal operating speed, deadweight tonnage); operating expenses (e.g., employment costs, annual insurance premiums); and capital costs (e.g., debt amortization schedule).

The Maritime Administration needs this data in order to calculate guideline rates more accurately. MARAD currently uses two separate methods for determining these rates for bulk cargoes carried by U.S.-flag vessels. For vessels built before 1955, guideline rates are calculated for categories arranged by deadweight tonnage that a MARAD task force developed in 1967. There are only a few such vessels remaining in service. For vessels built after 1955, rates are calculated separately for each vessel. However, MARAD presently does not require all operators in the bulk cargo preference trades to submit operating and capital cost information on their vessels. Because accurate cost data is available for only a few vessels, either calculating a reliable average rate or determining whether the costs for any particular operator are higher or lower than average is nearly impossible.

Pursuant to the Freedom of Information Act, data submissions would be considered confidential commercial or financial information not to be disclosed to the public (5 U.S.C. 552(b)(4)). A provision is included in the proposed regulation under which data would be held in confidence. Comments are particularly invited on § 382.2(d), which contains the provision relating to confidentiality.

Proposed Methodology

As set forth in these proposed regulations the methodology for the calculation of fair and reasonable rates is based on a least squares regression analysis in which actual operating costs for the entire fleet of eligible vessels (i.e., those for which data has been

submitted) are averaged to generate an allowable cost for such vessels as a function of deadweight tonnage. In the calculation of fair and reasonable rates, least squares regression analysis would be applied to actual operating and voyage expenses. Smaller vessels with higher costs per ton will not be compared to larger vessels with lower costs per ton; each vessel will be compared to other vessels of similar size. The formula will not be applied to capital costs, profit allowance or brokerage.

There are several advantages to using the proposed methodology. The separate treatment of operating and voyage cost data as opposed to that for capital cost data permits recognition of the varying degrees to control that an operator has over different categories of costs. The vessel operator can exercise control over operating cost. Therefore, some incentive for efficiency should be provided by the methodology used for determining the rate. The formula would provide this incentive by establishing average vessel and voyage cost levels. The formula would not allow full reimbursement for abnormally high costs of inefficient vessels. In contrast, capital costs are dictated to a large extent by prevailing conditions in the financial markets and are by and large beyond an operator's control.

For the capital cost portion of the rates, a reasonable return on the equity portion of net book value (capitalized costs less depreciation) plus working capital (voyage and vessel expenses for one-half a voyage) has been included in the formula. Imputed or constructed equity has been used since it would be administratively difficult to determine actual equity in situations of parent company guarantees and subordinated debentures.

A review of debt-equity ratios for over 100 bulk vessels, the owners of which provided data to MARAD in connection with ODS and CDS contracts, indicates that while the range of equity is from 0 to 100%, a ratio of 25% equity to 75% debt is representative of the tanker fleet. The use of an assumed debt of 75% of net book value is proposed for the debt portion of the net book value. The debt portion of net book value would be serviced at the vessel's mortgage interest rate. Where the actual interest rate is not available, the prevailing rate of Title XI financing at the time of vessel delivery would be used. Depreciation would be straight-line for 25 years unless the owner purchased the vessel when it was more than 15 years old. In this case, the vessel will be depreciated on a straight line over not fewer than 10 years.

Because of the difficulty in determining average return on equity for vessel operators, the proposed methodology adopts the median return on stockholders' equity for the top 500 corporations as published annually in *Fortune Magazine*. Capital needed to build and operate ocean-going vessels has put ship operators in direct competition with these companies for attracting capital. The median 1984 return, as published by *Fortune Magazine*, was 13.6%. Therefore, for fair and reasonable rates determined for 1985, a 13.6% rate of return would be applied to the equity portion of net book value and working capital.

The same approach will be used for vessels operated under a charter arrangement, on the basis of risk assumed by the charterer. The owner's capitalized costs and mortgage interest will be used in the same manner as in the above example.

The fair and reasonable rate will be calculated on the basis of a round trip voyage with the return in ballast, unless the vessel is to be scrapped or sold to a foreign operator. MARAD will adjust the rate to reflect reduced voyage time in cases where a round trip voyage is not completed due to scrapping or foreign sale. Data for vessel and voyage costs will ensure that all costs associated with carrying the preference cargo are included in the rate determination process.

Fair and reasonable rates will be calculated for dry and liquid bulk preference cargoes on an annual basis, which would then be made available upon request by shipper agencies.

E.O. 12291, Statutory and DOT Requirements

The Maritime Administrator has determined that this proposed regulation is not a major rule as defined in E.O. 12291, but is significant under DOT regulatory policies and procedures (49 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared on the proposed rule and will be placed in the public docket. Based on available data, MARAD anticipates that applying the least squares regression method would save shipper agencies $4 to $8 million. The savings would result from a 5–10% reduction in the ocean freight differential of approximately $80 million which shipper agencies pay to reimburse recipient countries for the use of higher cost U.S.-flag ships to transport cargoes. The totel estimated cost to the industry of this proposed rule would be only $2,944.64 (320 hours total (20 respondents × 16 hours to compile data per response)) to prepare the required data. This cost figure is based on the estimate that 90 percent of the time would be for an accountant at $9.35 per hour, and 10 percent for clerical support at $7.87 per hour. (The hourly rates were taken from the Bureau of Labor Statistics, June, 1984).

Since this proposal would affect principally ship operators with substantial annual revenues, and Government agencies, the Maritime Administration certifies that this rule, as proposed, would not exert a significant economic impact on a substantial number of small entities under Pub. L. 96–354. It includes an information collection requirement that is being submitted to OMB for review pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). It is estimated that the total amount of time required to submit the proposed required data would be 320 hours. Persons desiring to comment on these information collection requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, Attn: Desk Officer, Department of Transportation. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Department of Transportation, Maritime Administration as listed under **"ADDRESSES."**

List of Subjects in 46 CFR Part 382

Agricultural commodities, cargo vessels, Government procurement, grant programs—foreign relations, loan programs—foreign relations, water transportation.

Accordingly it is proposed to amend 46 CFR Chapter II by adding a new Part 382, to read as follows:

Part 382—Determination of Fair and Reasonable Rates for the Carriage of Bulk Preference Cargoes

Sec.

Authority: Sec. 901(b), Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b)).

§ 382.1 Scope.

Part 382 prescribes regulations applying to the transportation on United States-flag commercial vessels, other than liner vessels, of dry and liquid bulk preference cargoes pursuant to Section 901(b) of the Merchant Marine Act of 1936, as amended. These regulations contain the method that the Maritime

Administration (MARAD) will use in calculating fair and reasonable rates and the type of information that must be submitted by operators interested in carrying bulk preference cargoes.

§ 382.2 Data submission.

(a) *General.* Operators who wish to employ vessels in the carriage of preference cargoes must submit information listed in paragraph (b) of this section to the Director, Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20590. Such information shall be submitted not later than March 31 and updated not less often than once every 12 months. All submissions are subject to verification by MARAD.

(b) *Required information.*

(1) Vessel name;

(2) Vessel DWT;

(3) Date built, rebuilt and/or purchased;

(4) Cargo capacity in cubic feet;

(5) Normal operating speed;

(6) Fuel consumption at normal operating speed in tons per day;

(7) Fuel consumption in port, in long tons per day;

(8) Total costs capitalized for Federal Income Tax purposes (list and date capitalized improvements separately);

(9) Debt amortization schedule, including interest rates;

(10) Number of vessel operating days for the year ending December 31;

(11) Number of crew;

(12) Employment costs of officers and crews as of January 1 of the year in which the report is submitted, including payments required by law to assure old age pensions, unemployment benefits, or similar benefits and taxes or other Government assessments on crew payrolls;

(13) Per man per day subsistence cost for the year ending December 31;

(14) Total stores, supplies and expendable equipment expenses for the year ending December 31;

(15) Total maintenance and repair expenses for the year ending December 31;

(16) Annual insurance premiums in effect on January 1 (list premiums separately);

(17) Insurance deductible absorptions for the year ending December 31 (list H&M and P&I absorptions separately);

(18) Miscellaneous expense (detail items of expense);

(19) Overhead;

(20) Cleaning costs;

(21) Lightening costs.

(c) *Other Requirements.* 46 CFR Part 232, the Uniform System of Accounts for Maritime Carriers, and 46 CFR Part 272, Maintenance and Repair reporting instructions are to be used for guidance in submitting cost data.

(d) *Confidentiality.* Due to the proprietary and confidential nature of the commercial and financial information requested in paragraph (b) of this section, MARAD has determined that disclosure of such data is not required under 5 U.S.C. 552(b)(4).

§ 382.3 Determination of fair and reasonable rates.

(a) *Operating cost component.—(1) General.* MARAD will calculate the operating cost component of the fair and reasonable rates to determine normal operating cost per ton of cargo deadweight capacity. The calculation will utilize a least squares regression formula, which will be the equation for a regression curve that establishes the equation's parameters. Data submitted by vessel operators will constitute the data base for determining the operating cost component of this rate.

(2) *Items included.* All cost relating to vessel operation and voyage prosecution shall be included in this element. Operators' actual costs shall be used unless otherwise indicated. The operating cost component shall include the following as defined in 46 CFR Part 232:

(i) Employment costs of offices and crews;

(ii) Subsistence of Office and crews;

(iii) Maintenance and repairs not covered by insurance;

(iv) Annual expenses for hull and machinery insurance;

(v) Annual expenses of protection and indemnity insurance premiums and deductible absorptions;

(vi) Stores, supplies and expendable equipment;

(vii) Miscellaneous expenses;

(viii) Fuel costs for the voyage based on fuel prices at the regions of loading and discharging cargo;

(ix) Port charges, and canal fees if appropriate;

(x) Lightening costs if required because of draft restrictions;

(xi) Vessel cleaning costs for oil to oil or grain to grain voyages.

(b) *Capital component.—(1) General.* the daily capital component consists of profit, depreciation and interest cost. The profit shall include return on working capital (one half voyage expenses) and return or equity. A daily capital component is determined by dividing the annual profit, depreciation and interest costs by 335 days, a normal annual operating period for bulk vessels. The capital component of the fair and reasonable rate will be expressed in dollars per cargo deadweight ton.

(2) *Items included.* The capital component shall include:

(i) *Return on working capital.* Working capital shall equal the dollar amount necessary to cover one-half the operation costs of the vessel for one voyage in the trade. The rate of return shall be based on the most recent mediam annual rate of return on stockholders equity for the top 500 corporations. For example, the median rate of return for calendar year 1984 was 13.06%.

(ii) *Return on equity.* The rate of return on equity shall be determined as in paragraph (b)(2)(i) of this section. For the purpose of determining equity it will be assumed that 25 percent of the vessel's net book value is equity and 75 percent is debt. The net book value shall equal the owner's capitalized cost minus accumulated straight line depreciation.

(iii) *Interest.* The cost of debt shall be determined using the vessel owner's actual interest rate for vessel indebtedness, assumed to be 75% of the owner's capitalized vessel cost. If an actual interest rate in not available, the prevailing rate of interest for Title XI financing at the time of capitalization shall be used.

(iv) *Depreciation.* The owner's actual construction cost, reconstruction cost or purchase cost shall be depreciated on a straight line basis over 25 years, unless the owner has purchased or reconstructed the vessel when its age was greater than 15 years old. When vessels more than 15 years old are purchased, a depreciation period of 10 years shall be used. When vessels more than 15 years old are reconstructed, the Maritime Administration will determine the depreciation period. The residual value of the vessel will be based on the current scrap value as determined by the Maritime Administration.

(c) *Determination of voyage days.* The following assumptions shall be made in determining the number of voyage days:

(i) Cargo is loaded and discharged as per charter party terms.

(ii) Total loading and discharge time includes the addition of a 27.3 percent factor to account fo Sundays and holidays not worked.

(iii) One extra port day is included for bunkering.

(iv) Transit time shall be based on the vessel's normal operating speed, and shall include an additional 5 percent to account for weather conditions.

(d) *Determination of cargo carried.* To determine the amount of cargo tonnage used to calculate the rate, the tonnage of water, stores, and fuel necessary for the voyage shall be subtracted from the vessel's total deadweight capacity. If the

vessel is unable to carry a full cargo load because of port draft restrictions, the estimated maximum cargo tonnage shall be used to determine the rate per ton. In no case, however, shall less than 70% cargo load be used for rate calculation purpose.

(e) *Broker's Commission.* A broker's commission of 2.5% shall be added to the sum of the operating cost component and the capital component.

(f) *Total rate.* The fair and reasonable rate shall be based on the total of the operating cost component, the capital component and the broker's commission.

By order of the Maritime Administrator.

Dated: July 31, 1985.

Murray A Bloom,

Assistant Secretary.

[FR Doc. 85-18646 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket Nos. 78-72 and 80-286]

MTS and WATS Market Structure and Amendment and Establishment of a Joint Board; Order Inviting Further Comments

AGENCY: Federal Communications Commission.

ACTION: Order inviting further comments.

SUMMARY: In this *Order Inviting Further Comments,* the Federal-State Joint Board requests further comments on the following issues related to the development of measures to assist low income households in affording local telephone service: (1) The types of service offerings and assistance programs currently available to low income households; (2) information concerning the level of telephone subscribership and toll usage for low income households; and (3) the mechanism for funding lifeline assistance measures. This action is being taken to elicit additional information concerning broader lifeline assistance measures to assist low income households in affording telephone service. Additional comments will facilitate the development of Joint Board recommendations on this issues.

DATES: Comments are due August 16, 1985. Replies are due August 30, 1985.

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

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

List of Subject in 47 CFR Part 67

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform system of accounts.

Order Inviting Further Comments

In the matter of MTS and WATS market structure, CC Docket No. 78-72; Amendment of part 67 of the Commission's rules and establishment of a joint board, CC Docket No. 80-286.

Adopted: July 12, 1985.

Released: July 26, 1985.

By the Federal-State Joint Board.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby requests further comments on the following issues related to the development of measures to assist low income households in affording local telephone service: (1) The types of service offerings and assistance programs currently available to low income households: (2) information concerning the level of telephone subscribership and toll usage for low income households; and (3) funding for lifeline assistance measures.

B. Background

2. The preservation of universal telephone service has been a major Commission objective throughout the *MTS and WATS Market Structure* proceeding, CC Docket No. 78-72. In the *Third Report and Order*[1] which initially adopted a plan for the implementation of subscriber line charges, the Commission emphasized that it would "[avoid] actions that would cause a significant number of local exchange service subscribers to cancel [telephone] service."[2] As a result, the Commission stated that it would consider requests by local exchange carriers for waiver of the subscriber line charge for low income households that might otherwise be unable to afford telephone service. In the *Second Reconsideration Order*,[3] the Commission concluded that the existing record did not provide an adequate basis for the development of a federal assistance mechanism, but stated that it would conduct further proceedings to consider an exemption from subscriber line charges for low income households. The Commission requested additional comments concerning these issues in the *Further Notice of Proposed Rulemaking*, in CC Docket Nos. 78-72 and 80-286, *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, released April 11, 1984.[4] The *Further Notice* also requested that the Joint Board prepare recommendations concerning this issue.

3. In the Joint Board's *Recommended Decision and Order* in CC Docket Nos. 78-72 and 80-286,[5] adopted November 15, 1984, we concluded that implementation of limited subscriber line charges would not undermine universal service. At the same time, we recognized that general upward pressure on local rates in conjunction with implementation of subscriber line charges had generated legitimate concern regarding the protection of universal service. Accordingly, we recommended that the Commission adopt an optional program to allow the equivalent of a waiver of the subscriber line charge [6] for customers who satisfy a state determined means test which is subject to verification. Under our proposal, the decision to implement this joint federal-state assistance mechanism was left to the individual states. We also recommended expedited study of broader measures to assist low income households in affording telephone service. The Commission adopted these recommendations in its December 19, 1984, *Decision and Order* in CC Docket Nos. 78-72 and 80-286,[7] reaffirming its commitment to universal service and directing the Joint Board to begin a study of broader assistance measures.

4. The Joint Board released an *Order Inviting Comments* on March 29, 1985,[8] which solicited comments on four basic issues: (1) The proper state and federal roles in implementing assistance measures to ensure the continuation of universal service for low income households; (2) criteria for determining eligibility for such assistance; (3) the

[1] CC Docket No. 78-72, 93 FCC 2d 241 (1983).

[2] *Id.* at 266.

[3] CC Docket No. 78-72, 49 FR 7810 (March 2, 1984).

[4] 49 FR 18318 (April 30, 1984). The *Further Notice* requested commenting parties to: (1) Explain the type of assistance which they believed was needed, for example, a subscriber line charge waiver; and (2) explain how the assistance would be funded. The *Further Notice* also requested additional comments on the appropriate means of recovering interstate NTS costs and measures to assist small telephone companies.

[5] 49 FR 48325 (December 12, 1984).

[6] This program provided for a 50 percent reduction in the subscriber line charge for qualified subscribers to be funded through the interstate carrier common line charge. States implementing this plan would be required to provide an equal monetary reduction in local exchange rates for qualified subscribers to be funded from intrastate sources.

[7] 50 FR 939 (January 8, 1985).

[8] 50 FR 14727 (April 15, 1985).

type of lifeline telephone services which should be made available to eligible subscribers; and (4) the mechanism for funding these assistance measures. Thirty-four parties filed comments, and thirteen parties filed replies. A summary of the comments and replies is contained in Attachment A.

II. Discussion

5. After reviewing the comments and replies filed in response to our previous *Order Inviting Comments*, we conclude that additional information on certain matters would facilitate the resolution of these issues. While many of the filings contain thoughful discussions of issues related to the design of assistance measures for low income households, very few of them provide factual information on the nature and extent of the existing problems in this area. Accordingly, we are requesting further comments from interested parties concerning: (1) The types of service offerings and assistance programs currently available to low income households; and (2) information on telephone subscription levels and toll usage by low income households. Information on these matters will assist us in developing recommendations concerning the need for and/or the appropriate level of federal funding. We are also requesting coments on means of ensuring an equitable distribution of federal funding among the states. If the program is funded by both the state and federal jurisdictions with a cap on the federal contribution, should the federal funding come from interstate charges paid by subscribers in each state implementing an assistance program? [9] Should a limitation be imposed on the federal funding per subscriber participating in the assistance program? Should an aggregate limit, for example, based on state population, be imposed on the amount of federal assistance to subscribers in each state? Should federal funding be available: (1) Only in the event of a specified percentage or total dollar increase in local exchange rats; (2) when local rates exceed a specified level; or (3) in the event of a statistically significant decline in subscribership levels due to local rate increases as opposed to other events such as changes in economic conditions? [10] Comments concerning the issues discussed above are to be filed with the Secretary, Federal Communications Comission no later than August 16, 1985. Replies are to be filed by August 30, 1985. [11]

III. Ordering Clauses

6. Accordingly, IT IS ORDERED, That further coments concerning measures to assist low income households in affording telephone service are to be filed with the Secretary, Federal Commnications Commission no later than August 16, 1985. Replies are to be filed on or before August 30, 1985.

7. IT IS further ordered, That all parties filing coments and/or replies are to serve copies on the Joint Board members and staff listed in Attachment B.

Federal Communications Commission

For the Federal-State Joint Board

William J. Tricarico,

Secretary.

Summary of Comments

[CC Docket Nos. 78-72 and 80-286]

Development of Measures To Assist Low Income Households in Affording Telephone Service

Alabama Public Service Commission (Alabama) [1]

(1) The Alabama PSC states that Alabama has the second lowest per capita income in the nation and one of the highet unemployment rates. It asserts that a reasonable level of targeted assistance for low income households is possible without causing bypass. Alabama states that it may be necessary to establish a minimum rate level for lifeline telephone service which would include basic service and necessary toll service. Eligibility for this minimum rate level could be set at a specified percentage of the poverty level income.

(2) Alabama maintains that eligibility should be based on income level. It states that eligibility criteria for existing welfare programs could be used in order to minimize administrative costs. Based upon the experience of the Alabama Department of Economic and Community Affairs, Alabama estimates that a program offering benefits of approximately $8 a month would attract about 1 of every 9 eligible households.

(3) Alabama states that since many eligible households may not have telephone service, it would be reasonable to subsidize half of the connection charges in excess of $25. Alabama states that basic local service and toll service should be made available to lifeline subscribers with incentives to prevent abuse and maximize benefits. Alabama also believes that minimum rate levels for basic local service charges could be implemented with increased assistance for higher rate levels until a maximum dollar amount is reached. Alabama does not believe that lifeline assistance should include custom calling features or other enhanced services.

(4) Alabama asserts that any revenue shortfall should be shared by the federal and state jurisdictions because spreading the costs of assistance over a larger base would make it less burdensome. Alabama, however, argues that as much of the shortfall as possible should be accepted by the federal jurisdiction. In support of this, it cites the federal government's funding of 90 percent of the cost of interstate highway construction programs. Alabama states that the federal jurisdiction could recover its share of the assistance through a tapered carrier common line charge, with the cost of the assistance being recovered from the low volume end of the carrier common line charge.

Ameritech

(1) Ameritech asserts that the states should have the primary responsibility for ensuring that reduced rate telephone service is available if needed. Ameritech argues that there is no evidence that lifeline assistance is needed, and contends that imposing a solution where there is no problem could have damaging effects on universal service. If a lifeline program is adopted, Ameritech emphasizes that it should be tailored to fit the needs of each individual state.

(2) Ameritech states that specific eligibility criteria should be established by the states. It notes that the use of existing public assistance criteria would be logical.

(3) Ameritech argues that there is no need to place unique limitations on lifeline service since low income customers would subscribe to the lowest price service that met their needs.

(4) Ameritech maintains that funding should come from government revenues.

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[9] For example, this could be accomplished through a surcharge on all interstate toll charges billed to subscribers in each participating state.

[10] In this regard, we are asking interested parties to provide us with information on any data sources which they have that could be used to determine the cause for changes in subscription levels. We are also asking for any existing information showing the effect of local rate increases on telephone subscription levels.

[11] This additional round of comments will not delay adoption of Joint Board recommendations concerning measures to assist low income households.

[1] The Joint Board's March 29, 1985 *Order Inviting Comments* sought comments on: (1) The proper state and federal roles in implementing assistance measures to ensure the continuation of universal service for low income households; (2) criteria for determining eligibility for such assistance; (3) the type of lifeline telephone service which should be made available to eligible subscribers; and (4) the mechanism for funding these assistance measures. The commenting parties' reponses to each of these questions is summarized separately.

Associated Telephone Answering Exchanges, INC. (ATAE)

(1) ATAE asserts that an appropriate lifeline program would require the elimination of the subsidy provided by small businesses to residential subscribers. Since it estimates that only 15 percent of residential subscribers would be eligible for an assistance program, ATAE maintains that this would reduce the subsidy for residential subscribers by 85 percent.

(2) ATAE states that any assistance program should be limited to the truly needy.

(3) ATAE maintains that any lifeline program should offer the same services provided to customers paying the full rate. However, ATAE agrees the same limitation on long distance calling should be considered.

(4) ATAE states that funding for any assistance program should be paid by all subscribers to minimize the individual burden.

AT&T

(1) AT&T believes that a lifeline program should involve coordinated federal and state efforts. Accordingly, it believes that the Joint Board is ideally suited to deal with this issue.

(2) AT&T argues that a lifeline assistance program should be directed to the truly needy with eligibility criteria based on state welfare programs to avoid creation of a new bureaucratic structure.

(3) AT&T maintains that lifeline assistance should be limited to basic telephone service at a low income family's principle residence. It argues that assistance should not be provided for any other telephone service.

(4) AT&T asserts that lifeline programs should be funded through tax revenues.

Bell Atlantic

(1) Bell Atlantic argues that state authorities are better able to develop mechanisms for preserving universal service than federal agencies. It states that neither the FCC nor the Joint Board should interject themselves into this area.

(2) Bell Atlantic asserts that existing state agencies, already responsible for public assistance programs, should certify eligibility.

(3) Bell Atlantic states that a lifeline assistance program should consist of a fixed rate for dial tone service or a fixed discount from the existing basic dial tone rate.

(4) Bell Atlantic maintains that the cost of lifeline service should be recovered through general tax revenues, with exchange carriers receiving reimbursement for lost revenues through tax credits.

BellSouth

(1) BellSouth argues that each state should tailor its lifeline programs to its own circumstances. It argues that the preservation of universal service could be assured by allowing market based pricing for all services and freeing the Bell Companies from pricing restrictions.

(2) BellSouth states that eligibility should be based on participation in an existing public assistance program that provides a direct cash payment. It states that periodic recertification should be used to assure continued eligibility.

(3) BellSouth states that a waiver of service connection charges and deposit requirements should be provided for once every twelve months as a part of lifeline service. BellSouth states that restrictions should be placed on toll calls, however.

(4) BellSouth maintains that lifeline assistance is a social issue and states that the costs involved should be borne by state taxpayers.

California Public Utilities Commission and the State of California (California)

(1) California asserts that a federal lifeline program should be directed at assisting the states in developing universal service programs, but should in no way interfere with workable ongoing state programs.

(2) California believes that eligibility should be based on household income. It argues that eligibility should be certified by the applicant to preserve dignity and privacy, to encourage enrollment, and to minimize administrative costs. California states that its lifeline program sets a household income level of $11,000 which is approximately 150 percent of the federal poverty level for a 2.3 person household. California maintains that assistance should be limited to a single telephone line serving the applicant's principle residence.

(3) California states that the type of lifeline service offered should be based on whether the recipient is in a measured or unmeasured service area. California maintains that lifeline rates should be one half of the existing local exchange rate, with no deposit requirement for eligible subscribers if bills are not outstanding. California also asserts that an allowance for a telephone instrument should be included as well as an amount to help cover an installation of service charge once a year.

(4) California asserts that funding for state assistance programs should be derived from a tax on toll services, preferably interLATA intrastate services. However, it notes that other intrastate toll services could contribute to funding the program if necessary. California states that its lifeline plan is currently funded through a 4 percent tax on intrastate interLATA toll service and other intrastate toll service not defined by LATA boundaries.

(5) California states that its lifeline plan has been in effect for approximately one year and appears to be working effectively. It notes that the self-certification process was adopted because the California Commission felt that the abuse which would occur under this process would be less costly than bureaucratic efforts to ensure compliance with eligibility criteria.

Central Telephone Company (Centel)

(1) Centel asserts that state governments rather than the federal government should administer lifeline assistance programs and determine all questions of eligibility. The role of the FCC should be to foster, in cooperation with state regulators, the development and approval of local measured service offerings.

(2) Centel contends that eligibility criteria should be developed by the states.

(3) Centel argues that local measured service should be used as a lower cost lifeline alternative to more expensive unlimited flat rate lifeline offerings.

(4) Centel argues that general tax revenues should continued to be the means by which society provides assistance to low income households including lifeline telephone assistance.

Cincinnati Bell (Cincinnati)

(1) Cincinnati argues that the states are in the best position to evaluate the need for lifeline assistance and should design and administer such programs.

(2) Cincinnati states that the eligibility criteria used for existing public assistance programs should be used for lifeline service. It opposes allowing self-certification.

(3) Cincinnati states that lifeline service should allow free incoming calls as well as calls to the operator or 911. It argues that lifeline service should not include more than current budget services. It contends that normal deposit, collection and disconnect procedures should be used. Cincinnati states that it currently offers a low priced service option.

(4) Cincinnati argues that the revenue shortfall and administrative expenses of lifeline programs should be underwritten by taxpayers. This could be achieved through state tax relief or a federal tax cut for participating companies.

Colorado Public Utilities Commission (Colorado)

(1) Colorado argues that the federal government must assist the states in efforts to preserve universal telephone service since the FCC controls the allocation of non-traffic sensitive (NTS) costs. Colorado states that relief for customers who cannot afford to continue basic telephone service due to rate increases should be provided by the interstate jurisdiction and the federal government. Colorado states that it is not statutorily empowered to institute lifeline on its own, and could only do so if required by federal authorities.

(2) Colorado states that eligibility for lifeline assistance should be limited to households with incomes at or below 150 percent of the federally established poverty level.

(3) Colorado believes that lifeline service should be offered at 50 percent of the tariffed rate for basic flat rate service. Colorado states that another option would be a two-part rate structure with one part including dial tone access and a minimal block of calls of any duration or distance. The second part would consist of measured service based on frequency, duration, and time of day offered at a 50 percent discount from the tariffed rate.

(4) Colorado believes that the financing for lifeline programs should come from the general tax revenues of the states or the federal government. If this approach is not viable, Colorado argues that the revenue shortfall should come from an increase in the interstate carrier common line charge. The actual mechanism for recovery should be established jointly by the FCC and the individual states.

Communications Workers of America (CWA)

(1) CWA urges the establishment of a national plan modeled along the lines of California's Moore Act and pending Congressional legislation (H.R. 151), which would require each state to establish a lifeline mechanism. According to CWA, there appears to be widespread support among the states, consumer organizations, and Congress for lifeline programs as a result of the restructuring of the telephone industry over the past few years.

(2) CWA recommends random, unobtrusive verification of a self-certified eligibility to minimize administrative costs.

(3) CWA asserts that lifeline service usage should be limited to 65 out-going local messages in measured service areas. Where service is not measured, lifeline customers should be entitled to unlimited out-going calls. CWA states that the local exchange companies should be encouraged to submit proposals to help determine if some form of local measured service could be made available. CWA believes that it may be difficult to predict the effect of a discounted service initiation charge on the size of the lifeline fund. As a result, it suggests that state regulators may find that only a small portion of the initiation charge can be subsidized.

(4) CWA states that because of the differing economic situations in each state, sufficient flexibility must be allowed to ensure equitable funding of lifeline programs. CWA asserts that paying for lifeline programs with public funds would not be practical due to pressure on federal and state budgets. However, it suggests the following three funding options: (a) A surcharge on the intrastate toll services of all interexchange carriers, similar to the California plan; (b) an adjustment to local service rates to make up the revenue shortfall; or (c) a combination of these approaches.

Consumer Federation of America and U.S. Public Interest Research Group (CFA)

(1) CFR argues that the goal of universal service can best be met by expanding the Universal Service Fund. According to CFA, only the FCC has the jurisdiction to ensure that users of interstate telecommunications services provide their share of support for lifeline programs. However, it agrees that the states should be required to cover at least half of the cost of their lifeline programs. Since many low income households would give up other essential goods before giving up basic telephone service, CFA argues that the need for lifeline service should not be determined based on a decline in universal service.

(2) CFA believes that the service offered must have simple eligibility requirements, verification procedures, and application processes in order to be useful to low income groups.

(3) CFA states that lifeline service should enable low income individuals to meet their basic communications needs. It argues that the structure of the lifeline rates should be simple and easy to understand. It believes that complicated rate structures that provide no assurance of savings (*i.e.*, measured service) would reduce, if not eliminate, the benefits of lifetime service for low income households. CFA states that lifeline service should provide a sizeable discount for service connections, monthly service charges, telephone equipment, and local usage charges.

(4) CFA maintains that economic reality justifies funding lifeline programs through telephone rates, since the benefits of lifeline programs (expanded networks, increased efficiency, and universal service) are enjoyed by all those on the telephone network. CFA believes that a slight increase in the interstate carrier common line charge could adequately finance a lifeline fund. In addition, CFA recommends that the FCC require a contribution to the lifeline fund by users of other services that benefit directly or indirectly from an expanded public network.

(5) CFA estimates that 6 million people could be forced to do without a phone by the end of 1986. It states that lifeline service will enable many of these people to continue telephone service.

Continental Telecom. Inc. (Contel)

(1) Contel states that there has been no showing of a nationwide need for a uniform federal plan. It states that the FCC should avoid any further involvement in lifeline issues.

(2) Contel argues that the states are in the best position to address the question of eligibility criteria.

(3) Contel takes as the position that the states can best address the question of which types of service should be included in lifeline programs.

(4) Contel argues that the states should determine the sources of funding for any lifeline assistance programs.

Florida Public Service Commission (FPSC)

(1) The FPSC maintains that a federal program is not the best means of accomplishing the goal of universal service since the effects of upward pressures on local telephone rates vary from state to state. The FPSC believes that a federal program could not anticipate the solutions that would work best for each individual state.

(2) The FPSC opposes subsidies targeted to individuals. It states that if eligibility for lifeline service were based on the criteria for federal and state welfare programs, the constant change in the rolls of those receiving assistance would make it extremely difficult for the local exchange companies to maintain an up-to-date list of those eligible for assistance. The FPSC states that the cost to the local exchange companies of updating eligibility information could easily become prohibitive.

(3) The FPSC states that an assistance program or service offering targeted to a specific income level may not be the best approach. Instead, it recommends that the local exchange companies

design several options that provide for different levels of service and rates. It states that message rate offering could be provided with an inexpensive dial-tone charge and additional charges for calls actually made.

(4) The FPSC did not comment on the method of funding.

GTE Corporation (GTE)

(1) GTE agrees that lifeline alternatives should be explored, but states that no FCC action should be taken until actual experience shows a need for lifeline programs. GTE maintains that the character of lifeline programs dictates that the states take a leading role in this area.

(2) GTE states that lifeline programs should be designed to meet the essential requirements of those in special need. It suggests using the present levels of service penetration in each state as a benchmark for determining the need for a lifeline program.

(3) GTE maintains that the best way to meet the needs of the economically disadvantaged is through local measured service which would allow needy customers to keep their bills within an affordable range. GTE states that another alternative would be to supplement payments under existing entitlement programs.

(4) GTE asserts that funding, where required, should come from general tax revenues or credits against exchange carrier tax liabilities. GTE states that neither the exchange carriers not the interexchange carriers have a legitimate role to play in social walfare programs.

Mountain States Telephone, Northwestern Bell and Pacific Northwest Bell (US West)

(1) US West argues that lifeline service measures should be dealt with at the state level. It contends that adoption of a federal program would be harmful. US West urges the Joint Board to recommend that no action be taken on lifeline measures since the need for such a program has not been demostrated.

(3) US West states that lifeline service should include local measured service, unlimited usages service offered at a reduced flat rate, or a combination of the two.

(4) US West maintains that funding for lifeline assistance programs should be obtained from general tax revenues, although each company should be responsible for maintaining and supporting its own lifeline services.

Nevada Bell

(1) Nevada Bell argues that the state commissions should have primary responsibility for designing and administering lifeline programs. It states that the Nevada Commission has endorsed Nevada Bell's proposed lifeline service which should be filed by August 19, 1985.

(2) Nevada Bell did not comment on eligibility criteria.

(3) Nevada Bell did not comment on the type of service to be offered to eligible subscribers.

(4) Nevada Bell did not comment on the source of funding for lifeline services.

New Jersey Board of Public Utilities (New Jersey)

(1) New Jersey asserts that a mandatory federally administered lifeline program should not be implemented for the following reasons: (a) A nationwide lifeline program would be difficult to establish; (b) uniform criteria to determine whether universal service is being achieved by the individual states would be difficult to develop; and (c) a funding mechanism to recover the revenue shortfall will be difficult to create, and the amount of funding needed would be difficult to determine. According to New Jersey, high local loop costs do not necessarily mean that federal lifeline assistance is needed. It argues that many factors must be considered in order to determine the true cost of telephone service—traffic profiles, per capita income, the percentage of public assistance recipients, and the cost of living. New Jersey argues that any lifeline program should be optional since state regulators are in the best position to determine what lifeline assistance is required for low income subscribers in their state.

(2) New Jersey states that eligibility criteria should be left to the individual states, but agrees that general federal guidelines could be adopted to assist states in targeting aid to those households with an income below 125 percent of the federal proverty level. New Jersey also states that utilizing existing eligibility criteria for state assistance programs could minimize the administrative cost of a lifeline program.

(3) New Jersey maintains that each state should determine that services to be provided under its lifeline program. It aurgues that the states would not need to implement new lifeline service offerings it there was no threat to universal service. New Jersey also notes that in certain states extending the period for payment of the service installation fee or providing a discounted installation fee for income households might be sufficient.

(4) New Jersey opposes a surcharge on interstate telephone traffic to fund lifeline sevice. It argues that any funds required to provide for a lifeline program should be generated by the individual states involved.

(5) New Jersey contends that it has achieved universal service, and states that residential rates, both fixed and measured, are not excessive. New Jersey strongly believes that a national solution to what is essentially a local problem is neither appropriate nor warranted. However, if a national lifeline program is to be implemented, it should combine all utility services, including natural gas and electricity, with telephone service. New Jersey notes that there are currently four bills in the state legislature that would institute lifeline assistance for telephone service to be funded entirely from intrastate sources.

New York Department of Public Service (New York)

(1) New York maintains that the primary responsibility for establishing local rate levels and structures lies with state regulatory bodies. It argues that federal intervention in the development of lifeline rate structures is not legal or necessary. New York contends that the proper FCC role in the development of lifeline service is to determine the magnitude of funding from interstate sources necessary to ensure that interstate services bear their fair share of the cost of basic connections to the Telephone network.

(2) New York contends that the FCC should require only that eligibility for lifeline programs be based upon customer need and subject to some form of verification.

(3) New York maintains that the type of lifeline service to be offered should be determined based on a consideration of all circumstances surroung the provision of telephone service to the poor. It states that no one service option should be designated as the sole lifeline service offering. Instead, New York argues that lifeline rates should be set at a fixed discount from the local service rates applicable to non-lifeline subscribers. It contends that state regulatory bodies should be free to determine what types of lifeline services to offer since thay are most familiar with the circumstances of local exchange companies and their customers. New York also notes that it may be appropriate for the state to provide for a reduction in service connection charges and/or changes in the deposit requirements for low income customers. Since these charges and practices vary from company to company, New York argues that the state commissions should be allowed to determine whether changes are needed

to avoid unduly restricting access to the network by low income households.

(4) New York argues that a nationwide maximum amount per customer should be established for federal lifeline funding. It states that fifty percent of the costs of lifeline service should be funded from federal sources. New York contents that ideally, the funds for lifeline service should come from general tax revenues. However, it argues that since neither the FCC nor the state regulatory bodies have jurisdiction over the disposition of these funds, the only other alternative is to obtain the funding from regulated telecommunications services. New York contends that the federal contribution should come from interstate toll services, not a surcharge on the subscriber line charge. It states that each state commission should have the flexibility to determine where the intrastate funding will be obtained.

New York Telephone Company and New England Telephone and Telegraph Company (NYNEX)

(1) NYNEX argues that the states should determine, in consultation with the exchange telephone companies, whether local conditions require lifeline assistance programs. NYNEX also believes that the states should determine the types of service to be offered and the eligibility criteria. NYNEX contends that a universally applicable level of subscriber drop-offs or rate increases should not be prescribed as triggering a response at the federal level. It argues that the states can set these levels more efficiently and effectively.

(2) NYNEX maintains that the states should establish the eligibility criteria for lifeline assistance. It notes that state governments already have established eligibility criteria for other assistance programs, and recommends that lifeline eligibility be based on the same standards. NYNEX states that the FCC need not and should not become involved in establishing specific eligibility criteria. If the FCC were to adopt some minimum standard, NYNEX argues that it is essential to maintain enough flexibility to allow the states to meet local needs. NYNEX states that some form of self-certification may be sufficient, but notes that the states should be allowed to determine if a more stringent form of verification is required.

(3) NYNEX states that lifeline assistance should be applicable to the unbundled residential customer access line including installation and service connection charges. It contends that toll and local usage, as well as custom calling features and other discretionary or optional features should not be subsidized. NYNEX states that there should be no restrictions on the general use of lifeline service.

(4) NYNEX argues that funding for lifeline assistance programs should come from general tax revenues as is the case with other forms of public assistance. NYNEX states that having other telephone customers fund lifeline service will only increase the incentives for uneconomic bypass of the local exchange. As a result, NYNEX opposes funding low income telephone assistance through an increase in the interstate carrier common line charge.

North Carolina Utilities Commission (North Carolina)

(1) North Carolina asserts that the issue of lifeline telephone service is best dealt with at the state level because the states are better equipped to determine the needs of low income telephone subscribers. North Carolina argues that a federal plan may not be an efficient means of achieving the goal of universal service.

(2) North Carolina did not comment on eligibility standards.

(3) North Carolina did not comment on the type of service to be offered to eligible subscribers.

(4) North Carolina did not comment on the mechanism for funding lifeline services

(5) North Carolina states that a proceeding is currently underway within the state to consider implementation of the optional program established by the FCC for waiver of a portion of the subscriber line charge.

Oregon Independent Telephone Association (Oregon ITA)

(1) Oregon ITA believes that state regulators can best review and develop lifeline assistance plans that fit their states' needs.

(2) Oregon ITA did not comment on eligibility criteria.

(3) Oregon ITA believes that lifeline service should consist of a budget measured service offering.

(4) Oregon ITA believes that lifeline service should be funded by subsidies internal to the local telephone company operations.

Oregon Public Utility Commissioner (Oregon)

(1) Oregon maintains that the states should take a leadership role in establishing lifeline programs. It states that the Oregon legislature is currently considering the question of lifeline service.

(2) Although the extent of the state's problem in terms of universal service has not been determined, Oregon believes that increases in welfare payments would ensure that low income subscribers remain on the telephone network.

(3) Oregon states that one means of providing lifeline assistance (other than measured service) would be a monthly subsidy to eligible households using graduated income brackets. Another means could be tax credits for eligible low income subscribers, telephone stamps or vouchers, or cash supplements to existing welfare payments. Oregon also notes that waiving some portion of the installation charge may be desirable.

(4) Oregon states that lifeline programs could be funded through general tax revenues, excise taxes on local telephone lines, taxes on intrastate toll carriers, or voluntary contributions by organizations that place a high value on universal service.

Pacific Bell (Pacific)

(1) Pacific believes that lifeline service programs should be administered by the states. If federal guidelines are established, Pacific believes that they should be structured to avoid conflict with existing state programs.

(2) Pacific argues that the eligibility criteria should be established by the individual states.

(3) Pacific states that lifeline service should consist of reduced rate local exchange service with additional subsidies for installation and a telephone instrument.

(4) Pacific maintains that funding can be provided through a tax (California has a 4 percent tax) on the intrastate interLATA service revenues of interexchange carriers.

Commonwealth of Puerto Rico (Puerto Rico)

(1) Puerto Rico supports a federally mandated plan to assist low income households because it has reached the limit on the resources that the Commonwealth and the telephone companies can provide to foster universal service.

(2) Puerto Rico did not comment on eligibility standards.

(3) Puerto Rico states that a lifeline program should include not only provisions to assist low income households in maintaining telephone service, but also means to enable low income households to obtain service in the first instance. Puerto Rico states that the initiation of service is particularly

critical because it has a penetration rate of only 45 percent.

(4) Puerto Rico believes that lifeline programs should be funded from interstate sources. As a result of the low penetration rate in Puerto Rico, it states that intrastate funding of lifeline service would place a heavy burden on existing customers.

Rural Telephone Coalition (RTC)

(1) RTC believes that the basic responsibility for fostering universal service under federal law rests with the FCC. It argues that a level of telephone penetration equal to the national average should be established as the federal test for when a lifeline program is needed.

(2) RTC asserts that eligibility for lifeline assistance should be based on the standards for other federal and state programs. RTC states that lifeline assistance programs should be administered by state officials.

(3) RTC maintains that lifeline service should allow calling within a local service area without regard to the duration or distance of the call.

(4) RTC states that funding for lifeline service is a national responsibility, and argues that revenue shortfalls should be recovered through taxes or other sources, instead of from telephone subscribers or companies.

Satellite Business Systems (SBS)

(1) SBS believes that the states should be permitted to implement lifeline assistance as they see fit as long as the program is consistent with national objectives.

(2) SBS states that lifeline assistance programs should use the income levels for eligibility as other welfare programs.

(3) SBS maintains that only basic local exchange service should be included in lifeline programs.

(4) SBS believes that funding should be derived from general tax revenues. It states that lifeline assistance could be integrated into the current welfare system and distributed in the form of stamps or cash payments.

Southern New England Telephone Company (SNET)

(1) SNET argues that the states should have primary responsibility for designing and administering lifeline assistance measures. It maintains that state regulatory authorities should continue to authorize rate levels for local exchange service without regard to lifeline assistance measures. SNET contends that neither the local exchange companies nor the FCC are the appropriate entities to determine when lifeline assistance measures are necessary.

(2) SNET states that the appropriate social service agencies in each state should determine the eligibility criteria and verification methods for lifeline service. These standards should be similar to the standards for other public assistance programs.

(3) SNET asserts that lifeline assistance should consist of a fixed dollar amount, provided without regard to the class of exchange service chosen by an eligible customer. Any subsidy should reflect the subscriber's financial need, which may or may not be related to the subscriber's calling patterns or the availability of certain classes of service.

(4) SNET argues that lifeline service should be funded from the most broadly based state revenue source. It opposes funding lifeline programs out of telephone company operating revenues because it believes that the general body of ratepayers should not be responsible for subsidizing low income households.

Southwestern Bell (Southwestern)

(1) Southwestern maintains that the FCC should establish guidelines for the states and provide partial funding for lifeline assistance programs. It argues that the states should devise and implement lifeline service, however.

(2) Southwestern believes that state social service agencies should determine eligibility, using the criteria for federal and state public assistance programs.

(3) Southwestern states that lifelife service should include a discounted basic dial tone connection. However, it believes that subscribers should be free to select usage options that best fit their needs and calling patterns.

(4) Southwestern believes that other telephone company offerings could be priced to subsidize lifeline service, but argues that such programs should be funded from general tax revenues.

United States Telephone Association (USTA)

(1) USTA states that geographic and demographic factors affect the availability of affordable telephone service. It argues that these differences strongly indicate that the states should have the principal role in developing lifeline service measures.

(2) USTA believes that the states should determine and administer eligibility requirements for lifeline service. It notes that there are several approaches that could be taken such as eligibility criteria based on participation in existing assistance programs or self-certification.

(3) UTS argues that lifeline pricing policies and the types of lifeline service available should be tailored to state and local needs.

(4) USTA states that the funding mechanism for lifeline assistance should be left to the states, but it does not support financing these programs through the rates paid by other telephone users. USTA states that the funding should be spread over the widest base possible. It contends that this is particularly important to those exchange carriers with smaller subscriber bases which are severely limited in their ability to average increases in subscriber rates.

United Telephone Systems, Inc. (UTS)

(1) UTS believes that state legislatures should decide whether lifeline assistance is needed and what form it should take due to the wide variation among the states in telephone penetration levels, local exchange rates, and income levels.

(2) UTS states that the eligibility should be based on the criteria for existing social welfare programs.

(3) UTS believes that recipients should not be required to subscribe to any particular type of service. It argues that such plans should allow recipients to use a lifeline transfer payment to purchase whichever form of local telephone service is valued most.

(4) UTS asserts that the revenue deficiency should be funded through general tax revenues, or through reductions in the telephone companies' gross receipts tax liability. UTS argues that any method of funding that requires telephone industry subsidies should be avoided.

U.S. Telecom

(1) U.S. Telecom argues that the Communications Act requires the FCC to act to the extent necessary to ensure the general availability of telephone service. It states that the present access charge structure represents an informed balance among the goals of the Communications Act.

(2) U.S. Telecom fears that using a formula based upon economic and social conditions to determine the need for lifeline service would embroil the FCC in a significant expenditure of resources since these variables change from time to time and from region to region. Therefore, U.S. Telecom argues that an absolute measurement of some type should be used to determine the need for a lifeline program such as a specified level of subscriber drop-off. U.S. Telecom states that the national poverty level could be used to determine

eligibility. Since the affordability of telephone service varies from region to region, and is affected by the cost of living, the income level could be adjusted to reflect regional cost of living index differentials.

(3) U.S. Telecom states that flat rate lifeline service should be available only where measured service is not available. Where local measured service is available, lifeline service should be measured. However, U.S. Telecom states that the number of calls should be the only measurement parameter, with lifeline service covering the largest flat rate calling area.

(4) U.S. Telecom believes that both federal and state government should contribute to covering the revenue shortfall that may occur with the provision of lifeline service. It states that any carrier contributions should be fully tax deductible with any remaining contribution to the recovery of the revenue shortfall coming from an increase in the subscriber line charge. U.S. Telecom argues that an increase in the interstate or intrastate carrier common line charge is not in the public interest since these charges are already supporting end users.

Vermont Public Service Board (Vermont)

(1) Vermont argues that the states are in a better position than the federal government to judge actual needs and design responsive lifeline programs because uniform federal policies cannot adequately respond to regional and local differences.

(2) Vermont argues that the development of eligibility criteria should be left to each state's discretion. It states that the least costly and most efficient approach would be to use existing eligibility criteria for public assistance. Although the criteria vary from state to state, the processing and verification mechanisms are already in place. Vermont maintains that in certain cases, such as income assistance to the elderly, self-certification has been found to be an inexpensive and effective form of determining eligibility.

(3) Vermont states that there is evidence that initial service connection fees may be a barrier to universal service, and it recommends that these charges be included in assistance programs. Vermont also states that party line service may reduce the costs of accessing the network in some areas. In addition, it notes that a limited call allowance combined with a cap on monthly billings has eased customer acceptance of mandatory local measured service, suggesting that such an approach might be helpful in the lifeline area.

(4) Vermont contends that funding for lifeline service should come from both intrastate and interstate sources. It argues that intrastate toll services cannot provide a major contribution due to the threat of bypass, arbitrage, and customer comparisons with interstate rates.

Representative Bob Wise of West Virginia (Congressman Wise)

(1) Congressman Wise asserts that the federal government should play a very limited role in the establishment of eligibility standards for lifeline service. State funded assistance programs should be optional, not mandatory. He argues that the FCC should develop minimum standards for states to follow, in order to ensure that the most needy customers in all states are served, but emphasizes that the states should have maximum flexibility in designing the criteria for eligibility.

(2) Congressman Wise believes that the states must have flexibility to establish specific standards that meet their individual needs, although a federally mandated minimum eligibility standard should take into account the needs of the elderly, handicapped, unemployed, low income households, and rural customers. Congressman Wise states that limiting eligibility to a specific income level is not a satisfactory approach. For example, offering lifeline service to those who qualify for Supplemental Social Security Income (SSI) would disqualify individuals who have low incomes but own land. Congressman Wise states that many of these individuals live in rural, high cost areas and need assistance. He suggests having customers certify their eligibility through a form (including questions on family income and other eligibility criteria established by the individual state) to be filed with a state agency such as a Human Services Commission.

(3) Congressman Wise states that an effective lifeline plan would provide for low monthly rates with a limited usage allowance for a limited number of local calls. He states that any calls made in excess of this allowance should be charged to the customer on a measured or message rate basis. However, he maintains that local measured service alone is not an adequate form of lifeline assistance since it does not take into account rural customers whose local calling area does not include the nearest hospital, police department, or general store.

(4) Congressman Wise states that funding should be provided by a surcharge on interstate services, with participating companies receiving compensation from a lifeline service fund like that provided for in H.R. 151 and S. 950. This fund would cover 50 percent of the cost of providing lifeline service. The individual states could also offer assistance to participating companies. For example, Congressman Wise notes that West Virginia's proposed lifeline plan would offer qualified companies a tax credit equal to the cost of providing reduced rate service less any cost reimbursement received from other sources.

Summary of Reply Comments

[CC Docket Nos. 78-72 and 80-286]

Development of Measures to Assist Low Income Households in Affording Telephone Service

Ad Hoc Telecommunications Users Committee (Ad Hoc)

(1) Ad Hoc supports lifeline assistance programs for low income households who otherwise might lose a critical link to society. Ad Hoc believes that waiving the subscriber line charge for needy customers is an appropriate beginning. Ad Hoc maintains that state regulators, welfare agencies, local exchange companies, and legislatures should address: (1) Whether any type of lifeline program is needed and what type of program would be appropriate; (2) a benchmark for universal service that would trigger more aggressive responses; and (3) the appropriate mechanism for measuring the success of such programs. The FCC and the Joint Board functions should be to: (1) provide states with information on universal service programs that have been adopted or are being considered by other states; (2) provide suggested guidelines; (3) ensure that any expenditure of federal funds is targeted to subscribers based on their need; and (4) collect data from the states in order to continue monitoring whether universal service is being maintained.

(2) Ad Hoc argues that the ultimate responsibility for designing and administering lifeline programs should lie with the states, although the FCC should determine the magnitude of funding from interstate services. Ad Hoc opposes FCC or Joint Board mandated guidelines, but agrees that some federal scrutiny is needed to the extent that federal funds are used. Ad Hoc states that lifeline services should allow subscribers to make and receive local exchange calls without regard to distance or duration. It states that lifeline programs should be targeted to the needy with existing administrative

mechanisms used to determine and verify income eligibility. Ad Hoc states that general tax revenues should be used to fund lifeline programs, but notes that a surcharge on subscriber line charges could be substituted to generate the federal portion of the funding. Ad Hoc believes that the states should decide on their own method of funding lifeline service.

Bell Atlantic

Bell Atlantic argues that there is a virtual consensus among the commenting parties that: (1) The states should be given the broadest latitude in determining the need for, and developing lifeline programs; (2) the states should use existing eligibility criteria for low income assistance programs or develop such criteria where they do not already exist, rather than target assistance to high cost areas; and (3) any lifeline service should be funded through general tax revenues. Bell Atlantic argues that AT&T proposal for funding lifeline subsidies through higher rates for other services provided by the exchange companies should be rejected. Bell Atlantic argues that such an arrangement would merely confer an artifical competitive advantage on AT&T and other providers of alternatives to local exchange service.

Continental Telecom, Inc. (Contel)

Contel believes that the states are best suited to determine whether there is a need for lifeline service and how to tailor such assistance to fit their individual needs. Contel argues that federally mandated guidelines would result in a uniform response where flexible assessments and diverse solutions are an absolute necessity. Contel believes that the Joint Board has already taken appropriate mesaures to address the issue of universal service from a federal perspective. It argues that the FCC should defer to the states on how best to maintain affordable local telephone service for low income households.

GTE Corporation (GTE)

GTE states that there is a consensus among the commenting parties that implementation of lifeline lies within the province of the states as long as there is no conflict with federal policies. If a need for lifeline service is shown to exist, GTE believes that measured service would best meet the needs of the economically disadvantaged. It states that an alternative would be lifeline service supported by tax revenues and provided in conjunction with existing entitlement programs through direct payments to the low income subscribers.

Illinois State Commerce Commission (Illinois)

Illinois believes that the various forms of lifeline assistance being developed at the state level are preferable to a uniform approach administered at the federal level.

New York Department of Public Service (New York)

New York states that it has instituted measures to implement the subscriber line charge waiver for ratepayers receiving public assistance effective June 1, 1985.

New York Telephone Company and New England Telephone and Telegraph Company (NYNEX)

NYNEX reiterates its view that the states should be permitted ample leeway in structuring lifeline programs. While NYNEX states that this should not be viewed as implying that there is no role for the federal government in this area, any federal role must be limited so that the individual needs of each state can be taken into account in the development of programs that meet local needs.

Office of Consumers' Counsel, State of Ohio (OCCO)

OCCO expresses concern that residential consumers are virtually unrepresented in this proceeding. OCCO argues that it is inconsistent for the industry, which supported a uniform national policy on subscriber line charges to avoid drop-off by big business customers, to oppose a national solution to the problem of residential customer drop-off. OCCO states that the FCC should not allow the regulated industry to turn to the Commission for revenue enhancement while advocating a state by state approach in areas such as lifeline service that might adversely affect revenues. Thus, OCCO argues that in considering a national lifeline plan, the state members of the Joint Board should reflect on what the regulated industry has done about lifeline service at the state level. OCCO also contends that the FCC should provide for a complete waiver of the subscriber line charge funded from interstate carrier revenues.

Pacific Bell (Pacific)

Pacific believes that lifeline assistance programs should not be funded from general tax revenues. Pacific argues that the use of general tax revenues will require legislative participation, causing regulatory commissions to lose control over lifeline offerings.

Public Service Commission of the District of Columbia (DCPSC)

The DCPSC states that it is considering two proposals for lifeline service. The first is an economy service consisting of a dial tone charge at a monthly rate of $8.42, 37 percent below the charge for standard residential service. To ensure that it does not become a low priced service option for the general body of subscribers, this service has a higher message unit charge. The service would provide a communications link for customers who make few calls and would have no qualification criteria. The DCPSC notes that there have been objections to the plan due to the fact that the new service would involve an increase in the rates for an existing economy basic dial tone service as well as an increase in the message rate.

In addition, it is argued that there is no basis for imposing a higher message rate charge for lifeline service. The DCPSC states that the second option is a plan to set the lifeline rate at $4.00 with a 300 call allowance. This plan would also implement the 50 percent reduction in the customer access line charge by including a reduction in the charge for local service. The service would be available to those customers who qualify under the federal criteria for participation in the Low Income Home Energy Assistance Program or the Complementary Energy Assistance Program. The DCPSC states that commenting parties support the second plan, but believe that funding for the plan should come from general tax revenues. The filings also state that government social agencies should determine the eligibility criteria with all costs, including that of informational advertising, borne by the government.

The Puerto Rico Telephone Company (Puerto Rico)

Puerto Rico argues that the goal of lifeline programs should be not only to maintain existing levels of telephone service, but to extend service in areas where telephone service penetration is below the national average. It states that this is particularly critical to Puerto Rico. Puerto Rico also maintains that funding must be spread over a wide base to avoid placing the cost of assistance on those who cannot afford to pay for it. Puerto Rico states that the Joint Board should endorse the use of nationally generated funds to pay for lifeline assistance in areas where the local or state population cannot afford the costs involved.

Satellite Business Systems (SBS)

SBS maintains that if lifeline service is necessary, it should be limited in scope. SBS states that income is the only relevant criterion for assessing eligibility for lifeline programs. It believes that self-certification is unreasonable, and argues that eligibility requirements must be strictly enforced. SBS states that funds to support a lifeline subsidy should come from general tax revenues. It also argues that state participation and flexibility is essential to the development of an efficient and effective lifeline mechanism, although state regulatory actions in this area should be consistent with national policies.

United Telephone System Inc. (UTS)

UTS questions whether lifeline assistance is needed. If it is needed, UTS believes that the states should address the problem. UTS states that funding for such a program should come from general tax revenues, not from within the telephone industry. UTS believes that lifeline plans should credit the subscriber's monthly telephone bill with the desired amount of assistance. UTS believes that local measured service or budget service should not be precluded from serving as a lifeline mechanism.

Attachment B

Joint Board Members

Chairman Mark S. Fowler, Federal Communications Commission, 1919 M Street NW., Room 814, Washington, D.C. 20554

Commissioner Henry M. Rivera, Federal Communications Commission, 1919 M Street NW., Room 832, Washington, D.C. 20554

Commissioner Mimi Weyforth Dawson, Federal Communications Commission, 1919 M Street NW., Room 826, Washington, D.C. 20554

Commissioner Marvin R. Weatherly, Alaska Public Utilities Commission 420 L Street, Suite 100, Anchorage, Alaska 99501 (Use Express Mail or Courier Service)

Chairman Edward F. Burke, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Commissioner Edward P. Larkin, New York Public Service Commission, 400 Broome Street, New York, New York 10013

Commissioner Edward B. Hipp, North Carolina Utilities, Commission, Box 29510, Raleigh, North Carolina 27626-0510

Federal-State Joint Board Staff

Ronald Choura, Chairman, Federal-State Joint Board Staff, Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909

Laraine Plaga, Alaska Public Utilities Commission 420 L Street, Suite 100, Anchorage, Alaska 99501 (Use Express Mail or Courier Service)

Elton Calder, Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Georgia 30334

Guy E. Twombly, Maine Public Utilities Commission Commission, State House, Station 18, Augusta, Maine 04330

Paul Popenoe, Jr., California Public Utilities Commission, 350 McAllister Street, San Francisco, California 94102

Timothy J. Devin, Deputy Director, Auditing and Financial Analysis Department, Florida Public Service Commission, 101 East Gaines Street Tallahassee, Florida 32301

Hugh L. Gerringer, Public Staff—NOUC Communications Division, Box 29510, Raleigh, North Carolina 27626-0510

Jim Lanni, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Rowland Curray, Texas Public Utility Commission, 7800 Shoal Creek Blvd. Austin, Texas 78757

Allan Bausback, New York Public Service Commission, 3 Empire State Plaza Albany, New York 12223

Gary A. Evenson, Director, Communications Bureau Utility Rates Divison, Public Service Commission, P.O. Box 7864, Madison, Wisconsin 53707

Karen L. Hochstein, Director, Congressional and Public Relations, National Association of Regulatory Utility Commissioners, 1102 ICC Building, P.O. Box 684 Washington, D.C. 20044

Claudia R. Pabo (4 copies), Acting Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street NW., Room 544 Washington, D.C. 20554.

[FR Doc. 85-18634 Filed 8-5-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 67

[CC Docket No. 80-286]

Amendment of the Rules and Establishment of a Joint Board; Order Inviting Comments

AGENCY: Federal Communications Commisison.

ACTION: Order inviting comments.

SUMMARY: The Federal-State Joint Board requests preliminary comments from interested parties regarding the existing separations procedures for Central Office Equipment (COE) and interexchange plant costs. (Further comments will be requested at a later date.) These comments were requested to assist the Joint Board in defining and prioritizing the Joint Board in defining the issues in this area. This will facilitate the development of Joint Board recommendations on these issues.

DATES: Comments are due July 19, 1985. Replies are due August 16, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Note.—Delayed publication of this document is due to late receipt by the Commission's Federal Register liason officer and the Office of Federal Register.

List of subjects in 7 CFR Part 67

Comunications common carriers. Reporting and recordkeeping requirements. Uniform system of accounts.

Order Inviting Comments

In the matter of amendment of Part 67 of the Commission's rules and establishment of a joint board, CC Docket No. 80-286.

Adopted: June 19, 1985.
Released: June 25, 1985.

By the Federal-State Joint Board.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby requests preliminary comments regarding the exisiting separations procedures for Central Office Equipment (COE) and interexchange plant costs. Interested parties are also asked to indicate the priority which they attach to resolution of each of the issues which they address.

B. Background

2. In June 1980, the Commission instituted CC Docket No. 80-286, *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board,*[1] for the purpose of reexamining the procedures for separating local exchange costs between the intrastate and interstate jurisdictions. Among other things, the Commission asked the Joint Board to

[1] 78 FCC 2d 837 (1980).

address a number of issues concerning the allocation of Category 6 COE.[2] The Commission also asked the Joint Board to recommend any changes necessary to coordinate separations procedure with the access rules to be developed in CC Docket No. 78-72, *MTS and WATS* Market Structure. In September, 1983, the Joint Board recommended a new allocation method for most NTS local exchange plant costs.[3] However, we did not recommend any major changes in the classification or allocation of Category 6 COE plant costs. Instead, we recommended that the NTS portion of Category 6 COE continue to be allocated on the basis of SPF pending comprehensive review of the COE issues. The Commission adopted these recomendations.[4]

3. On April 11, 1984, the Commission released a *Further Notice of Proposed Rulemaking* (*Further Notice*) in CC Docket Nos. 78-72 and 80-286.[5]

In the *Further Notice*, the Commission, among other things, asked the Joint Board to undertake a comprehensive review of the separations procedures for all COE and recommended revisions where necessary. As part of this comprehensive review, the Commissions stated that the Joint Board should examine all existing COE plant categories, the procedures for assigning COE costs to the various categories, and the factors for allocating COE costs between the jurisdictions. The Commission also asked the Joint Board to consider the need for consistency between the separations procedures and the access charge rules dealing with COE. In addition, the Commission asked that we study the expansion of the high cost assistance mechanism to cover certain COE costs.

4. In the *Further Notice*, the Commission also asked the Joint Board to review the procedures for the allocation of interchange plant costs and to recommend revisions in these procedures. In this regard, the Commission specifically asked the Joint board to consider the validity of the existing separations procedures which allocate traffic sensitive interchange plant costs between the jurisdictions on the basis of total relative use rather than peak period relative use. The Commission also asked the Joint Board to reexamine the message minute mile factor in light of the widespread use of satellite service.[6]

The Commission noted that the Joint Board might wish to request preliminary comments on these matters to help delineate the issue requiring further study.[7]

II. Discussion

5. The Joint Board hereby requests preliminary comments from interested parties concerning: (1) Issues related to the separations procedures for COE and interexchange plant costs; and (2) how these issues should be prioritized and grouped to ensure timely action concerning them. The preliminary comments concerning these issues are to be filed with the Secretary, Federal Communications Commission no later than July 19, 1985. Replies are to be filed by August 16, 1985. Further comments concerning these issues will be requested at a later date.

III. Ordering Clauses

6. Accordingly, it is ordered, that preliminary comments concerning the separations procedures for COE and interexchange plant costs are to be filed with the Secretary, Federal Communications Commission no later than July 19, 1985. Replies are to be filed no later than August 16, 1985.

7. It is further ordered, that all parties filing comments and/or replies are to serve copies on the Joint Board members and staff listed in Attachment A.

Federal Communications Commission.

For The Federal-State Joint Board.

William J. Tricarico,

Secretary.

Attachment A

Joint Board Members

Chairman Mark S. Fowler, Federal Communications Commission, 1919 M Street, NW., Room 814, Washington, D.C. 20554

Commissioner Henry M. Rivera, Federal Communications Commission, 1919 M Street, NW., Room 832, Washington, D.C. 20554

Commissioner Mimi Weyforth Dawson, Federal Communications Commission, 1919 M Street, NW., Room 826, Washington, D.C. 20554

Commissioner Marvin R. Weatherly, Alaska Public Utilities Commission, 420 L Street, Suite 100, Anchorage, Alaska 99501 (Use Express Mail or Courier Service)

Chairman Edward F. Burke, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Commissioner Edward P. Larkin, New York Public Service Commission, 400 Broome Street, New York, New York 10013

Commissioner Edward B. Hipp, North Carolina Utilities Commission, Box 29510, Raleigh, North Carolina 27626-0510

Federal-State Joint Board Staff

Ronal Choura, Chairman, Federal-State Joint Board Staff, Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909

Laraine Plaga, Alaska Public Utilities Commission, 420 L Street, Suite 100, Anchorage, Alaska 99501, (Use Express Mail or Courier Service)

Elton Calder, Georgia Public Service Commission, 244 Washington Street, SW., Atlanta, Georgia 30334

Guy E. Twombly, Maine Public Utilities Commission, State House, Station 18, Augusta, Maine 04330

Paul Popenoe, Jr., California Public Utilities Commission, 350 McAllister Street, San Francisco, California 94102

Timothy J. Devlin, Deputy Director, Auditing and Financial Analysis Department, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32301

Hugh L. Gerringer, Public Staff—NCUC Communications Division, Box 29510, Raleigh, North Carolina 27626-0510

Jim Lanni, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Rowland Curry Texas Public Utility Commission, 7800 Shoal Creek Blvd., Austin, Texas 78757

Allan Bausback, New York Public Service Commission, 3 Empire State Plaza, Albany, New York 12223

Gary A. Evenson, Director, Communications Bureau, Utility Rates Division, Public Service Commission, P.O. Box 7864, Madison, Wisconsin 53707

Karen L. Hochstein Director, Congressional and Public Relations, National Association of Regulatory Utility Commissioners, 1102 ICC Building, P.O. Box 684, Washington, D.C. 20044

[2] The COE related issues included: (1) The division of Category 6 COE into non-traffic sensitive (NTS) and traffic sensitive (TS) portions; (2) the Subscriber Plant Factor (SPF) which is used in the allocation of NTS Category 6 COE costs; and (3) the toll weighting factors (TWFs) used in allocating TS Category 6 COE between the jurisdictions.

[3] *Amendment of Part 67*, CC Docket No. 80-286, 48 FR 46556 (October 13, 1983).

[4] *Amendment of Part 67*, CC Docket No. 80-286, 49 FR 7934 (March 2, 1983).

[5] *MTS and WATS Market Structure and Amendment of Part 67*, 49 FR 18319 (April 30, 1984).

[6] The message minutes mile factor weights the relative use of interexchange plant by the length of haul. The cost of satellite service is distance insensitive, however.

[7] The Commission stated that before focusing on the study of COE and interexchange issues, the Joint Board should complete preparation of recommendations on the access charge issues as well as the remaining issues concerning local exchange cost allocations.

Claudia R. Pabo (4 copies), Acting Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Room 544, Washington, D.C. 20554

[FR Doc. 85-18631 Filed 8-5-85; 8:45 am]

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47 CFR Part 67

[CC Docket Nos. 78-72 and 80-286]

MTS and WATS Market Structure and Amendment and Establishment of a Joint Board: Order Inviting Further Comments

AGENCY: Federal Communications Commission.

ACTION: Order inviting further comments.

SUMMARY: In this *Order Inviting Further Comments*, the Fedeal-State Joint Board requests further comments and data on permanent measures for the allocation and recovery of end user service order processing expenses in Account 645, Local Commercial Operations. This is being done to supplement the existing record concerning these issues. Further comments will facilitate development of Joint Board recommendations on these issues.

DATE: Comments are due August 16, 1985. Replies are due August 30, 1985.

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

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 67

Communications common carriers, Reporting and recordkeeping requirement, Telephone, Uniform system of accounts.

Order Inviting Further Comments

In the Matter of MTS and WATS market structure, CC Docket No. 78-72; Amendment of Part 67 of the Commission's rules and establishment of a joint board, CC Docket No. 80-286.

Adopted: July 12, 1985.
Released: July 24, 1985.

By the Federal-State Joint Board: Commissioner Rivera not participating.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby requests further comments and data on permanent measures for the allocation of end user service order processing expenses contained in Account 645, Local Commercial Operations.[1]

B. Background

2. On March 28, 1985, the Joint Board released its *Recommended Interim Order and Request for Comments (Recommended Interim Order)*[2] which proposed interim measures for the allocation of Account 645 costs between the state and federal jurisdictions, and requested comments concerning permanent measures for the allocation and recovery of these costs. In particular, the Joint Board asked for comments on two alternative plans for the separations treatment of Account 645. The most significant difference between the two plans lies in their treatment of end user service order processing, although they differ in a number of other respects as well.

3. Under Plan A, end user service order processing costs[3] are broken into two categories—Basic Service and Other Local Service. Basic Service costs (which are defined to include costs involved in the provision of access to the public switched network) are assigned to the interstate jurisdiction on the same basis as Category 1.33 Outside Plant. The local loop used by subscribers to access the switched telephone network.[4] Category 1.33 Outside Plant is presently assigned to the interstate jurisdiction on the basis of the frozen Subscriber Plant Factor which is approximately 28 percent on a nationwide average basis.[5] The expenses in the Other Local Service category (which includes costs associated with the provision of local services that are not essential for customer access to the public switched network) are allocated to the intrastate jurisdiction. Costs associated with presubscription to an interexchange carrier are allocated between the federal and state jurisdictions in proportion to the use of equal access facilities.

4. Plan B establishes a Service Order Processing Category which includes the expense of business and residence service centers that receive and process customers' service orders and inquires concerning service. Under Plan B, service order processing expense is segregated into the following categories on the basis of the relative number of contacts: (1) directory advertising; (2) intrastate private line; (3) interstate private line; and (4) all other expenses which consists largely of the expense of end user orders for local telephone service. The cost of end user service order processing is assigned to the intrastate jurisdiction.

II. Discussion

5. Based on the comments, it appears that it is desirable to divide end user service order processing costs into separate categories for local service order processing, presubscription, and other costs associated with subscription to interstate services. Under this approach, local service order processing would include the expenses associated with processing requests for local exchange service and inquiries concerning the provision of local service. The presubscription category[6] would include the expense associated with presubscription to an interexchange carrier. Any other costs associated with subscription to interstate services would also be segregated from the cost of local service order processing and allocated separately. As a general principle, the cost of local service order processing for end users should be directly assigned to the intrastate jurisdiction, with presubscription expenses allocated between the federal and state jurisdictions based on relative minutes

[1] Account 645 reflects the costs of telephone company local commercial operations not related to promotional or directory services. Telephone company commercial offices are responsible for service order processing for end users and interexchange carriers, billing inquiry, collection of coins from pay telephones, and certain billing and collection functions

[2] CC Docket Nos. 78-72 and 80-286. *MTS and Wats Market Structure* and *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, 50 FR 14729 (April 15, 1985). The Commission subsequently adopted the Joint Board's interim recommendations.

[3] Both Plan A and Plan B establish a separate category for interexchange carrier service order processing.

[4] Plan A would also allocate customer payment and collection expenses for local service charges to the interstate jurisdiction on the same basis as Category 1.33 Outside Plant.

[5] The transition to a new basic interstate allocation factor of 25 percent with an additional interstate assignment for high cost areas will begin January 1, 1986. Section 67.124 of the Commission's rules, 47 CFR 67.124 (1984).

[6] The initial presubscription costs associated with conversion of end offices to equal access will be included in the equal access cost category. Subsequent equal access costs will be included in the presubscription category discussed here. *See Recommended Opinion and Order* in CC Docket Nos. 78-72 and 80-286, *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, FCC 85 ——, released ——, 1985.

of use for the toll traffic categories to which presubcription applies. Any other costs associated with subscription to interstate services would be assigned to the interstate jurisdiction.

6. Interested parties are asked to comment on this approach to the separation of end user service order processing expenses and presubsciption costs. In particular, we request comments on the following questions. Is the proposed categorization of these costs appropriate? How should the costs of local service order processing, presubscription, and any other costs associated with subscription to interstate services be segregated? Should this be done on the basis of worktime studies or could a reasonably representative surrogate factor be developed? Are the proposed procedures for allocating the costs in these categories between the state and federal jurisdiction appropriate? How should the interstate assignment of these costs be recovered?[7]

7. We are also asking the regional Bell holding companies to provide calendar year estimates for 1986 of the dollar amount and the percentage of Account 645 costs which would be allocated to the intrastate and interstate jurisdictions under Plans A and B if modified to reflect our proposed approach to the allocation of end user service order processing expenses. For purposes of this filing, the regional companies are to use estimates of 1987 presubscription costs in Account 645, excluding presubscription costs associated with the initial conversion of local end offices to Feature Group D.[8] Local service order costs, presubscription expenses, and any other costs associated with subscription to interstate services are to be segregated based on estimates of the results which would be produced by the use of worktime studies. The methodology used in preparing these estimates is to be consistent with the methodology used in preparing the previously filed data concerning Account 645 costs. Comments and data are to be filed with the Secretary, Federal Communications Commission no later than August 16, 1985. Replies are to be filed by August 30, 1985.

III. Ordering Clauses

8. Accordingly, it is ordered, That comments and data regarding the allocation of end user service order processing costs are to be filed with the Secretary, Federal Communications Commission no later than August 16, 1985. Replies are to be filed no later than August 30, 1985.

9. It is further ordered, That all parties filing comments, data and/or replies are to serve copies on the Joint Board members and staff listed in Attachment A.

For the Federal-State Joint Board.

William J. Tricarico,

Secretary, Federal Communications Commission.

Attachment A

Joint Board Members

Chairman Mark S. Fowler, Federal Communications Commission, 1919 M Street, NW., Room 814, Washington, D.C. 20554

Commissioner Henry M. Rivera, Federal Communications Commission, 1919 M Street, NW., Room 832, Washington, D.C. 20554

Commissioner Mimi Weyforth Dawson, Federal Communications Commission, 1919 M Street, NW., Room 826, Washington, D.C. 20554

Commissioner Marvin R. Weatherly, Alaska Public Utilities Commission, 420 L Street, Suite 100, Anchorage, Alaska 99501. (Use Express Mail or Courier Service)

Chairman Edward F. Burke, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Commissioner Edward P. Larkin, New York Public Service Commission, 400 Broome Street, New York, New York 10013

Commissioner Edward B. Hipp, North Carolina Utilities Commission, Box 29510, Raleigh, North Carolina 27626-0510

Federal-State Joint Board Staff

Ronald Choura, Chairman, Federal-State Joint Board Staff, Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909

Laraine Plaga, Alaska Public Utilities Commission, 420 L Street, Suite 100, Anchorage, Alaska 99501. (Use Express Mail or Courier Service)

Elton Calder, Georgia Public Service Commission, 244 Washington Street, S.W., Atlanta, Georgia 30334

Guy E. Twombly, Maine Public Utilities Commission, State House, Station 18, Augusta, Maine 04330

Paul Popenoe, Jr., California Public Utilities Commission, 350 McAllister Street, San Francisco, California 94102

Timothy J. Devlin, Deputy Director, Auditing and Financial Analysis Department, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32301

Hugh L. Gerringer, Public Staff—NCUC, Communications Division, Box 29510, Raleigh, North Carolina 27626-0510

Jim Lanni, Rhode Island Public Utilities Commission, 100 Orange Street, Providence, Rhode Island 02903

Rowland Curray, Texas Public Utility Commission, 7800 Shoal Creek Blvd., Austin, Texas 78757

Allan Bausback, New York Public Service Commission, 3 Empire State Plaza, Albany, New York 12223

Gary A. Evenson, Director, Communications Bureau, Utility Rates Division, Public Service Commission, P.O. Box 7864, Madison, Wisconsin 53707

Karen L. Hochstein, Director, Congressional and Public Relations, National Association of Regulatory Utility Commissioners, 1102 ICC Building, P.O. Box 684, Washington, D.C. 20044

Claudia R. Pabo (4 copies), Acting Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Room 544, Washington, D.C. 20554

[FR Doc. 85-18632 Filed 8-5-85; 8:45 am]

BILLING CODE 6712-01-M

[7] A Joint Board recommendation concerning the recovery of these costs is not required.

[8] Use of 1987 estimates is necessary because most presubscription costs in 1985 and 1986 will be associated with the initial conversion of end offices to Feature Group D.

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47 CFR Part 67

[CC Docket Nos. 78-72 and 80-286]

MTS and WATS Market Structure and Amendment and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Recommended Decision and Order.

SUMMARY: The Federal State Joint Board concluded that it could not recommend the Florida Public Service Commission's plan for a unified set of federal/state access charge tariffs to recover costs for all interexchange use of the local network. The Joint Board found that the Florida Plan imposed additional cost burdens on telephone subscribers in other states as a result of the fact that it would recover more non-traffic sensitive (NTS) costs from interexchange carriers than the FCC plan does. As a result the Joint Board recommended that the Commission ask Florida to revise its present plan to eliminate the additional cost burden that it would impose on telephone subscribers in other states.

This recommendation will facilitate Commission action on the Florida proposal. It is intended to foster the development of sound experimental tariff proposals for the recovery of NTS costs.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo at (202) 632-6363.

Recommended Decision and Order

In the matter of MTS and WATS Market Structure Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board; CC Docket Nos. 78-72, 80-286.

By the Federal-State Joint Board: Commissioners, Fowler, Chairman, Dawson and Rivera issuing a separate statement.

Adopted: June 7, 1985.

Released: June 25, 1985.

I. Summary of Recommended Decision

1. The Federal-State Joint Board hereby presents its recommendations concerning the Florida Public Service Commission's Petition, filed on November 9, 1984, requesting authority to implement an experimental unified interstate and intrastate access charge tariff.[1] We find that the Florida plan as presently formulated imposes additional cost burdens on telephone subscribers in other states as a result of the fact that it recovers more non-traffic sensitive costs from interexchange carriers than the FCC plan does. We are also concerned about a number of provisions contained in the Florida plan that affect the competitive standing of the other common carriers (OCCs). In addition, we find that certain aspects of the Florida plan need to be described in further detail to allow an informed analysis of the proposal. As a result, we recommend that the Commission ask Florida to revise its present plan to eliminate the additional cost burden that it would impose on telephone subscribers in other states. The revised plan should include a detailed description of all aspects of the proposal, and data clearly demonstrating that it does not place additional revenue recovery burdens on subscribers in other states. It should also satisfy the Commission's long-standing competitive goals and the objectives set out in the *MTS and WATS Market Structure Proceeding*, CC Docket No. 78-72.

[1] Petition for Authority to Implement an Experimental Unified Interstate and Intrastate Access Charge Tariff for the State of Florida, *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, filed by the Florida Public Service Commission, November 9, 1984

II. Introduction

A. Background

2. On November 9, 1984, the Florida Public Service Commission filed a Petition seeking authority to implement a comprehensive unified interstate and intrastate access charge tariff in Florida in an experimental basis. In the *Recommended Decision and Order*[2] in this proceeding adopted on November 15, 1985, the Joint Board recommended a system of limited subscriber line charges to recover a portion of non-traffic sensitive (NTS) local exchange costs along with provisions to allow state regulators and local exchange companies flexibility in designing cost-recovery mechanisms.[3] In particular, we recommended that the FCC authorized local exchange companies to develop (with the concurrence of their state commission or the Joint Board) optional alternative interstate tariffs to recover NTS costs that would otherwise be recovered through the interstate carrier common line charge.[4] The purpose of the alternative tariff provisions was to allow the local exchange companies, in conjunction with their state commissions, the opportunity to respond to bypass in a highly targeted fashion. In addition to recommending specific measures for alternative, anti-bypass tariffs, we urged the Commission and the Joint Board staff to work closely with interested state commissions to explore more comprehensive alternative experimental tariff mechanisms for recovering the interstate allocation of NTS costs. We stated that such carefully designed experiments with different tariff structures for the recovery of NTS costs would be valuable to the Commission in refining the present NTS-cost recovery structure and therefore recommended that such experimental tariffs be carefully reviewed through the Joint Board process. The Commission subsequently adopted the Joint Board's recommendations on these matters in its December 19, 1984 *Decision and Order* in this proceeding.[5] The Commission issued an *Order Inviting Comments* (*Order*) on January 14, 1985, requesting comments concerning the Florida plan.[6] Comments were filed February 22, 1985, and replies were filed March, 25,1985.

[2] *Recommended Decision and Order, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, FR 48325 (December 12, 1984).

[3] These measures were intended to reflect elements of the "St. Louis Plan" adopted by the National Association of Regulatory Utility Commissioners on May 8, 1984. The St. Louis Plan involved a system of unified state and federal access charge tariffs to be filed with state regulatory commissions, subject to federal guidelines.

[4] The Commission subsequently adopted guidelines for the Implementation of optional alternative tariff provisions. *See, Memorandum Opinion and Order, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, 50 FR 13,023 (April 22, 1985).

B. The Florida Plan

3. The proposal contained in the Florida Petition provides for a unified set of federal/state access charge tariffs to recover costs for all interexchange use of the local network. Under this approach, the FCC would exercise its authority over interstate rates through oversight and review of the unified access tariffs approved by the Florida Commission. The accomplishment of basic federal policy objectives would be achieved through adoption of appropriate federal guidelines and FCC review of state-administered access tariffs to ensure consistency with these goals. In an earlier filing in this proceeding,[7] Florida proposed the following federal guidelines: (1) a cap on the cost which may be recovered from interstate interexchange services for access to the local exchange; (2) a prohibition on charges that discriminate against interstate interexchange services; (3) a prohibition on charges that discriminate between different interexchange carriers utilizing the same services or facilities; and (4) a requirement that charges not encourage uneconomic bypass.

4. The Florida plan does not include flat-rate residential or business subscriber line charges to recover a portion of NTS costs. Florida argues that a uniform subcriber line charge is not necessary to prevent bypass. Instead, Florida states that it will respond to the threat of bypass by implementing bulk-discount and contract access charge rates for large-volume end users and customers with specialized needs. Florida argues that this approach will allow a more highly targeted, specific solution to the problem of bypass in light of unique local circumstances. Florida states that it will increase the rates for basic and optional exchange services to the extent necessary to recover the revenue shortfalls created by these measures.

[5] *Decision and Order, MTS and WATS Markets Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, 50 FR 939 (January 8, 1985).

[6] *Order Inviting Comments, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-826, 50 FR 2833 (January 25, 1985).

[7] Florida Public Service Commission Comments, (filed March 25, 1985.)

5. The Florida plan, and the cost data filed in conjunction with it, are based on an interstate allocation factor of 25 percent for NTS costs instead of the frozen interstate Subscriber Plant Factor (SPF) which currently averages 38.9 percent on a statewide basis in Florida.[8] Florida also proposes to phase-out the participation of Florida telephone companies in all National Exchange Carrier Association (NECA) pooling arrangements over a three-year period.[9] At present, Florida estimates that its telephone companies will receive approximately $254 million more in revenue from the NECA common line pool than they contribute during the 1984–1985 access charge year.[10] At the end of the three-year transition period, Florida telephone companies would be responsible for recovery of their own NTS costs, with access charges based on their specific costs and markets. As an alternative to pooling arrangements, Florida proposes to implement a system under which each company would "bill and keep" its own access charges. If local rates set a level appropriate for the type of service, combined with the access charge revenues recovered under this approach, did not produce a reasonable level of earnings based on a company-specific rate of return, Florida would provide for a targeted toll subsidy. This subsidy would be funded through an intrastate surcharge on access charges.[11]

6. Florida proposes the establishment of Equal Access Exchange Areas (EAEAs) for the implementation of equal access. An EAEA is a geographic area within which a local exchange carrier has the duty of providing equal access from and to all subscribers as soon as economically feasible. The proposal provides for a single point of presence (POP) for the interexchange carriers with distance insensitive local transport charges. The Florida plan provides for a 50 percent discount for interexchange carrier traffic over less-than-equal access facilities.[12] The discount would be phased-out based on the percentage of lines converted to equal access in a given EAEA. After the discount is phased out, any difference in rates would be cost based. Florida also proposes to route all default traffic to AT&T.[13]

7. The Florida plan provides for time-of-day discounts in the access charge rate structure. All originating switched access rate elements would be discounted by 35 percent during the 5:00 p.m. to 11:00 p.m. period, with a 60 percent discount from 11:00 p.m. to 8:00 a.m. Once equal access becomes generally available, Florida also proposes to make time-of-day discounts available on terminating access. In connection with time-of-day discounts, Florida proposes a busy hour minutes of capacity charge (BHMOC) in its unified tariff. This rate element would recover revenue requirements that are not recovered through other access charge elements. Under the Florida proposal, resellers would also be treated like other interexchange carriers and pay the same Feature Group A rates for their line-side connections.[14]

8. The Florida plan contains unbundled rates for special access with rate levels designed to produce the same revenues previously received under the interim contracts.[15] The number of rate elements for special access has been substantially reduced by aggregating rate elements for similar service functions and costs, especially in the area of facility interfaces. The plan requires local exchange carriers to bill end users, rather than interexchange carriers, for special access. It does not contain a $25 surcharge on special access lines as a means of dealing with the "leaky PBX" issue.[16] Instead, the plan contains provisions for mandatory measured/message local rates for customers that have the capability of accessing the local switched network through special access lines or private systems.

C. Summary of Comments

1. Interexchange Carriers

9. AT&T objected to Florida's proposal for elimination of subscriber line charges, stating that such a rate structure encourages bypass of the local switched network by placing the entire burden of recovering interstate NTS costs on usage-sensitive rates. AT&T also asserted that implementation of the plan would be administratively budensome, and raised a number of legal concerns. MCI Telecommunications Corporation (MCI) objected to the elimination of the subscriber line charge and Florida's treatment of the OCCs, stating that the plan for EAEA territories would restrain competition by granting local exchange carriers monopolies over intra-EAEA routes. MCI expressed concern about the potential anti-competitive effect of the proposal for contract and volume discount access charge rates to reduce incentives for bypass. MCI also objected to the provisions for allocating all default traffic to AT&T. Satellite Business Systems Inc. (SBS) argued that the Florida plan would increase the number, scope and complexity of the administrative proceedings involving access charges. SBS also objected to the elmininations of subscriber line chrges by Florida. Teltec Savings Company expressed concern over the provisions in the Florida plan dealing with access charges related to the resale of WATS. Teltec also objected to implementation of the BHMOC which, it asserted, would penalize competitive interexchange carriers and give control over network design to local exchange carriers.

[8] Under Part 7 of the Commission's rules, the transition from frozen SPF to the new 25 percent allocation factor plus high cost assistance is scheduled to take place in equal annual steps beginning January 1, 1986. *Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80–286, 50 FR 939 (January 8, 1985).

[9] This phase-out includes the mandatory carrier common line pool as well as the voluntary pooling arrangements.

[10] Memorandum from Tim Devlin, Florida Public Service Commission to the Joint Board Staff, dated May 21, 1985. The difference between the carrier common line pool contributions and revenues for Florida telephone companies is primarily due to the fact that local telephone companies in Florida bill at NECA rate for the carrier common line element, which is based on a nationwide average 28 percent interstate allocation, while Florida local exchange carriers, on average, draw revenues from the pool based on a 38.9 prevent interstate subscriber plant factor (SPF). Florida telephone companies also have loop costs that are substantially above the nationwide average. "Effect of Joint Board Recommendation concerning the Allocation of NTS Local Exchange Plant Costs," CC Docket No. 80–286, *Amendment of Part 67 of the Commission's Rules*, prepared by the Federal Joint Board Staff, October 6, 1983.

[11] Florida states that implementation of a such surcharge would not result in an increase in total access charges. Adjustments in other rate elements would be made to keep the total charges at the same overall level.

[12] The 50 percent discount reflects a weighted average of the current Florida intrastate discount rate of 35 percent and the interstate discount of 55 percent. Since interstate toll traffic represents approximately 75 percent of total Florida toll traffic, providing a 55 percent discount on 75 percent of the traffic and a 35 percent discount on the remaining 25 percent equals a 50 percent weighted overall discount rate.

[13] The term default traffic refers to the interexchange traffic originated by telephone subscribers, in local calling area converted to equal access, who do not affirmatively select an interexchange carrier during the presubscription process.

[14] Under the curent FCC rate structure, reseller pay PBX trunk rates for their line-side connections for customer access and WATS rates for the long-distance service that they resell.

[15] Tariffs to replace the interim contracts governing special access service became effective April 1, 1985 with the exception of the tariff filed by Bell Atlantic which is still under review.

[16] Private lines that terminate in PBXs can be used to access the local exchange network. Since such traffic appears to be local this type of arrangement can be used to avoid payment of switched access charges.

Western Union Telegraph Company stated that the Florida plan would substantially increase administrative burdens on interexchange carriers operating on a nationwide basis. United States Transmission System, Inc. expressed concern that the elimination of national pooling inherent in the Florida plan would encourage the deaveraging of interstate toll rates. U.S. Telecom argued that Florida's proposal to eliminate the subscriber line charge will promote bypass and economic inefficiency. Microtel Inc. objected to Florida's plan to recover NTS costs on a usage-sensitive basis instead of through subscriber line charges. Microtel also objected to the BHMOC charge on the grounds that such a rate structure eliminates carrier discretion in selecting the grade of service it will provide to customers.

2. Bell Operating Companies (BOCs)

10. The Ameritech Operating Company, Bell Atlantic Telephone Company, BellSouth Corporation, NYNEX Telephone Company, Southwestern Bell Telephone Company, and U.S. West (Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, and Pacific Northwest Bell Telephone Company) supported Florida's proposal to withdraw from the NECA common line pool. They argued that such an approach would bring access prices closer to costs, promote economic efficiency and give the local companies proper incentives to control NTS costs. However, they strongly opposed Florida's plan to eliminate the flat rate recovery of NTS costs through subscriber line charges, stating that such an approach would promote bypass. The Pacific Bell and Nevada Bell Telephone Companies argued tht Florida's proposal to phase-out participation in the NECA pool needed to be clarified before its impact on other exchange carriers could be assessed. Ameritech, BellSouth, Southwestern Bell and U.S. West also stated that the Florida plan raised serious legal questions regarding the FCC's authority to delegate its responsibility for interstate rate regulation to the state commissions. Bell Atlantic asserted that the FCC could permit the regulation of interstate services by state authorities if it continued general oversight of the area involved.

3. Independent Telephone Companies and Local Telephone Company Associations

11. GTE Service Corporation expressed concern that Florida's proposed withdrawal from the NECA pool would undermine the FCC's policy of assisting telephone companies serving high cost areas. United Telephone Systems, Inc. asserted that the Florida plan fails to prevent uneconomic bypass because it does not contain a long-range plan for removing NTS cost from interexchange usage charges. Central Telephone Company also objected to Florida's plan to eliminate subscriber line charges. Rochester Telephone Corporation supported Florida's proposal for withdrawal from the NECA pool, and agreed with Florida's conclusion that bulk-discount rates for large-volume users could effectively prevent uneconomic bypass. Southern New England Telephone Company stated that experimental access charge plans should not be authorized until the FCC plan has been fully implemented and the present restructuring of the industry completed. Alltel Corporation stated that the proposal for a rapid shift to rate level based on a flat 25 percent interstate allocation of NTS costs and the elimination of subscriber line charges would adversely affect high-cost telephone companies serving rural areas. The Rural Telephone Coalition stated that the Florida plan would increase administrative burdens and urged the FCC to reject the proposal as an inappropriate response to current industry conditions. The United States Telephone Association stated that the FCC cannot delegate the regulation of interstate commerce to a state commission.

4. State Regulators

12. The District of Columbia Public Service Commission, Citizens of Florida and the National Association of State Utility Consumer Advocates, Kansas Corporation Commission, State of New Jersey, Pennsylvania Public Utility Commission, Wisconsin Public Service Commission, State of Oregon, State of Michigan and Michigan Public Service Commission, State of California and California Public Utilities Commission, Colorado Public Utilities Commission and Office of the Consumer's Counsel, Ohio supported the Florida Plan. They argued that it would give more control over the recovery of charges for use of the local network to the individual state commissions which are in the best position to develop access charge plans based on an understanding of local conditions. A number of states argued that a unified access charge tariff would eliminate incentives for misreporting the jurisdictional nature of interexchange traffic and reduce administrative burdens. Several states also argued that implementation of the Florida proposal would provide the needed test case for evaluation of the theories underlying the St. Louis Plan and allow regulators to gain valuable experience on the accomplishment of FCC goals under unified tariffs. The Kansas Commission supported the proposal for a withdrawal of Florida telephone companies from the NECA pools. The Citizens of the State of Florida [17] supported the plan but argued that is should be modified to include an eight-year transition period for withdrawal from the NECA pool and movement to a "bill-and-keep" approach. The Florida Public Service Commission filed reply comments supporting its previously filed proposal for a unified tariff.

5. Large Telecommunications Users

13. The Federal Executive Agencies supported the concept of a unified access charge tariff but expressed concern that the Florida plan would force high-volume users of interexchange services to subsidize local exchage services. Aeronautical Radio, Inc. opposed implementation of the Florida plan on the ground that it would be administratively burdensome. The American Petroleum Institute expressed concern that the plan would restrict FCC control over the implementation of access charges and cause hardship for large users. The Association of Data Process Service Organizations, Inc. supported the unified tariff concept, but stated that the Florida proposal would increase administrative burdens on the FCC, interexchange carriers, users and other interested parties. The Competitive Telecommunications Association stated that the plan is administratively burdensome and would not truly result in a unified system of interstate and intrastate access charges. The International Communications Association argued that adoption of the Florida plan is premature. The North American Telecommunications Association strongly objected to Florida's proposal for elimination of subscriber line charges and cost-based rates for interstate access. The Utilities Telecommunications Council stated that the Florida plan contravenes the Commission's goals by retreating from cost-based pricing. The Ad Hoc Telecommunications Users Association argued that the Florida plan should be rejected as procedurally and substantially defective. It also objected

[17] The Citizens of the State of Florida and the Florida Public Service Commission made separate filings.

to Florida's elimination of subscriber line charges.

IV. Discussion

14. The Joint Board cannot recommend approval of the Florida access charge plan as currently formulated because it imposes additional cost burdens (estimated to be approximately $129 million) on telephone subscribers in other states. We believe that, at a minimum, experimental tariff proposals must not recover more access costs from interexchange carriers than the FCC access plan. As explained below, such an approach imposes additional cost burdens on toll users in other states as long as AT&T maintains nationwide average toll rates. At present, Florida is one of the largest beneficiaries of the NECA common line pool. Based on current information, it appears that telephone companies in Florida will receive approximately $254 million more in pool distributions than they will bill in common line charges during the 1984–1985 access charge year.[18] However, withdrawal from the NECA common line pool has no net effect on the cost burdens on telephone subscribers in other states as long as Florida companies continue to recover the same proportion of their NTS costs from the interexchange carriers.[19] If Florida telephone companies withdraw from participation in the NECA common line pool their above-average interstate revenue requirements would no longer be averaged with the lower costs of other states through the NECA pool. Instead, local telephone companies in Florida would charge the interexchange carriers switched access rates in excess of the NECA average. The higher Florida specific switched access charges would then be averaged with the NECA charges in the development of AT&T's nationwide average toll rates. Unless a surcharge were placed on interstate toll rates for service to and from Florida to reflect its relatively high switched access charge rates, subscribers in other states would still have to pay toll rates that are higher than they otherwise would be due to Florida's participation. As a result, the averaging process involved in the NECA pool, from which Florida currently benefits, would continue through the process of developing averaged toll rates, and customers in other states would still be required to pay higher toll rates designed to recover Florida's above-average interstate switched access revenue requirement. Thus, Florida's proposal to withdraw from participation in the NECA pool does not, by itself, reduce the cost burden on subscribers in other states.

15. The net effect of other aspects of the Florida plan, however, would recover a higher portion of switched access costs from interexchange carriers than the FCC access charge plan. Florida proposes to have local telephone companies use a 25 percent interstate allocation factor for NTS costs, in lieu of frozen SPF, which is 38.9 percent on a statewide average basis. This aspect of the plan will reduce interstate NTS revenue requirements for Florida telephone companies, and, therefore, reduces the support which they receive from charges paid by subscribers in other states as a result of the averaging process. However, all local exchange carriers will move from their current SPF-based interstate NTS cost allocation to a 25 percent interstate allocation plus high cost assistance in eight annual steps beginning January 1, 1986. In its Petition, Florida acknowledge that despite this, the switched-access charge rates for interexchange carriers in the experimental unified tariff would be slightly higher than the actual rates then on file with the FCC. These higher rates are apparently due to the fact that Florida telephone companies have substantially above-average NTS costs, and, under the proposal presently before us, would not recover any NTS costs through subscriber line charges on multiline business customers as the FCC plan does. The June 1, 1985, implementation of residential and single-line business subscriber line charges will reduce the NTS costs to be recovered from the interexchange carriers under the FCC plan and substantially increase the differential between the interexchange carrier switched access charges on file with the FCC and those under the Florida plan since Florida does not propose to implement subscriber line charges for these customers either. As previously stated, the process of averaging the high interexchange carrier switched access charge rates for Florida with the lower rates on file with the FCC, in order to develop averaged interstate toll rates, places cost burdens on other states. According to data recently filed by Florida, the net effect of their plan for calendar year 1986 would be an estimated increase of approximately $129 million in the interexchange carriers' toll revenue requirements.[20] Under the existing FCC access charge plan, this $129 million would be recovered directly from subscribers within Florida. If the Florida plan were implemented, interstate toll users throughout the country would have to pay higher toll rates to recover these costs.

16. We urge the Florida Public Service Commission to reevaluate its proposal in light of our concerns and modify its proposal. We believe that any revised plan submitted by Florida must show how the costs involved are to be recovered, and demonstrate that the plan does not impose additional cost burdens on subscribers in other states by increasing interstate toll revenue requirements. We also believe that experimental measures for recovering NTS costs, which would be assigned to the interstate jurisdiction under existing separations procedures, must satisfy the following four goals enunciated by the Commission in the *MTS and WATS Market Structure* proceeding: (1) Prevention of uneconomic bypass; (2) elimination of unlawfully discriminatory or preferential rates; (3) envouragement of network efficiency; and (4) continued assurance of universal service.[21] While there may be a number of ways of satisfying these goals, we believe that they represent reasonable criteria for judging experimental access charge tariffs.

17. The Florida plan, as currently proposed, also differs from the FCC access charge plan on a number of issues that affect the competitive posture of the OCCs. Among other things, the Florida plan involves a 50 percent discount for OCC switched-access traffic using unequal access facilities, while the FCC access charge plan includes a 55 percent discount for such OCC traffic. Under the Florida plan, all default traffic would be routed to AT&T while the FCC has adopted a plan for allocating this traffic among the interexchange carriers.[22] The Florida

[18] Letter to Claudia Pabo, Acting Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, FCC from Gordon R. Evans, Directory-Tariff & Regulatory Matters, April 18, 1985.

[19] Were Florida telephone companies to withdraw from participation in the NECA common line pool, the pooled rates would have to be adjusted downward to reflect this.

[20] *See supra* note 10. The $129 million estimate is based on projections from calendar year 1984 data gathered in hearings conducted by Florida concerning the experimental tariff plan, and projections based on information on June through December 1984 interstate access charge revenues for the NECA common line pool. This estimate is intended only as a general approximation of the effect of the Florida plan based on currently available data.

[21] *Memorandum Opinion and Order, MTS and WATS Market Structure*, CC Docket No. 78-72, 49 FR 7810 at para. 6 (March 2, 1984).

[22] *Memorandum Opinion and Order, Investigation of Access and Divestiture Related Tariffs*, CC

Continued

plan imposes substantially more access costs on WATS resellers than the FCC plan. The contract rates and bulk discounts for large users and subscribers with specialized needs, which Florida proposes to use to combat bypass of the local exchange, could also have anticompetitive effects if implemented in a way that gives subscribers incentives to consolidate all their traffic with one long distance carrier or fails to allow consideration of OCC traffic using unequal access facilities. Other examples of differences between the FCC plan and the Florida proposal that may affect the competitive posture of the OCCs include the BHMOC charge to be paid by interexchange carriers, and the special access provisions.

18. Given the FCC's long-standing commitment to the establishment of a level playing field for interstate toll competition, we are concerned about the desirability of any measures in a unified tariff applicable to interstate service that reach a different balance than the FCC's plan on issues that affect interexchange competition.

19. We also believe that additional explanation is needed concerning certain aspects of the plan. For example, the Florida plan includes an intrastate mechanism for assistance to local telephone companies serving high-cost areas, although it is not clear which companies would receive assistance or how much they would receive. The description of the EAEA mechanism is also limited, and the implications of this approach for the implementation of equal access and the structing of interexchange networks are unclear. In addition, the proposal to use volume discounts and cotract rates to combat bypass is described in general terms. Further explanation of these matters as well as information concerning the costs to be recovered through the various access charge rate elements is necessary for a fully informed analysis of any proposal for an experimental tariff.

20. We recommend that Florida work closely with the Joint Board staff to develop revisions in the proposed experimental tariff designed to satisfy the FCC's access charge goals, ensure competitive fairness ad provide sufficient detail concerning the proposed tariff provisions to allow a detailed analysis of the proposal.

IV. Ordering Clauses

21. Accordingly, the Joint Board recommends, that the Commission ask Florida to revise its unified access charge plan in light of the concerns expressed above. The Joint Board also recomments that the Florida Commission work with the Joint Board staff to reformulate its plan to satisfy the Commission's basic access charge goals, ensure competitive fairness and provide further detail to allow a complete analysis of the revised plan.[23]

For the Federal-State Joint Board.

William J. Tricarico,

*Secretary, Federal Communications Commission.**

*See attached Separate Statement by Chairman Fowler and Commissioners Dawson and Rivera.

Docket No. 83-1145, Phase I, FCC 85-293, released June 12, 1985.

[23] These recommendations are made pursuant to sections 1, 4 (i) and (j), 201 through 205, 221, 403, and 410 of the Communications Act, as amended, 47 U.S.C. 151, 154 (i), and (j), 201 through 205, 221, 403 and 410.

Separate Statement

By Chairman Fowler, Commissioner Dawson and Commissioner Rivera

We strongly endorse the conclusions and recommendations contained in the Joint Board's *Recommended Decision and Order* concerning the Florida proposal for an experimental unified access tariff. This separate statement is simply intended to emphasize our views on a number of points discussed in the *Order*.

At the outset, we wish to emphasize that, at a minimum, experimental access tariff cannot be allowed to recover more non-traffic sensitive (NTS) costs from the interexchange carriers than the FCC access charge plan. To allow implementation of experimental tariffs which impose more costs on the interexchange carriers would place additional costs on telephone users in other states. Such experimental tariff are also inconsistent with the Commission's four basic goals in the *MTS and WATS Market Structure* proceeding. Experimental tariff must satisfy all four of these goals; proposals which reflect only certain of these goals are not adequate.

We also wish to emphasize the Commission's commitment to competitive fairness and the establishment of a level playing field for the provision of competing interstate service offerings. We view basic competitive fairness as a baseline for development of experimental tariffs. Proposals which do not meet these standards can not be implemented.

We also strongly endorse the Joint Board's recommendation that Florida work closely with the Joint Board staff in developing a revised experimental tariff proposal. We believe that the specific, technical issues raised by the Florida proposal can best be dealt with through close coordination between Florida and the Joint Board staff. We are committed to ensuring the federal staff participation necessary to respond fully to any questions raised by the Florida staff.

[FR Doc. 85-18633 Filed 8-5-85; 8:45 am]

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Notices

Federal Register
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Tuesday, August 6, 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.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 26-85]

Foreign-Trade Zone 70—Detroit, MI; Application for Subzone Chrysler Engine Plant, Trenton

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, requesting special-purpose subzone status for the Chrysler Corporation engine plant in Trenton, Michigan, adjacent to the Detroit 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 July 29, 1985.

The proposed subzone would cover 81 acres within Chrysler's 136-acre engine plant at 2000 Van Horn Road, Trenton (Wayne County), some 30 miles southwest of Detroit. The facility is used to manufacture four-cylinder engines, employing 2600 persons. Certain parts are sourced abroad, such as engine heads and fuel-injector parts. Some of the products are exported.

Zone procedures will allow Chrysler to avoid duty payment on foreign parts used in its exports. On its shipments of engines to U.S. auto assembly plants with subzone status, the company will be able to take advantage of the same duty rate available to importers of complete automobiles. The duty rate for engine heads and fuel-injector parts is 3.3 and 5.3 percent, whereas the rate for complete autos is 2.6 percent. These savings would contribute to the company's overall cost reduction program, helping its U.S. plants to become more competitive with auto plants abroad.

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: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; William Morandini, District Director, U.S. Customs Service, North Central Region, 477 Michigan Ave., Detroit, MI 48226; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 12, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept of Commerce District Office, 445 Federal Bldg., 231 W. Lafayette, Detroit, MI 48226

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: August 1, 1985.

Dennis M. Puccinelli,

Acting Executive Secretary.

[FR Doc. 18625 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 24-85]

Foreign-Trade Zone 46—Cincinnati, OH; Application for Subzone General Motors Auto Plant, Norwood

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 46, requesting special-purpose subzone status at the automobile manufacturing plant of General Motors Corporation in Norwood, Ohio, adjacent to the Cincinnati Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zone Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 22, 1985.

The proposed subzone is located at 4726 Smith Road, Norwood, some 7 miles northeast of downtown Cincinnati. The 59-acre facility employs 3900 persons and is used to produce Chevrolet Camaro and Pontiac Firebird automobiles. Some two percent of the parts are dutiable, such as wiring harnesses, wheels, seat covers, transmissions, rear axles and radios. Some of the autos are exported.

Zone procedures would allow GM to avoid duty payments on foreign parts used in its exports. On its domestic sales, the company will be able to take advantage of the same duty rate that is available to importers of finished autos. The average rate for the parts GM uses is 4.2 percent whereas the rate for finished autos is 2.6 percent. These savings would contribute to the company's overall cost reduction program, helping its U.S. plants to become more competitive with auto plants abroad.

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: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor, Plaza Nine Bldg., 55 Erieview Plaza, Cleveland, OH 44114; and Colonel Dwayne G. Lee, District Engineer, U.S. Army Engineer District, Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 12, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 9504 Federal Office Bldg., 550 Main St., Cincinnati, OH 45202

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

Dated: August 1, 1985.

Dennis M. Puccinelli,

Acting Executive Secretary.

[FR Doc. 18623 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 25-85]

Proposed Foreign-Trade Zone—Columbia, South Carolina Area; Application

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority (Port Authority), grantee of Foreign-Trade Zone No. 21 in Dorchester County and No. 30 in Spartanburg County, requesting authority to establish a general-purpose foreign-trade zone in West Columbia, South Carolina, within the Columbia 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 July 23, 1985. The applicant is authorized to make this proposal under section 54–3–230, Code of Laws, South Carolina.

The proposed foreign-trade zone will cover 104 acres at 3000 Aviation Way within the 2200-acre Columbia Metropolitan Airport complex in West Columbia. The site is owned by the Richland-Lexington Airport District, which has been designated by the Port Authority to operate the zone.

The application contains evidence of the need for zone services in the Columbia area. A number of firms have indicated an interest in using zone procedures for warehousing and manipulation of products such as road equipment, steel and aluminum coils, metal tanks, paper and cardboard, insulation, medical supplies, tape and toys. No specific manufacturing approvals 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; Howard C. Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 SE. 5th St., Miami, FL 33131; and Lt. Colonel F. Lee Smith, District Engineer, U.S. Army Engineer District Charleston, P.O. Box 919, Charleston, SC 29402.

Comments concerning the proposed zone are invited in writing from interested persons and organizations. They should be addressed to the Executive Secretary at the address below and postmarked on or before September 12, 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 District Office, Strom Thurmond Federal Bldg., Suite 172, 1835 Assembly St., Columbia, SC 29201

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: August 1, 1985.

Dennis M. Puccinelli,

Acting Executive Secretary.

[FR Doc. 18624 Filed 8-5-85; am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-791-002]

Prestressed Concrete Steel Wire Strand From South Africa; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Countervailing Duty Investigation

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to terminate suspended countervailing duty investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant and administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty case of PC strand from South Africa. The review covers the period from January 1, 1983.

The petitioners in this proceeding have notified the Department that they are no longer interested in the countervailing duty case. These affirmative statements of no interest provide a reasonable basis for the Department to terminate the suspended investigation. Therefore, we intend to terminate the suspended investigation. The termination will apply to all PC strand entered, or withdrawn from warehouse, for consumption on or after January 1, 1983. Interested parties are invited to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 22137) a notice of suspension of countervailing duty investigation on prestressed concrete steel wire strand ("PC Strand") from South Africa.

In a letter dated May 31, 1985, American Spring Wire Corporation, Armco Inc., Florida Wire and Cable Company, and Shinko Wire America Inc., the petitioners in this proceeding, informed the Department that they were no longer interested in the case and stated their support of termination of the suspended investigation. Bethlehem Steel Corporation, also a petitioner in this proceeding, permanently closed its PC strand production facility and, by letter of March 29, 1985, withdrew as an interested party in this case. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may terminate a suspended countervailing duty investigation that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of South African PC strand. Such merchandise is currently classifiable under item 642.1120 of the Tariff Schedules of the United States Annotated. The review covers the period from January 1, 1983.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty case on PC strand from South Africa provide a reasonable basis for termination of the suspended investigation.

Therefore, we tentatively determine to terminate the suspended investigation on this product effective January 1, 1983. The current requirements of the agreement suspending the investigation

will continue until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 30 days of the date of publication and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to terminate, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 29, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-18622 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-DS-M

Telecommunications Equipment, Technical Advisory Committee; Open Meetings

A series of meetings of the Telecommunications Equipment Technical Advisory Committee will be held September 10, September 24 and October 22, 1985, at 9:30 a.m., Herbert C. Hoover Building, Room 4630, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The primary purpose of the meetings is to allow interested members of the public to make presentations on export control issues to the Committee. Each meeting will be devoted exclusively to presentations related to one topic:

September 10—Switching (ECCN 1567A)
September 24—RF Transmission
October 22—Fiber Optics (1526A)

Agenda: Following opening remarks by the Committee Chairman, scheduled twenty-minute presentations will continue until the meeting's close.

Those interested in making a presentation or in attending should call or write Mr. Jess M. Bratton at (202) 377-2583, U.S. Department of Commerce, Office of Export Administration, 14th & Constitution Avenue, NW., Washington, D.C. 20230, at least five working days in advance as there is limited space available. For further information or copies of the minutes telephone (202) 377-2583.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 85-18626 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

National Advisory Committee on Oceans and Atmosphere; meeting

July 31, 1985.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), as amended, notice is hereby give that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Tuesday and Wednesday, August 20-21 1985. The meeting will be held in Page Building #1, Rooms 416 and B-100, 2001 Wisconsin Avenue, NW., Washington, DC. The meeting will commence at 9:00 a.m. and end at 4:30 p.m. on August 20 and commence at 8:30 a.m. and end at 3:30 p.m. on August 21.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local governments was established by Congress by Pub. L 95-63 on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Tuesday, August 20, 1985

2001 Wisconsin Avenue NW., Page Building #1, Rooms 416 & B-100, Washington, DC

9:00 a.m.-12:30 p.m.
Plenary
9:00 a.m.-9:30 a.m.
- Announcements

9:30 a.m.-11:00 a.m.
- Guest Speakers: TBA

Topic: TBA

11:00 a.m.-12:30 p.m.
- Discussion of New NACOA Work

12:30 p.m.-1:30 p.m.
Lunch

1:30 p.m.-4:30 p.m.
Panel Meeting
- Exclusive Economic Zone, Chairman: Lee C. Gerhard, Room 416

Topic: Elements of a National Plan
Speakers:
David Ross, Director, Marine Policy and Ocean Management Program, Woods Hole Oceanographic Institute
Admiral John D. Bossler, Director, Charting and Geodetic Services, National Ocean Service, National Oceanic and Atmospheric Administration

4:30 p.m.—Recess

Wednesday, August 21, 1985

2001 Wisconsin Avenue NW., Page Building #1, Rooms 416 & B-100, Washington, DC

8:30 a.m.-10:30 a.m.
Panel Meetings

8:30 a.m.-10:30 a.m.
- Atmospheric Affairs, Chairman: S. Fred Singer, Room B-100

Topic: Panel Work Session
Speakers: None

8.30 a.m.10:30 a.m.
- Coastal Zone/Consistency Co-Chairmen: John Norton Moore, Judith Kildow

Room 416

Topic: Federal/State Issues—Future Agenda Items
Speakers: TBA

10:30 a.m.-12:00 Noon
Plenary
Room 416
- Discussion of:
- Coastal Zone/Consistency Position Statement
- Acid Rain Position Statement

12:00 Noon-1:00 p.m.
Lunch

1:00 p.m.-3:30 p.m.
Plenary
- EEZ Panel Report
- Future Panels
- New Business

3:30 p.m.—Adjourn.

The Public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify

the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional infomation concerning these meetings may be obtained through the Committee's Acting Executive Director, Amor L. Lane, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW., Page Building #1, Suite 438, Washington, DC 20235. The telephone number is 202/653-7818.

Dated: July 31, 1985.

Amor L. Lane,

Acting Executive Director.

[FR Doc. 85-18546 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-12-M

National Technical Information Service

Intent To Grant Exclusive Patent License; American Cyanamid Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant American Cyanamid Company, Lederle Laboratories, having a place of business in Pearl River, NY, an exclusive right to manufacture, use and sell products embodied on the invention entitled "Arabinosyl 5-Azacytosine," U.S. Patent Application SN 6-497,839. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS received written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-18583 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 26, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Biotechnology for Man in Space will meet August 27-28, 1985 at Brooks AFB, Texas, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting will be to identify potential military roles for humans in space and to assess the readiness (on a technology by technology basis) of the USAF to handle space related biotechnology problems.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) and (4) thereof and is closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-18577 Filed 8-5-85; 8:45 am]

BILLING CODE 3910-01-M

Army Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Flood Control Project at Malheur Lake, Harney and Malheur Counties, OR

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a DEIS.

SUMMARY:

1. The purpose of the Malheur project is to reduce flood damage caused by the rising of Malheur Lake. Three consecutive wet years raised the level of Malheur Lake to 4102.4 in 1984. Its normal level is 4093, with a historical maximum of about 4095 since records have been kept. About 177,000 acres are flooded including highways, roads, and a railroad; and some 30 ranches have been abandoned. If wet weather continues another 3 or 4 years, it is conceivable the lake will rise to elevation 4112 and overflow into the South Fork of the Malheur River. The lake basin has a capacity of about 3 million acre-feet above elevation 4093. There is presently a surcharge of over 1 million acre-feet. Inflow in 1984 was nearly 1 million acre-feet.

2. Alternatives to be investigated include:

A—Virginia Valley (Malheur Gap) Canal

B—Federal-Private Land Exchange

C—Relocation of Transportation Facilities

D—Purchase of Lands and/or Flowage Easements

E—Combination of Alternatives

F—No Action

3. Malheur Lake is a component of the national wildlife refuge system. Significant issues to be addressed in the DEIS include effects of the alternatives on the refuge; impacts on agricultural use in the area; and impacts on wildlife, fisheries, endangered species, cultural resources, and socioeconomics. The project will be reviewed under all applicable Federal, state, and local statutes.

4. The Fish and Wildlife Service, U.S. Department of the Interior, will be a cooperating agency in preparation of the DEIS. Other affected Federal, state, and local agencies; affected Indian tribes; and other interested organizations and parties are invited to participate in scoping for the DEIS. A formal scoping meeting is not planned; however, comments should be directed to the address given below.

5. The draft feasibility report and DEIS should be available on or about April 1986.

ADDRESS: Comments concerning the project and DEIS should be addressed to Mr. L.V. Armacost, Chief, Planning Division, Walla Walla District, Corps of Engineers, Building 602, City-County Airport, Walla Walla, WA 99362-9265. Comments or questions can be telephoned to Mr. W.E. McDonald, 509-522-6627 or FTS 434-6627.

Dated: July 29, 1985.

Terrence C. Salt,

Lt. Colonel, Corps of Engineers, District Engineer.

[FR Doc. 85-18588 Filed 8-5-85; 8:45 am]

BILLING CODE 3710-GC-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP85-674-000, et al.]

Natural gas certificate filings; ANR Pipeline Co., et al.

July 30, 1985.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP85-674-000]

Take notice that on July 3, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243; filed in Docket No. CP85-674-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) or, in the alternative, an application pursuant to section 7(c) of the NGA for a certificate of public convenience and necessity, for authorization to transport natural gas for Baltimore Steam Company (Baltimore Steam), all as more fully set forth in the request/application which is on file with the Commission and open to public inspection.

ANR requests authority, pursuant to § 157.209 of the Regulations, to transport on a best-efforts basis up to 15,000 dt equivalent of natural gas per day for Baltimore Steam in accordance with a transportation agreement dated February 8, 1985, among ANR, Thermal Resources of Baltimore, Inc. (Thermal Resources), acting as agent for Baltimore Steam, and Caliche Pipeline Company (Caliche). ANR states that the gas to be transported would be purchased by Baltimore Steam from Caliche pursuant to a gas purchase agreement dated March 4, 1985, which provides that Caliche would sell up to a daily quantity of 15,000 dt equivalent per day at an initial price of $3.55 per million Btu. ANR indicates that the transportation agreement provides that Caliche would tender the gas for the account of Thermal Resources at various points of interconnection of the pipeline systems of ANR and Caliche in Oklahoma, Texas and Kansas. ANR states that it would redeliver the gas, less 6.9 percent for fuel and unaccounted-for gas, to Columbia Gas Transmission Corporation (Columbia Gas) at an existing interconnection of the pipeline systems in Paulding County, Ohio, would in turn would deliver the gas to Baltimore Gas and Electric Company (BG&E) for final delivery to Baltimore Steam's Baltimore, Maryland, facilities. It is stated that ANR would charge 36.3 cents per dt equivalent for all gas transported and delivered on Baltimore Steam's behalf based upon ANR's Rate Schedule EUT-1 calculated upon a haul distance of 1009 miles and 3.6 cents per 100 miles. ANR states the transportation service that commenced June 1, 1985, would extend through October 31, 1985, or such other date that the Commission would determine. ANR states that it requires no new facilities to provide the proposed transportation service. It is indicated that Baltimore Steam is a qualified end user and that the gas would be used for the generation of steam under gas boilers.

ANR also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Thermal Resources. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. ANR 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.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the prior notice 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.

2. ANR Pipeline Company; United Gas Pipe Line Company

[Docket No. CP85-628-000]

Take notice that on June 20, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-628-000 an application, as supplemented July 18, 1985, pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to partially abandon by sale certain gas supply facilities and authorizing United to acquire an interest in, and jointly operate, those facilities, all as more fully set forth in the request on filed with the Commission and open to public inspection.

It is stated that ANR was authorized in Docket No. CP83-401-000, on July 1, 1983, to construct and operate 5.3 miles of 12.75-inch undersea pipeline and related appurtenant facilities in the High Island Area, offshore Texas. It is explained that the pipeline facilities extend from a production platform located in High Island Area Block A-368 to an undersea tap located in High Island Area Block A-370, offshore Texas (Block 370 Lateral). In such filing ANR indicated that a subsequent filing would be made to reflect joint ownership of the facilities by ANR and United.

ANR proposes herein to abandon and United proposes herein to acquire at 18.802 percent interest in the Block 370 Lateral, pursuant to the Construction and Ownership of High Island Block A-351/368 Lateral Line Agreement Letter, dated December 15, 1983, as amended September 12, 1984. United proposes to utilize the Block 370 Lateral to deliver natural gas supplies it has acquired in areas proximate to the Block 370 Lateral.

Comment date: August 16, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Carnegie Natural Gas Company

[Docket No. CP83-151-005]

Take notice that on July 9, 1985, Carnegie Natural Gas Company (Petitioner), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP83-151-005, a motion to amend the Commission's order issued December 17, 1984, in Docket No. CP83-151-004 pursunat to section 7(c) of the Natural Gas Act as to authorize an extension through August 31, 1986, of an off-system sale, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner requests an extension of authority to sell up to 40,000 dt equivalent of natural gas per day to New Jersey Natural Gas Company (New Jersey Natural), but wishes to provide not less than 20,000 dt per day on a firm basis. It is explained that New Jersey Natural has agreed to purchase not less than 2,500,000 dt equivalent of natural gas per year without any minimum daily purchase obligation. Petitioner states that the price has been changed so the $.03 per dt added to the Texas Eastern Transmission Corporation's 100 percent load factor rate is increased to $.3203 per dt. At the present time the proposed rate would be $3.5612 per dt, it is stated. Petitioner states that it continues to possess a surplus of natural gas but that its circumstances have changed so as to permit a commitment of firm service.

Comment date: August 16, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP85-337-004]

Take notice that on May 10, 1985, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, collectively referred to as Applicant, jointly filed in Docket No. CP85-337-004 an amendment to their pending application filed in Docket No. CP85-337-000 pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Aluminum Corporation (Conalco), all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Applicant proposes to amend its pending application by proposing: (1) To extend the term of the proposed limited term certificate from June 30, 1985, to any later date which may be established by the Commission under § 157.209(e)(2) of the Commission's Regulations, as that section may be amended, supplemented or succeeded, (2) increase the maximum daily transportation volumes from the present 9,000 dt equivalent of gas to 14,000 dt, and (3) provide Applicant with flexible authority to add and delete delivery/receipt points into Applicant's system.

No other changes to Applicant's original application are proposed.

Comment date: August 16, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Louisiana Industrial Gas Supply System

[Docket No. CP85-673-000]

Take notice that on July 3, 1985, Louisiana Industrial Gas Supply System (Applicant), First City Center, 1700 Pacific Avenue, LB-10, Dallas, Texas 75201-4696, filed in Docket No. CP85-673-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and § 284.222(c) of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to engage in the sale, transportation or assignment of natural gas that is subject to the Commission's jurisdiction under the NGA to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities under Subparts C, D, and E and § 284.203 of Part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that during the most recent 12-month period, ending March 31, 1985, Applicant received a total of 52,346,839 million Btu, all within or at the boundary of Louisiana. Applicant also states that of this total the volume of gas which was exempt from NGA jurisdiction by reason of section 1(c) thereof was 38,142,705 million Btu.

Applicant states that it would comply with the conditions in § 284.222(e).

Applicant also states that while no specific contractural arrangements have been entered into, Applicant anticipates using the proposed blanket certificate to make sales, pursuant to Subpart D of Part 284, and to enter into zero fee, mutually beneficial transportation/exchange arrangements, pursuant to Subpart C of Part 284. Applicant has not set forth any rate methodology for approval under § 284.222(e)(2), of the Commission's Regulations.

Applicant further states that if, in the future, Applicant elects to charge a transportation rate for services under the requested blanket certificate, Applicant would file an application under § 284.222(e)(2) for approval of a rate methodology. In the alternative, Applicant states that if it elects to charge an individual rate for each such transaction, Applicant would file for rate approval for each such transaction pursuant to § 284.123(b)(2) of the Commission's Regulations.

Comment date: August 16, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-685-000]

Take notice that on July 10, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-685 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove one 171 horsepower compressor unit located in Hansford County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that due to declining volume production, the compressor unit is no longer needed at the Hansford County No. 2 gathering station. It is stated that the present production can be gathered and compressed by the Spearman gathering station which is downstream of the Hansford County No. 2 gathering station.

Northern proposes to utilize said compressor elsewhere on its system or sell it to a potential buyer. The estimated cost to remove the compressor is $13,900 and its salvage value is estimated to be $16,000.

Comment date: August 16, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Texas Eastern Transmission Corporation

[Docket No. CP85-679-000]

Take notice that on July 8, 1985, Texas Eastern Transmission Corporation (Applicant), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP85-679-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 1,900 feet of 6-inch pipeline extending from its 30-inch McAllen-Vidor line to a delivery point located in the Hidalgo field, Hidalgo County, Texas, designated as Line No. 16-S, all as more fully set forth in the application which is on file with the Commission and open to public inspections.

Applicant states that the Line No. 16-S was constructed under Applicant's 1957 blanket certificate issued August 2, 1957, in Docket No. G-12138 and was utilized to attach gas reserves dedicated to Applicant by Texaco Inc., Sun Exploration and Production Company, Mayfair Minerals, Inc. and Harrell Drilling Company.

Applicant asserts that in 1965, the subject producers elected, in accordance with their contracts, to have their gas processed through the gasoline plant operated by Coastal States Gas Producing Company (Hidalgo gas products plant) located in Lot 1, Block 24, of the Steel & Pershing subdivision in Hidalgo County, Texas. Accordingly, Applicant states that it entered into letter agreements with the producers changing the original delivery point to a new delivery point located at the outlet of the Hidalgo gas products plant. As a result of the relocation of the delivery point, Applicant explains that Line No. 16-S has been inactive since 1965.

Applicant further states that Tejano Development Company (Tejano) has requested that Applicant abandon this line in order to facilitate a mobile home development by Tajano in the area. Applicant indicates it would have no future need for the subject inactive line and seeks abandonment of the line.

Comment date: August 16, 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 juridiction 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18567 Filed 8-5-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-179-001, et al.]

AES Placerita, 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. AES Placerita, Inc.

[Docket No. QF85-179-001]

August 1, 1985.

On July 8, 1985, AES Placerita, Inc., (Applicant) of 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209 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 the TOSCO Enhanced Oil Recovery Corporation's Placerita oil field in Newhall, California. The facility will consist of two gas-turbine generators exhausting to a heat recovery boiler (HRB) and a heat exchanger. The steam from the HRB will be used to drive an extraction steam-turbine generator. The extracted steam and the steam from the heat exchanger will be used for injection into oil wells to enhance oil recovery. The primary energy source will be natural gas. The net electric power production capacity will be 98.9 MW. Construction is scheduled to begin in October 1985.

2. Altech Energy III

[Docket No. QF85-610-000]

August 2, 1985.

On July 12, 1985, Altech Energy III (Applicant), of 1660 Hotel Circle No., Suite 400, San Diego, California 92108 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.

The 38,121 kilowatt wind facility will consist of 93 Micon Viking 60/13 wind turbine generators rated 65 kilowatts and 297 Micon M100 wind turbine generators rated 108 kilowatts. The facility will be located in Riverside County, California.

3. California Wind Energy VIIIB

[Docket No. QF85-611-000]

August 2, 1985.

On July 15, 1985, California Wind Energy VIIIB (Applicant), of 1330 Lincoln Avenue, Suite 201, San Rafael California 94901 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.

The wind facility will consist of between 4 and 66 wind turbines located in the Altamont Pass of Alameda County, California. The electric power production capacity will be either 65 or 200 kilowatts and the total capacity of the facility (assuming the maximum number of 66 wind turbines is built) is 4.3 megawatts.

4. Coast Resort Condominiums

[Docket No. QF85-600-000]

August 1, 1985.

On July 11, 1985, 939 Coast Resort Condominiums (Applicant), of 939 Coast Boulevard, La Jolla, California, 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 cogeneration facility will be located at 939 Coast Boulevard, La Jolla, California 92037. The facility consists, in part, of a 329 horsepower engine and an electric generator. The electric power production capacity of the facility is 230 kW. The primary source of energy is natural gas to be supplied by San Diego Gas & Electric Company. The thermal energy will be utilized in the operation of the Applicant's domestic hot water system, hot water space heating system and swimming pool.

5. General Electric Credit Corporation; Cogentrix Leasing Corporation; and United States Trust Company

[Docket No. QF83-316-002]

August 1, 1985.

On July 11, 1985, General Electric Credit Corporation, of 260 Long Ridge Road, Stamford, Connecticut 06902, Cogentrix Leasing Corporation, Two Parkway Plaza, Suite 290, Charlotte, North Carolina 28210, and United States Trust Company of New York, Owner Trustee, 45 Wall Street, New York, New York 10005 (Applicants), 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 located in Elizabethtown, North Carolina. The facility will consist of two 50% capacity spreader stoker-type, coal-fired boilers and a single shell, single flow, condensing steam turbine. The gross electric power productin capacity of the facility will be approximately 35 NW. The primary energy source for the facility will be coal. The facility is expected to commence commercial

operation during the fourth calender quarter of 1985

6. Hydro Valley Development, Inc.

[Docket No. QF85-612-000]

August 2, 1985.

On July 17, 1985, Hydro Valley Development, Inc. (Applicant), of 200 East South Temple, Suite 300, Salt Lake City, Utah 84111, 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.

The 7.5 megawatts hydroelectric facility will be located on the Teton River in Teton County, Idaho.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

7. Kitchens Bros. Mfg. Co.

[Docket No. QF85-604-000]

August 1, 1985.

On July 12, 1985, Kitchens Bros. Mfg. Company (Applicant), of P.O. Box 127, Hazlehurst, Mississippi 3983, 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.

The small power production facility will be located in the City of Hazlehurst, Mississippi. The facility will generate electric power by burning biomass in the form of sawmill refuse and wood scrapping as the primary energy source. The electric power production capacity of the facility will be 1,900 kW.

8. O'Brien Energy Systems Inc.

[Docket No. QF85-614-000]

August 1, 1985.

On July 18, 1985, O'Brien Energy Systems Inc. (Applicant), Green and Washington Streets, Downingtown, Pennsylvania 19335 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 facility is a gas turbine-steam turbine combined cycle cogeneration plant. The primary energy source for the cogeneration facility will be natural gas. The power production capacity of the facility will be approximately 41 MW electrical, with average thermal output of 29,850 lbs/hr steam. The facility will be located at the manufacturing site of Merchants Refrigerating Company, Yosemite Blvd. & Daley Avenue, Modesto, California, 95353. Installation will begin in January 1986 with commencement of operation planned for June 1987.

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, NE., Washington, DC 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. 85-18639 Filed 8-5-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-574-001, et al.]

Columbia Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP84-574-001]

July 30, 1985.

Take notice that on July 9, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-574-001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR § 157.205) for authorization to continue to transport natural gas on behalf of Anchor Hocking Corporation (Anchor Hocking) under the certificate issued in Docket No. CP83-76-000 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.

It is stated that in Docket No. CP84-574-000, pursuant to the prior notice and protest procedure set forth in Section 157.205, Columbia was authorized to transport up to 1,500 dt equivalent of natural gas per day through April 26, 1985, to Anchor Hocking's New Castle, Pennsylvania, plant. Columbia proposes to continue this transportation service through October 31, 1985, on the same terms and conditions as the existing transportation authorization.

Comment date: September 13, 1985, in accordance with Standard Paragaph G at the end of this notice.

2. Alabama-Tennessee Natural Gas Company

[Docket No. CP85-694-000]

July 30, 1985.

Take notice that on July 11, 1985, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP85-694-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and meter station for the delivery of natural gas to the Gas Board of the Lawrence-Colbert Counties Gas District (District) under the certificate issued in Docket No. CP85-359-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is explained that the District currently receives up to 1,127 Mcf of natural gas per day from Alabama-Tennessee for distribution to its customers. It is stated that the new sales tap would be utilized by the District in order to provide natural gas service to the City of Hillsboro, Alabama (Hillsboro), and surrounding areas. It is further explained that service to Hillsboro would help stimulate growth by providing more reliable and efficient energy resourses. The new tap, it is stated, would serve approximately 100 residential customers, four light commercial customers and one small industrial customer.

It is stated that the District has informed Alabama-Tennessee that Hillsboro would be served with gas which is already available through the current gas contract with Alabama-Tennessee; therefore, total volumes delivered to the District would remain the same.

Alabama-Tennessee estimates that the cost of constructing the sales tap and meter station would be $11,100, which would be financed from cash on hand. It is explained that the District would reimburse Alabama-Tennessee for all expenses incrurred in constructing the proposed tap and related facilities, up to $12,000.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP85-690-000]

July 30, 1985.

Take notice that on July 10, 1985, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-690-000 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 on behalf of Ellwood City Forge Corporation (Ellwood) under the certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicants propose to transport up to 1,271 million Btu equivalent of natural gas per day on behalf of Ellwood through October 31, 1985. It is said that Columbia Gulf would receive the gas at existing points of receipt in Louisiana and redeliver to Columbia Transmission which would redeliver to Columbia Gas of Pennsylvania, Inc., for ultimate delivery to Ellwood.

Columbia Gulf states that it would charge one of the rates in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and retain 1.69 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky—12.76 cents per dt equivalent of gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of gas and retain 0.75 percent.

Columbia Transmission states that it would charge one of the rates in its Rate Schedule TS-1 for its transportation service: gas received from receipt points other than Leach, Kentucky—29.93 cents per million MBtu provided the volumes are within the Columbia Gas of Pennsylvania's total daily entitlements (TDE). However, Columbia Transmission states it would charge 41.27 cents per million MBtu for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of the Columbia Gas of Pennsylvania's TDE's. Columbia Transmission further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. In addition, Columbia Transmission states it would collect the General R&D Funding Unit of the Gas Research Institute for all quantities transported under the transportation arrangement.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP85-692-000]

July 30, 1985.

Take notice that on July 11, 1985, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-692-000 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 on behalf of Babcock & Wilcox Company (Babcock & Wilcox) under the certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 12,739 million Btu equivalent of natural gas per day on behalf of Babcock & Wilcox through October 31, 1985. Applicants state that service commenced may 1, 1985, pursuant to the self-implementing provisions of Section 157.209. It is explained that Babcock & Wilcox purchases gas produced in Caldwell Parish, Louisiana, from the Resource Group, a broker. The application reflects that the gas is transported by United Gas Pipe Line Company and delivered to Columbia Gulf at existing interconnection points at Olla and Erath, Louisiana. Under the proposal, Columbia Gulf would deliver in exchange therefor like quantities of natural gas to Columbia Transmission at existing points of interconnection, which delivery would be balanced on a monthly basis to the extent practical. Columbia Transmission proposes in turn to redeliver equivalent quantities to Columbia Gas of Pennsylvania, Inc. (CPA), the distributor, for ultimate delivery to Babcock & Wilcox for use in its plants in Ambridge, Beaver Falls, and Koppel, Pennsylvania. It is stated that the gas would be used as boiler fuel and process gas in the plants.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Babcock & Wilcox. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Applicants will 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.

Columbia Gulf proposes to charge the applicable rate set forth in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and 1.69 percent of the total quantity of gas delivered into its system would be retained for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and 1.50 percent retained; Rayne, Louisiana, to Kentucky-12.76 cents per dt equivalent of gas and 1.50 percent retained; and Corinth, Mississippi to Kentucky—6.38 cents per dt equivalent of gas and 0.75 percent retained.

Columbia Transmission proposes to charge the applicable rate set forth in its Rate Schedule TS-1 for its transportation service: gas received from Columbia Gulf at Leach, Kentucky-21.16 cents per dt equivalent; gas received from Columbia Gulf at receipt points other than Leach, Kentucky—29.93 cents per dt equivalent; whichever is applicable and provided the volumes are within the total daily entitlements (TDE) of CPA, Columbia Transmission's existing purchaser customer. However, it is indicated that Columbia Transmission would charge 32.50 cents per dt equivalent for gas it receives from Columbia Gulf at Leach, Kentucky, and 41.27 cents per dt equivalent for gas received from receipt points other than

Leach, Kentucky, if the volumes are in excess of CPA's TDE. Additionally, Columbia Transmission proposes to charge the GRI rate for all the gas transported, as set forth in its Rate Schedule TS–1. Columbia Transmission further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in its Rate Schedule TS–1.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Florida Gas Transmission Corporation

[Docket No. CP85–630–000]

July 31, 1985.

Take notice that on June 21, 1985, Florida Gas Transmission Corporation (FGT), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP85–630–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add two new delivery points to an existing resale customer, Central Florida Gas Corporation (CFG), in Polk County, Florida, under the certificate issued in Docket No. CP82–553–000 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.

FGT proposes to construct and place into operation a new delivery point on its 18-inch pipeline located at the intersection of Interstate 4 and U.S. Highway 27 in Polk County, to be used for high priority customers, i.e., Priorities 1–4, it is stated. PGT has estimated deliveries at this new point to be 226,124 therms annually, and cost of said facilities related to the delivery point at $113,600.

FGT's second new delivery point would be located on its existing 8-inch Sarasota lateral, also in Polk County, with an estimated cost of $142,400, it is stated. Maximum delivery quantities of 6–12 million therms annually are estimated to be provided through the delivery point for industrial usage, it is asserted. FGT states that based upon the current flow characteristics of its system, the proposed delivery point could in certain circumstances cause curtailment to FGT's existing customers, but would not affect its ability to deliver gas to its existing customers for the following reason. FGT has submitted a CFG letter evidencing its agreement to curtail deliveries to CFG's customer(s) served through the new delivery point, if advised by FGT that curtailment was necessary to protect existing customers on FGT's Sarasota/Avon Park lateral.

FGT has also stated that gas entitlements would not be increased in order to add the additional delivery points. Further, FGT indicates that the cost of adding the delivery points would be 100 percent reimbursed by CFG.

Comment date: September 16, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. K N Energy, Inc.

[Docket No. CP85–664–000]

July 30, 1985.

Take notice that on July 1, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85–664–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon metering stations and appurtenant facilities for and service to six direct sale customers under authorizations issued in Docket No. CP83–140–000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, K N proposes to abandon by removal the metering stations with their appurtenant facilities which were installed to deliver natural gas to the following direct sale commercial and industrial customers:

None	Authorizing docket
Albers Dehydration Company, Cuming County, Nebraska.	G-8562.
Chandler Associates, Inc., Kimbal County, Nebraska.	CP65-269.
City of Cambridge power plant, Furnas County, Nebraska.	G-259.
Consolidated Blenders—Darr plant, Dawson County, Nebraska.	G-1180.
Continental Grain, Inc.—Darr plant, Dawson County, Nebraska.	G-1180.
Valley Dehydration Company, Atwood, Logan County, Colorado.	C69-201.

It is stated that deliveries to these customers have ceased and that each customer has notified K N that the facilities at their respective delivery points are no longer required and have consented to the abandonment of these facilities by K N.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. K N Energy, Inc.

[Docket No. CP85–697–000]

July 30, 1985.

Take notice that on July 12, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85–697–000 a request pursuant to § 157.205 of the Commission Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap for its delivery of natural gas to a residential/commercial end-user, under the certificate issued in Docket Nos. CP83–140–000, CP83–140–001, and CP83–140–002 pursuant to Section 7 of the Natural Gas Act, all as more set forth in the request on file with the Commission and open to public inspection.

K N proposes to construct and operate a sales tap to supply a residential/commercial end-user in Phelps County, Nebraska. K N states that the peak day volume of natural gas consumed would be 120 Mcf while the annual consumption would be 9,600 Mcf of natural gas. The end-use of natural gas would be grain drying and domestic use, it is explained.

K N further states that the construction of the proposed sales tap is not prohibited by any of its existing tariffs and that the additional tap would have no significant impact upon K N's peak day ad annual deliveries to its existing mainline customers.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Mountain Fuel Resources, Inc.

[Docket No. CP85–683–000]

July 30, 1985.

Take notice that on July 9, 1985, Mountain Fuel Resources, Inc. (MFR), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP85–683–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate one sales tap and appurtenant facilities to serve as a new delivery point on MFR's transmission pipeline system under its certificate issued in Docket CP82–491–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commisison and open to public inspection.

MFR states that the requested tap is required to effect the delivery of natural gas to Mountain Fuel Supply Company (MFSC) under Rate Schedules CD–1 and X–33 of MFR's FERC Gas Tarriff for ultimate sale to Exxon Company, U.S.A. (Exxon) in Sweetwater County, Wyoming.

MFR proposes to construct and operate one four-inch sales tap and related metering and regulating facilities on its jurisdictional lateral No. 35 in Sweetwater County, Wyoming, to effect the delivery of up to approximately 7,500 Mfc of natural gas per day to MFSC, a local distribution affiliate of MFR, for ultimate sale to Exxon. MFR also states that Exxon requires these gas supplies to operate boilers, generate electricity

and provide space heating during construction of its Sweetwater gas processing plant.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. Northwest Central Pipeline Corporation

[Docket No. CP85-668-000]

July 30, 1985

Take notice that on July 1, 1985, Northwest Central Pipeline Corporation (Northwest Central), One Williams Center, Tulsa, Oklahoma 74101, filed in Docket No. CP85-668-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon approximately two miles of pipeline and to abandon the transportation of gas through said pipeline under the authorizations issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central proposes to abandon 2.08 miles of 8-inch and 10-inch pipeline in Jasper County, Missouri, which are currently used to serve the communities of Lakeside, Carthage, Jasper and Lamar. Northwest Central states that due to the maximum allowable operating pressure (MAOP) limitations of the pipeline, pressure requirements in the Carthage area are restricted during peak day operations. Also, the pipeline is located in a high population area and would not meet requirements for MAOP upgrading, it is stated. Northwest Central states that a proposed new 10-inch pipeline would be laid under blanket authorization in a much less populated area approximately two miles east of the pipeline to be abandoned and would eliminate pressure restrictions experienced in the Carthage area during peak day operating conditions. Northwest Central states that there are no customers presently on the pipeline to be abandoned. The estimated cost to abandon these facilities is $7,000 with an estimated salvage value of $8,000, it is stated.

Comment date: September 13, 1985, in accordance with Standard Paragaph G at the end of this notice.

10. Northwest Pipeline Corporation

[Docket No. CP85-667-000]

July 30, 1985.

Take notice that on July 1, 1985, Northwest Pipeline Corporation (Applicant), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CF85-667-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a sales delivery point for Mountain Fuel Resources, Inc. (Resources), under the certificate issued in Docket No. CP82-433-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

As stipulated in Applicant's offer of settlement in Docket No. RP85-13-000, approved by Commission order issued May 31, 1985, Applicant agreed to file for authorization to provide Resources with an additional sales delivery point under Applicant's Rate Schedule PL-1, it is stated. It is also stated that the new delivery point would be located in Rich County, Utah, and would be known as the South Lake delivery point.

Applicant indicates that it would deliver up to 25,000 Mcf of natural gas per day to Resources through the South Lake delivery point and that total deliveries to Resources would not exceed the existing total authorized sales volume of 800,412 therms per day. It is stated that the gas sold to Resources through the South Lake delivery point would become part of Resources' system supply for resale.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP85-660-000]

July 30, 1985.

Take notice that on June 28, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-660-000 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 on behalf of Allegheny Ludlum Steel Corporation (Allegheny Ludlum) under its certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the Commission and open to public inspection.

Panhandle requests authority to transport gas on behalf of Allegheny Ludlum pursuant to a transportation agreement dated May 29, 1985, among Panhandle, Allegheny Ludlum and Indiana Gas Company (Indiana Gas). Panhandle states that the agreement provides for Panhandle to receive a transportation quantity of up to 2,000 Mcf of gas per day on an interruptible basis at an existing point of interconnection between Panhandle and YRI, Inc. (Seller), in Kingfisher and Woodward Counties, Oklahoma. Panhandle states that it then would transport and redeliver such gas, less a four percent reduction for fuel, to Indiana Gas at an existing point of receipt in Grant County, Indiana, and that Indiana Gas intutn would make ultimate delivery to Allegheny Ludlum for its end use at its facilities in New Castle, Indiana. Panhandle proposes to provide the requested service for a term expiring on the earlier of eighteen months from the date of the transportation contract (May 29, 1985), or the termination date of authorization pursuant to Subpart F of Part 157 of the Regulations.

Panhandle also requests flexible authority to add or delete sources of supply or receipt/delivery points. Panhandle indicates that following the addition or deletion of any gas supplies or receipt or delivery points, it would file with the Commission certain information within 30 days following implementation of such changes.

Panhandle states that it would charge Allegheny Ludlum the rates provides by its Rate Schedule OST, including the applicable Gas Research Institute Surcharge of 1.24 cents per million Btu. Panhandle indicates that the OST contract service rate and the OST excess service rate are 42 cents and 87 cents, respectively, for each million Btu's redelivered at the point of delivery. Panhandle estimates that the annual volume, peak day volume and average day volume would be 450,000 Mcf, 2,000 Mcf and 1,500 Mcf, respectively, and indicates that the gas would be used for fuel for annealing steel on continuous process lines and boiler fuel.

Panhandle has submitted a letter from Indiana Gas indicating that it has sufficient capacity to transport the gas without detriment to its other customers and a statement from the seller that the gas to be transported was not committed or dedicated to interstate commerce prior to November 8, 1978, and that the sale price does not exceed the maximum lawful price under the Natural Gas Policy Act of 1978.

Comment date: September 13, 1985, in accordance with Standard Paragraph G at the end of this notice.

12. Black Marlin Pipeline Company

[Docket No. CP80-397-003]

August 1, 1985.

Take notice that on July 11, 1985, Black Marlin Pipeline Company (Petitioner), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP80-397-003 a petition to amend the order

issued March 28, 1981, in Docket No. CP80-397 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas from an additional receipt point, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP80-397 it received authorization to transport up to 25,000 Mcf of gas per day for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), from High Island Block 136, offshore Texas, to Houston Pipe Line Company (HPL) near Texas City, Texas.

Petitioner states that Northern would deliver or cause the delivery of natural gas produced by Getty Oil Company in High Island Block 199, offshore Texas, at an interconnection of Petitioner's and Northern's facilities in High Island Block 171. Petitioner states it would transport this gas and deliver it to HPL near Texas City, Texas.

Petitioner asserts that this proposal would permit Northern to utilize capacity in Petitioner's pipeline which Northern is required to otherwise pay for.

Comment date: August 22, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

13. Columbia Gas Transmission Corporation

[Docket No. CP84-513-001]

August 1, 1985.

Take notice that on July 9, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-513-001 a request pursuant to § 157.205 and of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue the transportation of natural gas on behalf of Transue and Williams, Division of Walco National Corporation (Transue and Williams), under the certificate issued in Docket No. CP83-76-000 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.

By the request noticed on July 17, 1984, in Docket No. CP84-513-000, pursuant to the prior notice and protest procedure set forth in Section 157.205, Columbia was authorized to transport up to 1.2 billion Btu equivalent of natural gas per day through April 30, 1985, to Transue and Williams' Alliance, Ohio, plant.

Columbia proposes to continue the transportation through October 31, 1985, on the same terms and conditions as the existing transportation authority.

Comment date: September 16, 1985, in accordance with Standard Paragraph G 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, DC 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 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18638 Filed 8-5-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180670]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the 14 States listed below. Also listed are two crisis exemptions initiated by the Louisiana Department of Agriculture. These exemptions, issued during the months of March and April, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information of these resrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1192).

SUPPLEMENTARY INFORMATION: Information regarding the specific exemptions issued by EPA is provided below. Each summary is limited to the identification of the lead agency to which the exemption was granted, the pesticide authorized for use, the pest and site of treatment, and the duration of the exemption. Additional information may be obtained by contacting the person named after each individual exemption.

Also provided in this notice is a more detailed summary on the issuance of an unregistered pesticide or a pesticide of national significance and the rational for

the Agency's decision. In these two instances, the Agency solicited public comment, reviewed these comments and considered them in the Agency's final decision as to whether to grant the emergency exemption. Additional information can also be obtained on these types of exemptions by contacting the person named after each individual exemption summary.

1. Alabama Department of Agriculture and Industries for the use of anilazine on watercress to control leaf spot; April 8, 1985 to October 31, 1985. (Libby Welch)

2. Alabama Department of Agriculture and Industries for the use of imazaquin on soybeans to control sicklepod; March 22, 1985 to August 15, 1985. Imazaquin is a new chemical and in accordance with Agency policy public comment was solicited in a Notice of Receipt published in the **Federal Register** of February 28, 1985 (50 FR 8190). The Agency granted this emergency exemption after determining:

a. Registered alternatives, excluding toxaphene, are not effective in controlling sicklepod in soybeans. Supplies of toxaphene are inadequate to treat all infested acreage.

b. Significant economic losses would be expected to result without the availability of an effective control.

c. Available data indicate that this use will not pose an unreasonable adverse effect to man or the environment. (Jack E. Housenger)

3. Arizona Commission of Agriculture and Horticulture for the use of methamidophos on pistachios to control leaf-footed plant bug and Lygus; April 11, 1985 to September 15, 1985. (Stan Austin)

4. Arizona Commission of Agriculture and Horticulture for the use of acephate on citrus to control resistant citrus thrips; April 11, 1985 to October 15, 1985. (Jack E. Housenger)

5. California Department of Food and Agriculture for the use of triadimefon on caneberries to control powdery mildew; April 12, 1985 to December 31, 1985. (Stan Austin)

6. California Department of Food and Agriculture for the use of acephate on citrus to control resistant citrus thrips; April 11, 1985 to October 15, 1985. (Jack E. Housenger)

7. California Department of Food and Agriculture for the use of fenamiphos on kiwi fruit to control nematodes (root-knot and lesion); April 10, 1985 to August 30, 1985. (Gene Asbury)

8. Delaware Department of Agriculture for the use of fenvalerate on carrots to control carrot weevils; April 5, 1985 to September 30, 1985. (Jim Tompkins)

9. Florida Department of Agriculture and Consumer Services for the use of anilazine watercress to control leaf spot; September 1, 1985 to April 30, 1986. (Libby Welch)

10. Louisiana Department of Agriculture for the use of imazaquin on soybeans to control sicklepod; March 22, 1985 to August 15, 1985. Imazaquin is a new chemical and in accordance with Agency policy public comment was solicited in a Notice of Receipt published in the **Federal Register** of February 28, 1985 (50 FR 8190). The Agency granted this emergency exemption after determining:

a. Registered alternatives are not effective in controlling sicklepod in soybeans.

b. Significant economic losses would be expected to result without the availability of an effective control.

c. Available data indicate that this use will not pose an unreasonable adverse effect to man or the environment. (Jack E. Housenger)

11. Maryland Department of Agriculture for the use of fenvalerate on carrots to control carrot weevils; April 5, 1985 to September 30, 1985. (Jim Tompkins)

12. Maryland Department of Agriculture for the use of anilazine on watercress to control leaf spot; April 8, 1985 to October 31, 1985. (Libby Welch)

13. Mississippi Department of Agriculture for the use of imazaquin on soybeans to control sicklepod; March 22, 1985 to August 15, 1985. Imazaquin is a new chemical and in accordance with the Agency policy public comment was solicited in a Notice of Receipt published in the **Federal Register** of February 28, 1985 (50 FR 8190). The Agency granted this emergency exemption after determining:

a. Registered alternatives, excluding toxaphene, are not effective in controlling sicklepod in soybeans. Supplies of toxaphene are inadequate to treat all infested acreage.

b. Significant economic losses would be expected to result without the availability of an effective control.

c. Available date indicate that this use will not pose an unreasonable adverse effect to man or the environment. (Jack E. Housenger)

14. Montana Department of Agriculture for the use of fenvalerate on sweet clover to control sweetclover weevils; April 12, 1985 to December 31, 1985. (Jack E. Housenger)

15. Montana Department of Agriculture for the use of permethrin on small grains (barley, oats, and wheat) to control pale western cutworms and army cutworms; April 15, 1985 to June 30, 1985. (Jim Tompkins)

16. Ohio Department of Agriculture for the use of sethoxydim on dry bulb onions grown on high organic soil to control grassy weeds; April 12, 1985 to September 1, 1985. (Jim Tompkins)

17. Oregon Department of Agriculture for the use of pendimethalin on dry bulb onions grown on soils with organic matter between 5%–30% for preemergent weed control; April 26, 1985 to June 30, 1985. (Jim Tompkins)

18. Pennsylvania Department of Agriculture for the use of anilazine watercress to control leaf spot; April 8, 1985 to October 31, 1985. (Libby Welch)

19. West Virginia Department of Agriculture for the use of anilazine on watercress to control leaf spot; April 8, 1985 to October 31, 1985. (Libby Welch)

Crisis exemptions were initiated by the:

1. Louisiana Department of Agriculture on February 28, 1985, for the use of methyl bromide and calcium cyanide on bee hives to control the tracheal bee mite in Iberia and Vermilion Parishes. The need for this program has ended. (Jack E. Housenger)

2. Louisiana Department of Agriculture on April 12, 1985, for the use of triadimefon on strawberries to control powdery mildew. The need for this program has ended. (Jim Tompkins)

Authority: 7 U.S.C. 136.

Dated: July 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18615 Filed 8-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180678; FRL-2876-1]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the 21 States listed below; the Puerto Rico Department of Agriculture; the U.S. Department of the Army, Corps of Engineers; and the U.S. Department of Interior. These exemptions, issued during the months of May and June, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the

name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of permethrin on watercress to control diamondback moth larvae; May 13, 1985 to November 1, 1985. (Jim Tompkins)

2. Arkansas State Plant Board for the use of sodium chlorate on wheat to control abnormal weed growth and second growth; May 31, 1985 to September 30, 1985. (Jack E. Housenger)

3. California Department of Food and Agriculture for the use of sethoxydim on dry bulb onions to control grassy weeds; June 27, 1985 to September 30, 1985. (Gene Asbury)

4. Colorado Department of Agriculture for the use of sethoxydim on dry bulb onions for post-emergent control of grasses; June 10, 1985 to August 15, 1985. (Jim Tompkins)

5. Florida Department of Agriculture and Consumer Services for the use of permethrin on watercress to control diamondback moth larvae; May 13, 1985 to September 1, 1985. (Jim Tompkins)

6. Idaho Department of Agriculture for the use of metalaxyl on hops to control downy mildew; June 3, 1985 to August 31, 1985. (Libby Welch)

7. Louisiana Department of Agriculture for the use of fenvalerate on sorghum to control the sorghum midge; June 24, 1985 to September 30, 1985. (Jim Tompkins)

8. Maryland Department of Agriculture for the use of permethrin on watercress to control diamondback moth larvae; May 13, 1985 to November 1, 1985. (Jim Tompkins)

9. Maryland Department of Agriculture for the use of fenamiphos on strawberry nursery stock plants to control rootknot nematodes; June 4, 1985 to July 15, 1985. (Libby Welch)

10. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew; May 31, 1985 to June 30, 1985. (Jack E. Housenger)

11. New Jersey Department of Environmental Protection for the use of fenvalerate on carrots for processing to control carrot weevils; June 4, 1985 to September 30, 1985. (Jack E. Housenger)

12. New Jersey Department of Environmental Protection for the use of sethoxydim on lettuce, cabbage, cucumbers and cantaloupes to control annual grasses; June 10, 1985 to October 1, 1985. (Gene Asbury)

13. New Jersey Department of Environmental Protection for the use of sethoxydim on dry bulb onions to control annual grasses; June 10, 1985 to October 1, 1985. (Gene Asbury)

14. New York Department of Environmental Conservation for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; May 17, 1985 to May 30, 1985. (Libby Welch)

15. New York Department of Environmental Conservation for the use of vinclozolin on snap beans to control gray mold; June 17, 1985 to September 15, 1985. (Stan Austin)

16. North Dakota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew; May 31, 1985 to June 30, 1985. (Jack E. Housenger)

17. Ohio Department of Agriculture for the use of chlorpropham on lettuce, endive, and escarole to control common purslane; redroot, pigweed, Pennsylvania smartweed and fall panicum; June 4, 1985 to September 15, 1985. (Libby Welch)

18. Oregon Department of Agriculture for the use of vinclozolin on snap beans to control gray mold; May 15, 1985 to September 15, 1985. (Stan Austin)

19. Oregon Department of Agriculture for the use of iprodione on caneberries to control Botrytis fruit rot; May 29, 1985 to September 30, 1985. (Gene Asbury)

20. Oregon Department of Agriculture for the use of metalaxyl on hops to control downy mildew; June 3, 1985 to August 31,1985. (Libby Welch)

21. Pennsylvania Department of Agriculture for the use of permethrin on watercress to control diamondback moth larvae; May 13, 1985 to November 1, 1985. (Jim Tompkins)

22. Puerto Rico Department of Agriculture for the use of amitraz on cattle (dairy and beef) and goats to control *Boophilus microplus* and *Amblyomma variegatum;* May 27, 1985 to May 27, 1986. (Jack E. Housenger)

23. Rhode Island Department of Environmental Management for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; May 17, 1985 to Septeber 30, 1985. (Libby Welch)

24. South Dakota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew; May 31, 1985 to June 30, 1985. (Jack E. Housenger)

25. Texas Department of Agriculture for the use of fenvalerate on sorghum to control sorghum midges; May 29, 1985 to September 15, 1985. (Jim Tompkins)

26. Texas Department of Agriculture for the use of sodium chlorate on wheat to control abnormal weed growth and second growth; May 31, 1985 to September 30, 1985. (Jack E. Housenger)

27. U.S. Department of the Army, Corps of Engineers, for the use of 2,4–D in Osoyoos Lake and Pend Oreille River in Washington State to control Eurasian milfoil; June 19, 1985 to November 1, 1985. (Jim Tompkins)

28. U.S. Department of the Interior for the use of sodium cyanide in the M–44 device to remove coyotes and red foxes which threaten the endangered whooping crane in Gray's Lake National Wildlife Refuge in Idaho and to remove coyotes and foxes which threaten the endangered Mississippi sandhill crane in the Mississippi Sandhill Crane National Wildlife Refuge; May 29, 1985 to May 28, 1986. (Jack E. Housenger)

29. Washington Department of Agriculture for the use of vinclozolin on caneberries to control Botrytis fruit rot; May 15, 1985 to July 31, 1985. (Gene Asbury)

30. Washington Department of Agriculture for the use of vinclozolin on snap beans to control gray mold; May 15, 1985 to September 15, 1985. (Stan Austin)

31. Washington Department of Agriculture for the use of sethoxydim on green peas to control annual ryegrass; May 15, 1985 to June 20, 1985. (Jack E. Housenger)

32. Washington Department of Agriculture for the use of iprodione on potatoes to control sclerotinia; June 25, 1985 to July 31, 1985. (Jim Tompkins)

33. Washington Department of Agriculture for the use of metalaxyl on hops to control downy mildew; June 3, 1985 to August 31, 1985. (Libby Welch)

34. West Virginia Department of Agriculture for the use of permethrin on watercress to control diamondback moth larvae; May 13, 1985 to November 1, 1985. (Jim Tompkins)

35. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of sethoxydim on dry bulb onions grown on high organic soils to control grasses; May 17, 1985 to August 15, 1985. (Jim Tompkins)

36. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of metolachlor on dry bulb onions grown on high organic soils to control grasses; May 17, 1985 to August 15, 1985. (Jim Tompkins)

Authority: 7 U.S.C. 136.

Dated: July 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18616 Filed 8-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50638 PH-FRL 2877-3]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:.

7969-EUP-22. Issuance. BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 662.4 pounds of the herbicides 2,4-dichlorophenoxyacetic acid and sethoxydim on soybeans to evaluate the control of various weeds. A total of 1,104 acres are involved; the program is authorized only in the State of Arkansas, Arizona, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Louisiana, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 11, 1985 to June 11, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm 237, CM#2, (703-557-1830))

464-EUP-76. Extension. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 3,600 pounds of the insecticide chlorpyrifos on cotton to evaluate the control of various insects. A total of 720 acres are involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from May 29, 1985 to May 29, 1986. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

50658-EUR-1. Issuance. Merck Sharp and Dohme Research Laboratories, Hillsborough Road, Three Bridges, NJ 08887. This experimental use permit allows the use of 13.5 pounds of the insecticide abamectin on citrus trees to evaluate the control of various citrus pests. A total of 180 acres are involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from May 1, 1985 to December 31, 1985. This permit is issued with the limitation that treated citrus must not be used for human or animal consumption. (George LaRocca, PM 15, Rm. CM#2, (703-557-2400))

3125-EUP-188. Issuance. Mobay Chemical Corporation, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 6.848 pounds of the insecticide cyano(4-fluoro-3-phenoxphenyl)methyl 3(2,2-diclorethenyl)-2,2-dimethylcyclopropanecarboxylate on cotton, peanuts, and soybeans to evaluate the control of various insects. A total of 9,315 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, New Mexico, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 21, 1985 to April 21, 1986. Temporary tolerances for residues of the active ingredient in or on cottonseed, cottonseed hulls, peanuts, and soybeans (forage, hay, straw, and oil) have been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

3125-EUP-190. Issuance. Mobay Chemical Corporation, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 4,236 pounds of insecticide cyano(4-fluoro-3-phenoxyphenyl)methyl 3(2,2-dichlorethenyl)-2,2-dimethylcyclopropanecarboxylate on field corn, including popcorn, sweet corn, and potatoes to evaluate the control of various insects. A total of 9,755 acres are involved; the program is authorized only in the States of Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, and Wisconsin. The experimental use permit is effective from May 21, 1985 to May 21, 1986. Temporary tolerances for residues of the active ingredient in or on field and sweet corn, dry corn fodder, green corn forage, and potatoes have been established. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703-557-2690))

264-EUP-72. Issuance. Union Carbide Agricultural Products Company, P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. This experimental use permit allows the use of 384 pounds of the plant growth regulator ethephon on popcorn to reduce lodging. A total of 1,000 acres are involved; the program is authorized only in the State of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from May 23, 1985 to May 23, 1986. A temporary tolerance for residues of the active ingredient in or on popcorn has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permtis should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: July 25, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-18617 Filed 8-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59198A; TSH-FRL 2877-2]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances

Control Act (TSCA). TME–85–53. The test marketing conditions are described below.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS –794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–609C, 401 M St., SW., Washington, D.C. 20460, (202–382–3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–85–53. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–85–53. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance manufactured and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T 85–53

Date of Receipt: June 20, 1985.

Notice of Receipt: June 28, 1985 (50 FR 26840).

Applicant: CP Chemicals, Inc.

Chemcial: (S) Copper (2t) Methanesulfonate.

Use: (S) For customer evaluation as an improvement on other copper salts in electroplating operations.

Production Volume: 4,545 Kilograms.

Number of Customers: Six.

Worker Exposure: Manufacture: a total of 4 workers at 1 site for up to 3 hours per day, 20 days per year. Use: a total of 6 workers per site, at 6 sites for up to 8 hours per day, 28 days per year.

Toxicity Data: No data submitted.

Test Marketing Period: One year.

Commencing on: July 29, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: July 29, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–18591 Filed 8–5–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–31059A; PH–FRL 2876–9]

Caschem, Inc.; Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the conditional registration of the pesticide product Solricin® 135 as an algaecide for use in catfish ponds. This notice is in accordance with FIFRA.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, TS–767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 22, 1982 (47 FR 57130), which announced that the University of Southern Mississippi, PO Box 5024, Southern Station, Hattiesburg, MS 39406, had submitted an application to conditionally register the pesticide product Selecticide, File Symbol 48531–R, containing the active ingredient potassium ricinoleate at 50 percent. The University subsequently withdrew the application.

An application for the pesticide was subsequently applied for by Caschem, Inc., 40 Ave., A, Bayonne, NJ 07002, and was conditionally approved, May 24, 1985 for registration as Solricin® 135, under EPA Reg. No. 53220–1, containing 35 percent of the active ingredient potassium ricinoleate.

The registration involves a changed use pattern for use as an algaecide in catfish ponds.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703–557–3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460.

Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: July 29, 1985.

Steve Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–18613 Filed 8–5–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30255; PH–FRL 2877–1]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register a pesticide products containing an active ingredient not included in any previously registered product and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by September 5, 1985.

ADDRESS: By mail submit comments identified by the document control number [OPP-30255] and the registration/file number, attention Product Manager (PM) named in each application at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
PM 15, George LaRocca	Rm. 204, CM#2 (703-557-2400)	EPA, 1921 Jefferson Davis Hwy, Arlington VA 22202
PM 23, Richard Mountfort	Rm. 237, CM#2 (703-557-1830)	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register a pesticide product containing an active ingredient not included in any previously registered product and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Product Containing an Active Ingredient Not Included in Any Previously Registered Product

File Symbol: 352-UUE. Applicant: E.I. du Pont de Nemours and Co., Wilmington, DE 19897. Product name: Du Pont Savey™ Miticide. Insecticide. Active ingredient: Trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide 50%. Proposed classification/Use: General. Its 50% wettable powder formulation is applied as a spray to control mites on apples. (PM 15).

II. Product Involving a Changed Use Pattern

File Symbol: 239-ELGR. Applicant: Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Product name: Grass-B-Gon Grass Killer. Herbicide. Active ingredient: Fluazifop-butyl (butyl(RS)-2-[4-]]5-(trifluoromethyl)-2-pyridinyl]oxyl]phenoxy] proponoate 0.50%. Proposed classification/Use: General. To add to its presently registered terrestrial food crop and noncrop uses a new domestic outdoor use. (PM 23)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: July 30, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-18614 Filed 8-5-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-414; FRL-2875-5]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-414] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency,

Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM-15, George La Rocca	Rm. 204, CM#2 (703-557-2400)	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
PM-16, William Miller	Rm. 211, CM#2 (703-557-2600)	Do.
PM-17, Timothy A. Gardner	Rm. 207, CM#2 (703-557-2690)	Do.
PM-23, Richard Mountfort	Rm. 247, CM#2 (703-557-1830)	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

1. *PP 5F3254.* E.I. Du Pont de Nemours & Co., Inc., Agricultural Chemicals Department, Walkers Mill Building, Barley Mill Plaza, Wilmington, DE 19898. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the insecticide trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide in or on the following commodities.

Commodities	Parts per million (ppm)
Apples	0.5
Fat of cattle, goats, hogs, horses, and sheep	0.1
Kidney of cattle, goats, hogs, horses, and sheep	0.2
Liver of cattle, goats, hogs, horses, and sheep	1.0
Meat of cattle, goats, hogs, horses, and sheep	* 0.05
Meat byproducts (except for liver and kidney) of cattle, goats, hogs horses and sheep	0.1
Milk	0.05

The proposed analytical method for determining residues is high-pressure liquid chromatography with an ultra violet detector. PM-15

2. *FAP 5H5469.* E.I. Du Pont de Nemours & Co. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the above insecticide in or apple pomace at 10.0 ppm. Pm-15

3. *PP 5F3231.* Chevron Chemical Co., 940 Hensly St., Richmond, CA 94804. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide acephate and its metabolite methamidophos in or on the commodities as follows.

Commodities	Parts per million (ppm)
Corn, forage	[1] 10.0
Corn, grain	0.1
Corn, (kernel plus cob with husk removed)	1.0

[1] Of which no more than 1 ppm is methamidophos.

The proposed analytical method for determining residues is a gas chromatographic procedure equipped with a rubidium sulfate thermionic detector. PM-16

II. Amended Petitions

*1. *PP 4F3094.* EPA issued a notice published in the **Federal Register** of July 18, 1984 (49 FR 29134), which announced that Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285, had submitted PP 4F3094 to the Agency proposing to amend 40 CFR 180.416 by establishing tolerances for residues of the herbicide ethalfluralin (*N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine) in or on the commodities peanut hulls and nutmeats at 0.05 ppm.

Elanco Products Co. has amended the petition by adding the commodities meat, fat, and meat by-products (including liver and kidney) of cattle, goats, hogs, horses and sheep at 0.05 ppm and milk at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography using an electron detector. PM-23

2. *PP 3F2824.* EPA issued a notice published in the **Federal Register** of December 5, 1984 (49 FR 47549), which announced that the FMC Corp., 2000 Market St., Philadelphia, PA 19103, had submitted PP 3F2824 to the Agency proposing to amend 40 CFR 180.418 by revising the tolerance expression for the insecticide cypermethrin to now read as follows: cypermethrin [(+) alphacyano-(3-phenoxyphenyl)methyl (±) *cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] and its metabolites 3-PB acid and DCVA (sum of cypermethrin plus metabolites) in or on the commodity lettuce at 4.0 ppm.

FMC has amended the petition by increasing the tolerance level on lettuce from 4.0 ppm to 10.0 ppm. The proposed analytical method for determining residues is gas chromatography. PM-17

Authority: 21 U.S.C. 346a and 348.

Dated: July 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-18612 Filed 8-5-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 30, 1985.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB Number: None

Title: Section 25.391, Qualifications of Domestic Satellite Space Station Licensees

Action: New collection

Respondents: Domestic fixed-satellite applicants

Estimated Annual Burden: 25 Responses; 25,000 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-18628 Filed 8-5-85; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 30, 1985.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from the Commission by calling Doris R. Peacock, (202) 632-7513. Persons wishing to comment on any information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB No.: 3060-0046

Title: Application for New or Modified Common Carrier Radio Station Authorization Under Part 22

Form No.: FCC 401 (Computer-generated facsimile).

The Commission has announced a proposal to accept computer-generated FCC 401 applications in lieu of the preprinted forms. These facsimiles will

require prior Commission approval of the format and a completed sample. It is anticipated that the burden associated with the creation, preparation and submission of the facsimiles will be offset by a decreased burden in the actual application submissions. Therefore, the estimated annual burden for the FCC 401 remains the same: 5,000 Responses; 40,000 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-18629 Filed 8-5-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Central Fidelity Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 28, 1985.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Central Fidelity Banks, Inc.*, Richmond, Virginia; to acquire 100 percent of the voting shares of Central Fidelity Bank, N.A., Richmond, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *TraCorp, Inc.*, Tullahoma, Tennessee; to become a bank holding company by acquiring 86 percent of the voting shares of Traders National bank of Tullahoma, Tullahoma, Tennessee.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Financial Corp.*, Edgewood, Iowa; to become a bank holding company by acquiring 93.3 percent of the voting shares of Community Savings Bank, Edgewood, Iowa.

2. *Lowden Bancshares, Inc.*, Lowden, Iowa; to become a bank holding company by acquiring 93.3 percent of the voting shares of American Trust & Savings Bank, Lowden, Iowa.

3. *Malta Bancshares, Inc.*, Malta, Illinois; to acquire 70.94 percent of the voting shares of Community Bank of Utica, Utica, Illinois.

4. *South Ottumwa Bancshares, Inc.*, Ottumwa, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of South Ottumwa Savings Bank, Ottumwa, Iowa.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MNet Corp.*, Dallas, Texas (an indirect subsidiary of MCorp, Dallas, Texas, and a direct subsidiary of MCorp Financial, Inc., Dallas, Texas); to become a bank holding company by acquiring 100 percent of the voting shares of MBank USA, Wilmington, Delaware. MCorp and MCorp Financial, Inc., have previously applied to acquire MBank USA.

Board of Governors of the Federal Reserve System, July 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18547 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

Community Bank System, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 28, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Community Bank System, Inc.*, Syracuse, New York; to retain Northeastern Computer Services, Inc., Syracuse, New York, thereby continuing to engage in the provision of data processing services to commercial banks, mutual savings banks, savings and loan associations, and credit unions. These activities would be conducted in upstate New York.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citadel Bankshares, Inc.*, Wichita, Kansas; to acquire Montgomery County Financial Corporation, Independence, Kansas, thereby engaging in the activity of acting as agent in the sale of insurance where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act.

Board of Governors of the Federal Reserve System, July 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18548 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

First Railroad and Banking Company; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested perons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice president) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad and Banking Company*, Augusta, Georgia: to engage *de novo* in consumer finance activities through its wholly owned subsidiaries; CMC Group, Inc., Charlotte, North Carolina, parent of Capitol Group, Inc., Charlotte, North Carolina, parent of Capitol Credit Plan of Virginia, Inc., and Capitol Credit Plan of Tennessee, Inc., both located in Charlotte, North Carolina.

Board of Governors of the Federal Reserve System, July 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18549 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

Consorcio Invesionista Marcantil Y Agricola, C.A., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidene that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 29, 1985.

A. Board of Govenors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Consorcio Inversionista Mercantil Y Agricola C.A.*, Caracas, Venezuela, *Banco Mercantile C.A.*, Caracas, Venezuela, and an untitled trust established under the laws of Jersey, Channel Islands; *Schatten Corporation Limited*, United Kingdom, and *Mountain Corporation*, Miami, Florida, subsidiaries of the trust; *Geld Corporation*, Jersey, Channel Islands, a trustee; and a proposed wholly owned United Kingdom subsidiary of Consorcio; to become bank holding companies by acquiring 100 percent of the voting shares of Commercebank, N.A., Miami, Florida. This application may be inspected at the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, August 1, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-18658 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

Sterling Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 30, 1985.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Sterling Bancshares, Inc.*, Houston, Texas: to acquire 100 percent of the voting shares of First National Bank of West University Place, Houston, Texas.

Sterling Bancshares, has also applied to acquire First University Service Corporation, Houston, Texas, thereby engaging in trust activities.

Board of Governors of the Federal Reserve System, August 1, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-18659 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

Wenona Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 30, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Wenona Bancorp, Inc.*, Wenona, Illinois: To become a bank holding company by acquiring 100 percent of the voting shares of Wenona State Bank, Wenona, Illinois.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *North Central Bancorp, Inc.*, LaGrange, Kentucky: to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Oldham County, LaGrange, Kentucky.

Board of Governors of the Federal Reserve System, August 1, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-18660 Filed 8-5-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Studies of the Transmission of Human T-Lymphotropic Viruses Type III (HTLV-III) Among Prostitutes, Select Heterosexual Populations, and Recipients of Blood Transfusion From HTLV-III Seropositive Blood Donors; Availability of Funds for Fiscal Year 1985

Correction

In FR Doc. 85-17328 beginning on page 30295 in the issue of Thursday, July 25, 1985, make the following corrections:

1. On page 30296, in the third column, in the sixth line, "on blood" should read "or blood".

2. In paragraph 2, in the third line, "HTRLV-III" should read "HTLV-III".

3. Also on page 30296, in the third column, under *"Reports"*, in the second paragraph, in the tenth line, "funs" should read "Funds"; in the eleventh line, "very" should read "vary".

BILLING CODE 1505-01-M

Food and Drug Administration

[Docket No. 85P-0319]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Marketing Testing

Correction

In FR Doc. 85-17961 appearing on page 30880 in the issue of Tuesday, July 30, 1985, make the following corrections: In the second column, in the **SUMMARY,** in the fourth line, "Gaint" should read "Giant"; in the **SUPPLEMENTARY INFORMATION,** in the tenth line, "Gaint" should read "Giant".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Declaration for Importation or Exportation of Fish or Wildlife

Abstract: The information is used by the Service to monitor wildlife imports/exports, determine compliance with Federal, State and foreign laws, and compile annual reports required by treaty obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Form Number: 3-177

Frequency: On Occasion

Description of Respondents: Any importer/exporter of fish and wildlife

Annual Responses: 78,800

Annual Burden Hours: 19,700

Service Clearance Officer: Arthur J. Ferguson, 202-653-7499 Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: July 22, 1985.

Ronald E. Lambertson,

Associate Director Wildlife Resources.

[FR Doc. 85-18584 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explantory material may be

obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202–395–7313.

Title: **Master Planning Questionnaire**
Abstract: The National Environmental Policy Act (NEPA) requires public participation as part of national wildlife refuge master planning procedures. The questionnaire is used to elicit views on current refuge management practices and needed or desired changes. It is used only when public meetings are not practical or sufficient.
Form Number: No specific form required
Frequency: On Occasion
Description of Respondents: Individuals and households, small businesses or organizations
Annual Responses: 1,000
Annual Burden Hours: 500
Service Clearance Officer: Arthur J. Ferguson, 202–653–7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: July 29, 1985.

Ronald E. Lambertson,

Associate Director Wildlife Resources.

[FR Doc. 85–18572 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–55–M

Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of record of decision.

SUMMARY: The U.S. Fish and Wildlife Service has issued a Record of Decision (ROD) on the Comprehensive Conservation Plan, Environmental Impact Statement (CCP/EIS), and Wilderness Review for the Kenai National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), Section 3(d) of the Wilderness Act 1964, and section 102(2)(C) of the National Environmental Policy Act of 1969.

DATES: This ROD on the CCP/EIS will be implemented immediately with specific management plans undergoing development and regulations proposed for promulgation.

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, Alaska 99503, telephone (907) 786–3399.

Copies of the ROD will be sent to all persons and organizations of the mailing list. Others wishing to receive a copy of the ROD may obtain one by contacting Mr. Knauer.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service has selected *Alternative C* as described in the Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wildlife Review for implementation. The Service is also recommending three additions on the Kenai National Wildlife Refuge to the National Wilderness System: the Chickaloon/Two Indians unit (183,140 acres); the Tustumena/ Kasilof unit (11,460 acres); and the Southwestern Tustumena unit (9,470 acres). Alternative C balances conservation of fish and wildlife populations and habitats with enhanced opportunities for compatible fish and wildlife-oriented recreation. Alternative C also provides the greatest opportunity for achieving the ANILCA purpose of providing opportunities for scientific research, interpretation, and environmental education, along with opportunities for fish and wildlife-oriented recreation.

In order to implement some aspects of the plan, the Service will commence preparation of regulations governing resource protection on Kenai NWR for public review. They will be published in a proposed form and public hearings will be conducted in the vicinity of the refuge to solicit public input prior to their finalization. Temporary restrictions may be imposed during the rulemaking process to protect the resource but under no circumstances would these remain in effect for more than one year; public hearings would also be held prior to the initiation of any temporary restrictions.

Dated: July 25, 1985.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85–18582 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR 37654]

Classification and Lease of Public Land; Malheur County, OR

The following described public land has been examined and determined to be suitable for lease under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.) and is hereby so classified:

Willamette Meridian Oregon

T. 19 S., R. 45 E.,
Sec. 4: SW¼NW¼, SE¼NW¼ west of Lytle Blvd., N½SW¼, SW¼SW¼;
Sec. 5: SE¼NE¼, SE¼;
Sec. 8: NE¼NE¼;
Sec. 9: NW¼NW¼.
Coantaining approximately 445 acres.

The land will be leased to the Snake River Sportsmen, Inc., a non-profit group incorporated under the laws of the State of Oregon for a period of 20 years to be used for a regional shooting center. The land has been found valuable for public purposes and the lease will provide the important public objective of making land available to the public for recreational purposes.

The purpose of the lease is to develop the subject land for a regional shooting center about two miles south of Vale, Oregon. The center will include several shooting ranges which are of sufficient size to accommodate a regional level tournament. Plans include ranges for trap and skeet shooting, high power and small bore rifle, archery and black powder shooting, and a pistol range. Facilities will eventually be constructed which can be used throughout the year.

The land is not of national significance and the lease will have no significant impact on the environment. The action is consistent with BLM land use plans and with State and local planning and zoning.

A **Federal Register** notice dated September 26, 1980, designated the subject land as limited to off-road vehicle travel. The designation order restricted vehicle travel to identified roads from March 15 through July 15 annually. Through this Notice of Realty Action, the present designation order is rescinded on the subject land in support of the R & PP classification.

Grazing use will be restricted on the parts of the subject land actually developed for the duration of the lease.

Classification of this land segregates it from all forms of appropriations including location under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

The terms and conditions applicable to the lease are as follows:

1. The lease may be renewed for an additional 20 year period at the discretion of the authorized officer.

2. The lease will be terminated after due notice if the authorized officer determines that the lands have not been used for the purposes specified in the lease for a period of 5 years.

3. Subject to a reservation to the United States of all minerals;

4. Subject to the right of the United States and its agents or assigned to enter and use the lands;

5. Subject to all valid existing rights, including but not limited to existing mineral leases and grazing permits or leases;

6. Subject to the provisions of applicable laws of the United States concerning civil rights and equal employment opportunity;

7. Subject to any additional terms and conditions determined by the authorized officer for the protection of the land and resources thereon.

Detailed information, including the environmental assessment and land report, and a complete listing of the terms and conditions of the lease, is available for review at the Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, OR 97918.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 700, Vale, Oregon 97918. Objection will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

David Lodzinski,

District Manager.

July 22, 1985.

[FR Doc. 85-18556 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-33-M

Craig District Advisory Council; Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on September 25, 1985.

The meeting will begin at 10 a.m. at the Craig District Office, 455 Emerson Street, Craig, Colorado.

Agenda items will include:

1. Briefing on WAPA Transmission Line
2. District Fire Policy
3. Ca Offsite (84 Mesa) Status
4. Consol EIS Status
5. Feedback on Little Snake Resource Management Plan Workgroup

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10:30 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement, should notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by September 20, 1985.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: July 29, 1985.

William J. Pulford,

District Manager.

[FR Doc. 85-18585 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-JB-M

Change in Boundaries and Addition of Acreage to Three Utah BLM Wilderness Study Areas (WSAs)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As a result of instructions from the Interior Board of Land Appeals, the boundaries of three Utah BLM WSAs have been modified to include additional acreage as follows: Mt. Ellen-Blue Hills, *23,246* acres; Mt. Pennell, *47,000* acres; Fiddler Butte, *8,100* acres. Also, a graphics error in the previous inventory map of the Mt. Ellen Blue Hills was corrected to accurately reflect the WSA boundary.

Maps of these WSAs as modified are available at the BLM Richfield District Office; 150 E. 900 North Richfield, Utah 84701 and the Utah State Office at 324 So. State, Suite 301, Salt Lake City, Utah 84111-2303.

EFFECTIVE DATE: August 8, 1985.

SUPPLEMENTARY INFORMATION: On April 12, 1985, the Interior Board of Land Appeals affirmed Utah BLM inventory decisions for six areas involving 173,229 acres found not to be eligible for WSA status, but at the same time required that boundaries for three WSAs, Mt. Ellen/Blue Hills, Mt. Pennell, and Fiddler Butte, be revised to include additonal lands totaling 77,000 acres of BLM-administered land (IBLA Case 84-182).

In response to the IBLA ruling the Utah BLM has modified the boundaries of these WSAs to include a total of *78,346* additional acres for Wilderness Study. Maps of these modified WSAs have been prepared and are available for public review and inspection at the locations stated above. In redrafting the base map for the Mt. Ellen-Blue Hills WSA a graphics error was detected in the boundary as depicted on the Final Wilderness Inventory map published by BLM in November, 1980. This published error in Township 31 S., Range 9 E., Section 23 did not affect the acreage figures for the WSA since the acreage was determined from an official BLM file map. These WSAs as modified will be analyzed in the Draft Utah BLM Statewide Wilderness EIS, scheduLed for public review beginning in January, 1986.

FOR FURTHER INFORMATION CONTACT: Ken Kuhlman, Richfield District Wilderness Coordinator, BLM Richfield District Office, 150 East 900 North, Richfield, Utah 84701 (801-896-8221).

Dated: July 31, 1985.

Roland G. Robison,

State Director.

[FR Doc. 85-18640 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-DQ-M

Noncompetitive Sale of Public Lands in Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The following described lands have been examined and found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value:

Parcel No. Serial No.	Legal description	Acres	Dollar value
Parcel 1	T. 14 S., R. 13 E., SBM		
CA-14342	Tr. 80A (S-14)	80.00	
	Tr. 85A (S-27)	40.00	
	Sec. 14, lots 3 and 8	38.75	
	Sec. 23, lots 1,2,4, and 5.	57.63	
	Sec. 26, lots 1 and 2	22.13	
Total		238.71	11,935
Parcel 5	T. 15 S., R. 12 E., SBM		
CA-14346	Tr. 206A (S-13)	40.00	
	Sec. 12, lots 7 and 8	26.03	
Total		66.03	3,300
Parcel 6			
CA-14347	Sec. 35, lots 2 and 3, SW¼NE¼, S½NW¼.	161.04	8,050
Parcel 8	T. 15 S., R. 13 E., SBM		
CA-14349	Sec. 3, lot 2	26.91	1,345
Parcel 9			
CA-14350	Sec. 6, lots 7 and 8	64.42	3,220
Parcel 10	Sec. 6, NW¼SE¼	40.00	2,000

These parcels aggregate 597.11 acres in Imperial County, California. The land has not been used for and is not required for any Federal purpose.

The location and physical characteristics of each parcel make them difficult and uneconomical to manage as public lands. Disposal is consistent with planning, would not have any significant negative effect on resource values, and would best serve the public interest.

All parcels will not be offered for sale until 60 days after publication of this notice and no bids will be accepted. Upon notification of the sale date, the purchaser will be given 180 days to pay the full fair market value.

The following landowner is offered the opportunity to purchase all of the aforementioned parcels:

Imperial Irrigation District, Attn: Mr. Charles L. Shreves, P.O. Box 937, Imperial, California 92251

The sale of this land to the Imperial Irrigation District will allow for them to enhance their water control program.

1. A right-of-way for ditches and canals will be reserved to the United States [26 Stat. 391; 43 U.S.C. 945].

2. All minerals 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.

3. The Bureau of Land Management will reject or accept any and all offers, or withdraw any land or interest in land form sale, if in the opinion of the Authorized Officer consumation of the sale would not be in the best interest of the United States.

4. Patent for the following parcels will be subject to those rights granted under the Geothermal Steam Act of 1970 [84 Stat. 1566; 30 U.S.C. 1001–1025] and/or the Mineral Leasing Act of 1920, as amended and supplemented [30 U.S.C. 181, et. seq.]:

Parcel No.	Geothermal	Oil and gas
1	CA-9678 apln.	CA-10114 lse.
5	CA-9679 apln.	CA-10452 lse. CA-10115 apln.
6	N/A	CA-12955 lse.
8, 9, and 10	CA-9684 apln.	CA-10452 lse.

Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2711, 1–2 (d), the aforementioned lands will be segregated from appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws. The segregative effect of this notice of realty action shall terminate upon issuance of patent or other document of conveyance to these lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this sale, including the land report and environmental assessment, is available for review at the California Desert District Office at 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become a final determination of the Department of the Interior.

Dated: July 27, 1985.

Gerald E. Hiller,

District Manager.

[FR Doc. 85–18637 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone (202) 395–7313; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Minerals and Rights-of-Way Management.

Abstract: Respondents submit information necessary for the Minerals Management Service to determine which tracts will be leased, to identify areas for environmental study and further consideration for leasing, and to determine if the applicant or bidder filing for a lease or right-of-way in the Outer Continental Shelf is qualified to hold such a lease or right-of-way.

Bureau Form Numbers: Forms MMS–2032 and MMS–2033

Frequency: On occasion

Description of Respondents: Federal oil and gas lessees, potential bidders, and the public

Annual Responses: 4,047

Annual Burden Hours: 52,472

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6214

Dated: May 1, 1985.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85–18574 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Information Collection Submitted for Review Under the Paperwork Reduction Act

July 31, 1985.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Washington, D.C. 20503, telephone 202–395–7340.

Title: *Backcountry Use Permit*

Abstract: Permit is used to implement a backcountry reservation system. Such permitting enhances hazard warnings, search and rescue efforts, and resource protection.

Bureau Form Number: 10–404

Frequency: On occasion

Description of Respondents: Individuals

Annual Response: 125,000

Annual Burden Hours: 10,000

Bureau Clearance Officer: Russell K. Olsen, Telephone: 523–5133

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 85–18573 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–70–M

Availability of Finding of No Significant Impact for the Draft General Management Plan/Development Concept Plan and Environmental Assessment; Hot Springs National Park, AR

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, Chapter 1 of Title 36 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Finding of No

Significant Impact for the Draft General Management Plan/Development Concept Plan/Environmental Assessment, Hot Springs National Park, Garland County, Arkansas.

The Draft General Management Plan/Development Concept Plan/Environmental Assessment was on public review from June 20 through July 19, 1985, and a Public Meeting was held on July 2, 1985, in Hot Springs, Arkansas. Based on public review comments received and on management decisions, a Finding of No Significant Impact has now been completed. The National Park Service is adopting the proposal described in the draft plan, with changes resulting from public review.

It is the conclusion of the National Park Service that the proposal is not a major Federal action that will significantly affect the human environment. Therefore, an environmental impact statement will not be prepared. The National Park Service will proceed with development of the final General Management Plan/Development Concept Plan for implementation.

Copies of the Finding of No Significant Impact are available from Hot Springs National Park, Post Office Box 1860, Hot Springs, Arkansas 71902; and the National Park Service, Southwest Region, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: July 26, 1985.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 85-18568 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations; Connecticut et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 27, 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 August 21, 1985.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Hartford County

South Windsor, *Elmore Houses*, 78 and 87 Long Hill Rd.
Windsor, *Bissell Tavern-Bissell's Stage House*, 1022 Palisado Ave.
Windsor, *Mills, Elijah, House*, 45 Deerfield Rd.

Litchfield County

Washington, *New Preston Hill Historic District*, New Preston Hill, Findley and Gunn Hill Rds.

Middlesex County

East Hampton, *Belltown Historic District*, Routhly bounded by W. High, Main, Bevin Ct., Skinner, Crescent, Barton Hills & Maple Sts.
Essex, *Hill's Academy*, 22 Prospect St.
Essex, *Pratt House*, 19 West Ave.
Middlesex, *Old Middletown High School*, Pearl and Court Sts.
Old Saybrook, *Whittlesey, Ambrose, House*, 14 Main Sts.

New Haven County

Ansonia, *Ansonia Library*, 53 South Cliff St.

New London County

Jewett, *Wilson, John, House*, 11 Ashland St.

KENTUCKY

Scott County

Georgetown vicinity, *Ward Hall (Boundary Increase)*, 1782 Frankfort Pike

MAINE

Androscroggin County

Lewiston, *First National Bank (Lisbon Street MRA)*, 157–163 Main St.

MINNESOTA

Chippewa County

Watson vicinity, *Gippe, Henry, Farmstead*, U.S. 59

Douglas County

Alexandria, *Alexandria Public Library*, 7th Ave. W. and Fillmore St.
Alexandria, *Cowing, Thomas F., House*, 316 Jefferson St.
Alexandria, *Douglas County Courthouse*, 320 7th Ave. W.
Alexandria, *Ward, Noah P., House*, 422 7th Ave. W.
Brandon, *Brandon Auditorium and Fire Hall*, Holmes Ave.
Carlos vicinity, *Tonn, August, Farmstead*, CR 65

Grant County

Barrett, *Roosevelt Hall*, Hawkins Ave.

Lac qui Parle County

Madison, *Madison Carnegie Library*, 401 Sixth Ave.
Madison, *Madison City Hall*, 404 Sixth Ave.

Traverse County

Wheaton, *Chicago, Milwaukee, and St. Paul Depot*, Broadway Ave and Front St.
Wheaton, *Traverse County Fairgrounds*, 5th Ave. S. and 7th St. S.

NEBRASKA

Douglas County

Omaha, *Center School*, 1730 S. 11th St.
Omaha, *Kennedy Building*, 1517 Jackson St.
Omaha, *Sanford Hotel*, 1913 Farnum St.

Lancaster County

Lincoln, *Hayward School*, 1215 N. 9th St.

Saline County

Dorchester vicinity, *Z.C.B.J. Rad Tabor No. 74*, R.F.D.

OHIO

Ashtabula County

Ashtabula, *West Fifth Street Bridge*, SR 531 over Ashtabula River

Auglaize County

Wapakoneta, *First Presbyterian Church of Wapakoneta*, 106 W. Main St.

Franklin County

Upper Arlington, *Upper Arlington Historic District*, Roughly bounded by Lane Ave., Andover Rd., Fifth Ave., Cambridge Blvd. & Riverside Dr.

Guernsey County

Cambridge vicinity, *National Road*, Center Township Rd. 650
Cambridge, *Wheeling Avenue Historic District*, Roughly bounded by Steubenville, 10th, Wheeling & 4th Aves.

Ottawa County

Middle Bass Island., *Middle Bass Club Historic District*, Grape and Grove Aves.

Pickaway County

Circleville, *Watt-Groce-Fickhardt House*, 360 E. Main St.

Preble County

Eaton, *Acton House*, 115 W. Main St.

Stark County

Canton, *Trinity Lutheran Church*, 415 W. Tuscarawas St.
Massillon, *First Methodist Episcopal Church*, 301 Lincoln Way E.

TEXAS

Nueces County

Oso Dune Site (41NU37)

WASHINGTON

King County

Seattle, *Guiry and Schillestad Buildings*, 2101–2111 First Ave.

Pierce County

Tacoma, *Murray, Frederick H., House*, 402 N. Sheridan Ave.
Tacoma, *Pythian Temple*, 924–926½ Broadway
Tacoma, *Rust, William Ross, House*, 1001 N. I St.

Tacoma, *Sunset Telephone & Telegraph Building*, 1101 Fawcett Ave.
Tacoma, *Yuncker, John F., House*, 519 S. G St.

Spokane County

Spokane, *Smith, Edwin A., House*, N. 1414 Summit Blvd.

Yakima County

Yakima, *Gilbert, H.M., House*, 2109 W. Yakima Ave.

[FR Doc. 85-18599 Filed 8-5-85; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designaton make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Fort Des Moines Provisional Army Officer Training School, Des Moines, Polk County, Iowa

Beginning at the intersection of the east curb of SW 9th Street and the south curb of Army Post Road; thence east along said south curb to its intersection with a line extended due north from the east curb of Brown Street; thence south along said east curb to the southeast curb of an unnamed street branching southwest from Brown Street; thence southwest along said southeast curb to a point on the west curb of an unnamed street parallel to Chaffee Road; thence south along said west curb to a point; thence west along a line extending east from the south curb of Winn Road; thence south along the east of Chaffee Road to its intersection with the east-west center line of Section 33; thence west along said center line to its intersection with the east curb of SW 9th Street; thence north along the east curb to the point of the beginning.

[FR Doc. 85-18600 Filed 8-5-85; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Palugvik Archeological District National Historic Landmark, Hawkins Island, Prince William Sound, Cordova-McCarthy Div., Alaska

The boundaries have been drawn to include all sites and cultural features and to protect the integrity of the district setting. From a point of beginning located at the tip of the land in the SE ¼ of the NW ¼ of the NE ¼ of the SW ¼ of Section 26, Township 16 S, Range 6 W, C.R.M., proceed 0° and 200 m, thence 67° and 1000 m, thence 73° and 900 m, thence 162° and 300 m, thence the mean high tide line to the POB.

[FR Doc. 85-18601 Filed 8-5-85; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Watrous National Historic Landmark, Watrous, Mora County, New Mexico

The boundaries of the Watrous National Historic Landmark encompass those portions of the La Junta Valley that retain historic integrity from the period associated with the Santa Fe Trail. The boundaries include all the routes of the Cimarron Cutoff and Mountain Branch of the Santa Fe Trail which came together in the Valley, the surviving buildings retaining architectural integrity, the four river crossings that were significant to the valley's pattern of development, and the open semi-arid rangeland that has historically been associated with the trail and unites the significant features within the valley.

The eastern boundary has been drawn west of the 1879 town of Watrous and the Atchison, Topeka and Santa Fe Railroad tracks to exclude development that occurred after the period associated with the Santa Fe Trail. It extends southwest to the southern portion of the valley, turning west at the boundary of Mora and San Miguel Counties. The southern boundary roughly follows the

county line to include the Sapello River Crossing and the Fort Union Corral and Buildings. The western boundary roughly follows the hills and escarpments of the valley to include the earliest route of the Mountain Branch and the properties associated with James Boney's descendents. Along the southern bank of the Mora River the boundary extends west to the location of James Boney's dam, which is also the western boundary of the Boney and Scolly land grants. Crossing the Mora River at this point, the boundary then proceeds east along the northern bank to the edge of the valley and north to encompass Puerto del Canon, where the earliest route of the Mountain Branch entered the valley. The northern boundary extends from a point northwest of the Puerto southeast along the northern edge of the valley to encompass the 1870 village of Tiptonville, which was the meeting point of the trail's various routes and an important commercial center during the late history of the Santa Fe Trail. The northern boundary extends southeast to the area settled as La Junta and marked by the Watrous Ranch and the junction of the Mora and Sapello Rivers. It is here that one of the routes of the Cimarron Cutoff entered the valley and crossed the Mora River. At a point east of the Watrous Ranch the boundary turns south toward the edge of the town of Watrous.

[FR Doc. 85-18602 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Carlisle Indian Industrial School National Historic Landmark, Carlisle, Cumberland County, Pennsylvania

Beginning on the southeast bank of the southeastern branch of Letort Spring Run on the southwest side of Ashburn Drive; thence preceeding southeast to the northern corner of the block bounded by Lovell Avenue, Ashburn Drive, Garrison Lane and Guardhouse Lane; thence proceeding 200 feet southwest along the southeast side of Lovell Avenue 340 feet southeast along a line perpendicular to the previous line, and 250 feet northeast along a line perpendicular to the previous line to the northeast side of Ashburn Drive; thence proceeding 150 feet southeast along the northeast side of Ashburn Drive, 200 feet northeast along a line perpendicular to the previous line, and 80 feet northwest to the southeast side of Forbes Avenue; thence proceeding 350 feet northeast to a northwest-southeast wall that runs perpendicular to Forbes Avenue; thence proceeding along this wall which passes to the rear (southeast) of Buildings 102, 123, 104, 106, 124, 108, 110, 125 and 112 to a point where this wall intersects with a southwesterly projection of the center line of Wright Avenue; thence proceeding south southwest approximately 970 feet along a line parallel to the southeast side of the running track to the northeast side of Ashburn Drive; thence proceeding 280 feet northwest along the northeast side of Ashburn Drive and 1350 feet south southwest along the northwest side of Garrison Lane and Flower Road, and across Flower Road to its southwestern side where it curves to the northwest; thence proceeding northwest, southwest and northwest along the southwestern edge of the service road to the southwest of (behind) Buildings 32-24 to a point 30 feet south of the southern corner of Building 32; thence proceeding northeast approximately 130 feet along a line perpendicular to Flower Road to the northeastern edge of Flower Road; thence proceeding 80 feet southeast along the northeast side of Flower Road and 400 feet northeast along a line perpendicular to the previous line to the southwestern side of Guardhouse Lane; thence proceeding 350 feet northwest along the southwestern side of Guardhouse Lane to the northwestern side of Lovell Avenue, 100 feet southwest along the northwestern side of Lovell Avenue, and 100 feet northwest along a line perpendicular to the previous line to the east side of Indian Garden Lane; thence proceeding 260 feet north northeast across and then along the west side of Indian Garden Lane; thence proceeding 300 feet northwest along a line perpendicular to the previous line to the southeast bank of Letort Spring Run and thence along the southeast bank of Letort Spring Run to the point of beginning.

[FR Doc. 85-18603 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration National Register of Historic Places, Interagency Resources Division.

Alkali Point Alkali Ridge National Historic Landmark, Blanding, San Juan County, Utah

Northern Subdistrict: The Northern Subdistrict of the proposed Alkali Ridge National Historic Landmark lies within Sections 14 and 23 of Township 36 South, Range 23 East, USGS Quadrangle Verdue 3 NE, Utah, 7.5', 1954. The

northeast corner is in the SW, SW, NW, NE quarter of Section 14. The boundary follows the edge of Alkali Point 2000 feet southeast to the NE, NE, NW, SE quarter of Section 14. From here, the boundary extends due south for 1450 feet to the NE, NE, SW, SE quarter of Section 14. The next boundary point, again following southeast along the edge of Alkali Point, is 1800 feet away, at the section marker of Sections 13, 24, 23 and 14. The southeast corner of the proposed boundary is 4100 feet due south, on the section line between 24 and 23 (NE, NE, SE, SE, Section 23). One mile due west is the southwest corner of the proposed boundary (NW, NW, SW, SW, Section 23). The northwest corner is due north on the section line between Sections 14 and 15, at the SW, SW, NW, NW quarter of Section 14.

Southern Subdistrict: The Southern Subdistrict of the proposed Alkali Ridge National Historic Landmark falls within Sections 30 and 31 of Township 36 South, Range 24 East, Sections 6 and 7 of Township 37 South, Range 24 East, Sections 1 of township 37 South, Range 23 East, and Section 36 of Township 36 South, Range 23 East. The major portion of this subdistrict is located on USGS Quadrangle Verdue 3 SE, Utah, 7.5', 1954, with a small part of the northern portion located on USGS Quadrangle Verdue 3 NE, Utah, 7.5', 1954. The northeast corner of the subdistrict is located at the head of Bradford Canyon, SW, SW, SE, NE of Section 30. Due south, 14560 feet, on the western edge of Bradford Canyon is the southeast corner (NW, NW, SE, NE quarter of Section 7). The southwest corner is 2700 feet due west in the SW, SW, NW, NW quarter of Section 7. 3700 feet to the northwest is another boundary corner located in the NW, NW, SE, SE quarter of Section 1. Due north, 8200 feet, in the SW, SW, NE, NE quarter of Section 36 is the next corner. The northwest corner is 5500 feet northeast from this point in the SW, SW, SW, NE quarter of Section 30

[FR Doc. 85-18604 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Deadwood Historic District, Deadwood, Lawrence County, South Dakota

The city limits form the boundary of the district.

The basic Y shape of the community has remained intact as the rugged topography has allowed for little new growth. These more recent structures are clustered at the edges of the town, along the narrow, valley streets. The central business district is concentrated on Main Street, which has an exceptional collection of Victorian era commercial buildings. Businesses are also found on the side streets of Lee and Deadwood and along the one prong of the Y, Sherman Street. Residential neighborhoods are built up the hillsides. Industrial activities are found on the hillside at the fork of the Y and along Main Street, on Whitewood Creek, at the opposite end.

[FR Doc. 85-18605 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

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Carol D. Shull,

Chief of Registration, National Register of Historic Places; Interagency Resources Division.

Great Falls Portage National Historic Landmark, Great Falls, Cascade County, Montana

Starting at a point in the soutwest corner of Section 36, T22n, R5E; thence south approximately 1.5 miles to a point in Section 12, T21N, R5E; thence east approximately .5 mile to the east line of Section 12; thence south approximately .8 mile along said section line; thence southwest approximately 3.2 miles to a point on the south line of Section 26, T22N, R5E; thence southwest approximately 1.85 miles to the midpoint on the north line of Section 3, T20N, R5E; thence southwest approximately 3.1 miles to the east curb of a county road in Section 7, T20N, R5E; thence north approximately .9 mile along said road to a point; thence northeast approximately 2.7 miles to a point in Section 33, T21N, R5E; thence northeast approximately 2.9 miles to the midpoint of the south line of Section 14, T21N, R5E; thence north to a point in Section 35, T22N, R5E; thence east to the point of the beginning.

Starting at a point in Section 20, T20N, R4E; thence southwest approximately 2.4 miles to a point on the north curb of a street in Section 25, T20N, 53E; thence west approximately .3 mile to a point; thence northwest to a point; thence northeast approximately 2.6 miles to a point on the midline of Section 17, T20N, R4E; thence east approximately .3 mile to the north-south midline of Section 17; thence south approximately .65 mile along the midline of Sections 17 and 20, T20N, R4E, to the point of the beginning.

[FR Doc. 85-18606 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions for the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202–395–7313.

Title: Surface Mining Permit Applications Minumum Requirements for Information on Environmental Resources, 30 CFR 779

Abstract: Sections 507 and 508 of Pub. L. 95–87 require the applicant to present adequate description of the existing pre-mining environmental resources within and around the proposed mine plan area. The information is used by the regulatory authority to determine whether the applicant can comply with the performance standards of the regulations and whether reclamation of these areas is feasible.

Bureau Form Number: None

Frequency: On occasion

Description of respondents: Coal Mine Operators

Annual Responses: 23,100

Annual Burden Hours: 415,800

Bureau Clearance Officer: Darlene Boyd 202–343–5447

Dated: July 19, 1985.

Carson W. Culp,

Assistant Director, Budget and Administration.

[FR Doc. 85–18578 Filed 8–5–85; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on August 26–27, 1985 at the Pan American Health Organization Building, 525–23rd Street, NW., Washington, D.C., Conference Room 'C'. The Committee will discuss recent developments in A.I.D. research policy.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Any interested persons 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. Erven J. Long, Director, Office of Technical Review and Information, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Long, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235–8929.

Dated: July 23, 1985.

Erven J. Long,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 85–18587 Filed 8–5–85; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Revised Improvements Needed for the Rio Grande Canalization Project El Paso County, TX; Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the United States Section Operational Procedures for implementing section 102 of NEPA publised in the **Federal Register** September 2, 1981 (46 FR 44083) to be codified in 22 CFR Part 100; the United States Section hereby gives notice that a supplemental environmental impact statement will not be prepared for revised improvements needed for the Rio Grande Canalization Project in El Paso County, Texas.

FOR FURTHER INFORMATION CONTACT: George R. Baumli, Principal Engineer, Investigations and Planning Division; United States Section, International Boundary and Water Commission, United States and Mexico; The Commons, Building C, Suite 310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 541–7304, FTS 572–7304.

SUPPLEMENTARY INFORMATION:

Proposed Action

In 1975 it was determined by the U.S. Section that there were three reaches of the Project which did not provide adequate protection against the design flood of 17,000 cubic feet per second (cfs) in the El Paso area. The reaches were the Berino Bridge reach, the Canutillo-Borderland Road reach and the Anapra reach. To correct these shortcomings, improvements to the Canalization Project were proposed and considered in the Final Environmental Impact Statement (FEIS) "Improvements Needed for Rio Grande Canalization Project, New Mexico and Texas," August 1975. The FEIS concluded that the environmental impacts were negligible and that flood protection benefits outweighed any adverse impacts.

In 1975, the Act of June 4, 1936 was amended to increase the amount of money authorized to be appropriated for construction of the Project. This had the effect of authorizing construction of the improvements. Construction of the improvements for the Anapra reach and Berino Bridge reach were completed in December 1976 and February 1977, respectively.

The improvements in the vicinity of Canutillo to Borderland Bridge were scheduled in 1977; however, only construction to increase the height of the west levee and relocate a portion of the west levee upstream of Borderland Bridge was completed by February 1980. None of the other improvements for this reach were completed due to a general rise in construction costs, right-of-way problem on the east side, and insufficient construction funds for the improvements.

The currently proposed action is to complete as much work as possible with the remaining funds available. This includes widening the normal flow channel of the Rio Grande, constructing dikes adjacent to two tributary arroyos, and sandbagging a portion of the railroad embankment in the event of a flood.

Alternatives Considered

Three alternatives were considered:

The proposed action is the U.S. Section Preferred Alternative. This alternative will complete, to the extent that funds are available, the works proposed in the 1975 FEIS for the Canutillo-Borderland Road reach of the

Rio Grande Canalization Project. The completed raising of the west levee in this reach will protect the west side of the river from flood flows of 17,000 cfs. The additional improvements of the proposed action will protect the east side of the river in this reach from flood flows of 15,000 cfs.

The no action alternative will result in no anticipated change in the existing conditions. The east side of the river including the community of Canutillo will be subject to flooding at flows above 11,000 cfs resulting in attendant loss due to flooding including losses of property and possibly lives.

The protection for the 17,000 cfs design flood alternative requires additional right-of-way be acquired for the construction of a new east levee and reinforced concrete flood wall. The Santa Fe Railroad is not in agreement regarding this right-of-way, and without an agreement, the east side of the subject reach cannot economically be protected for the 17,000 cfs design flood.

Environmental Assessment

The U.S. Section completed a draft environmental assessment on July 22, 1985.

Findings of The Environmental Assessment

The draft environmental assessment finds that:

(1) Completion of the proposed works will provide protection for the east side of the Rio Grande in the Canutillo-Borderland Road reach including the City of Canutillo from flood flows of about 15,000 cfs.

(2) Construction activities are expected to have minimal impact on wildlife habitat where 17.5 acres of forb/grassland floodway subject to annual maintenance will be changed to both river channel and new levee slopes.

(3) No impacts are expected on the limited fishery in this reach since construction will be accomplished when minimal flows are in the river during non-irrigation season when few fish are present.

(4) The loss of fifteen mature cottonwood trees and other vegetation along the bank of the widened normal flow channel will be offset by additional planting and maintenance of trees under the U.S. Section operations and maintenance program of the Canalization Project.

(5) No impacts are expected on groundwater except for a slight temporary increase in recharge from the proposed channel widening.

(6) The proposed action and alternatives would not affect any endangered or threatened species in the area or habitat critical to the continued existence of these species.

(7) No properties listed or eligible for listing on the National Register of Historical Places or any archeological sites would be affected by the proposed action and alternatives.

(8) No area features listed in the National Registry of Natural Landmarks would be affected by the proposed action and alternatives.

On the basis of the draft environmental assessment, a supplement to the 1975 final environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this Notice.

The draft Finding of No Significant Impact (FONSI) and draft Environmental Assessment (EA) have been sent to the Environmental Protection Agency and to other federal, state, and local agencies and interested parties. A limited number of copies of the draft FONSI and draft EA are available to fill single copy requests at the above address.

Dated: July 24, 1985.

Darcy Alan Frownfelter,

Legal Adviser.

[FR Doc. 85-18557 Filed 8-5-85; 8:45 am]

BILLING CODE 4710-03-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Bell, Communications Research, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed a written notification on behalf of Bellcore and Heinrich-Hertz-Institut Fur Nachrichtentechnik, Berlin GmbH (hereinafter "HHI") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 West Mount Pleasant Avenue, Livingston, New Jersey 07039.

HHI is a German corporation located at Einsteinufer 37, D-1000 Berlin 10 in the Federal Republic of Germany.

Bellcore and HHI entered into a collaborative reserarch agreement on May 3 1985 to cooperate in the following areas: intergrated optics and opto-electronic device research, research in high-speed and coherent communication technologies, theoretical and experimental research on image coding and processing, and other research in fields relevant to telecommunications technology.

Roger B. Andewelt,

Deputy Director of Operations Antitrust Division.

[FR Doc. 85-18667 Filed 8-5-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Coolidge Drugs, Inc., d/b/a The Apothecary, Revocation of Registration

On March 28, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Coolidge Drugs, Inc., d/b/a The Apothecary, 384 W. Broadway, South Boston, Massachusetts 02127 (Respondent), an Order to Show Cause proposing to revoke DEA Certificate of Registration AC1914490, issued to Respondent as a retail pharmacy pursuant to 21 U.S.C. 823(f). The statutory predicate for the proposed action is that continued registration of Respondent pharmacy would be inconsistent with the public interest as defined in 21 U.S.C. 823(f) as amended by Pub. L. 98-473. The Order to Show Cause was mailed to Respondent by registered mail, return receipt requested, and was delivered and signed for on April 3, 1985. The Order to Show Cause stated that Respondent had thirty days after the receipt of the order within which to file a request for a hearing pursuant to 21 CFR 1301.54(a). Documents are deemed filed upon receipt by the Hearing Clerk of DEA. 21 CFR 1316.45.

Emanuel L. Rosengard, on behalf of Respondent pharmacy, sent a letter requesting a hearing that was received by the Hearing Clerk on May 15, 1985. The letter was dated April 30, 1985, but the envelope was postmarked May 9, 1985. The request for hearing was not timely filed, nor was it in the form

required by 21 CFR 1316.47. The Administrator finds that Respondent pharmacy has waived its opportunity for a hearing and issues the following final order based upon the findings of fact and conclusions of law as hereinafter set forth. 21 CFR 1301.54.

In addition to the request for hearing, Mr. Rosengard sent another letter dated April 30, 1985, to the Deputy Assistant Administrator, Office of Diversion Control. In this letter, Mr. Rosengard denied the statements in the Show Cause Order by saying, "I deny and resent items numbered 2, 3, 4, 5 and 6 as being lies, half-truths and inuendoes. . ." Mr. Rosengard went on to say he had been set up by the State of Massachusetts and DEA. Mr. Rosengard, however, presented no facts or explanations regarding the statements in the Order to Show Cause; he merely attacked the agencies and investigators that had investigated his conduct.

The Administrator finds that the Respondent pharmacy was first investigated by EEA in 1974. Among the violations found at The Apothecary at that time were: failure to maintain records in a required manner in violation of 21 CFR 1304.02(h), 21 CFR 1304.21(a) and 1304.21(d); prescription recordkeeping discrepancies in violation of 21 CFR 1304.21(a) and 1304.21(d); and failure to provide records showing the acquisition of 22 bottles of Schedule IV items.

In June, 1983, DEA interviewed an informant with regard to The Apothecary and Emmanuel L. Rosengard, R.Ph., the owner and sole stockholder of The Apothecary. The informant stated that Mr. Rosengard had supplied her with various controlled substances including Tussionex/tincture of opium mixture, morphine injectables, Dilaudid and Dolophine. These narcotics were given to her in exchange for sexual favors. The informant stated that this arrangement was not unusual for Mr. Rosengard and involved others. The informant also stated that she sold drugs for Mr. Rosengard and estimated she made $60,000 for him over a seven-month period.

On September 30, 1983, DEA Investigators seized prescriptions and other records from The Apothecary pursuant to an administration inspection warrant. Of the prescriptions seized, 624 of them were written by one doctor over a 9½-month period. These prescriptions revealed patterns of unusual and excessive prescribing of Dolophine (methadone), Percodan (oxycodone) and Dilaudid (hydromorphone), all Schedule II narcotic controlled substances. A number of these prescriptions were filled for known drug addicts in the Boston area.

In an order dated December 7, 1984, The Board of Registration in Pharmacy, Commonwealth of Massachusetts revoked Emmanuel Rosengard's personal pharmacist's license. At the hearing before the Board, a Massachusetts State Drug Investigator testified that an audit was conducted at The Apothecary pursuant to an administrative inspection warrant. The audit revealed shortages of Percocet, Dilaudid 2 mg., and methadone 5 and 10 mg. Subsequently, a search warrant was obtained and the Schedule II drug file seized. 500 prescriptions written for 46 patients were seized. These 46 patients were the patients of only two doctors. Of the 46 patients, 36 had previous police records. The records of one particular patient clearly showed that she was given in excess of 1,500 Dolophine (methadone) in an eleven-month period and that 770 Dolophine were given to her in a ten-day period.

The Board also found that Mr. Rosengard maintained extraordinarily large quantities of Dolophine and Dilaudid in a private safe and that he dispensed them only during certain hours to drug addicts for inflated prices. The Board further found, "that although the drugs were dispensed pursuant to prescriptions, the fact that only one or two doctors issued them, the unusual quantity and frequency with which Mr. Rosengard dispensed the drugs, the unusually high prices he charged which Mr. Rosengard acknowledged were not usual or customary, and other evidence including Mr. Rosengard's testimony indicating that the individuals to whom he dispensed those drugs came to him instead of paying higher prices on the street, all establish that Mr. Rosengard knew the prescriptions he filled for Dilaudid and Dolophine were not issued in the ordinary course of professional practice and were not issued for legitimate medical purposes." The Board concluded that Mr. Rosengard was engaged in a deliberate scheme to knowingly, intentionally and illegally dispense and distribute Dilaudid and Dolophine for exorbitant profit to maintain certain drug addicts in violation of state and Federal law. The Board issued an order revoking Mr. Rosengard's personal pharmacist license and further ordered that Mr. Rosengard liquidate his interests in the pharmacy.

On December 14, 1984, Mr. Rosengard surrendered his license to practice pharmacy in Massachusetts. On December 16, 1984, Mr. Rosengard reported to the Boston Police Department that he was the victim of an armed robbery, during which money and "all of his narcotics" were stolen. There were no witnesses. Mr. Rosengard failed to file a follow-up report detailing his losses.

Thereafter, Mr. Rosengard transferred his entire stock interest in Coolidge Drugs, Inc., The Apothecary, to a new owner in a blind trust and thus divested himself of all control or property interest in the corporation. On March 12, 1985, the Massachusetts Board of Registration in Pharmacy concluded a suitability hearing concerning the new "owner" who is a retired barber with no experience in retail pharmacy. The Board ruled that the new owner was unfit to own Coolidge Drugs, Inc. and denied his application.

Immediately prior to the issuance of the Order to Show Cause in this matter, the Massachusetts Board of Registration in Pharmacy ordered that Coolidge Drugs, Inc., The Apothecary be closed immediately as an imminent danger to the public health, welfare and safety, pursuant to Massachusetts General Law Chapter 94C, Section 13. The entire inventory of controlled substances of The Apothecary was seized by agents of the Board and other law enforcement officers on March 12, 1985. The pharmacy has not been authorized by the State of Massachusetts to handle controlled substances since that date.

The issue initially before the Administrator was to determine whether the continued registration of Coolidge Drugs, Inc. was or was not in the public interest. The Administrator concludes that the facts stated above would support the revocation of Respondent's registration. However, the recent termination by the State of Massachusetts of the Respondent pharmacy's authority to handle controlled substances mandates such action. DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires DEA to revoke the registrant's DEA Certificate of Registration. 21 U.S.C. 824(a)(3). See: *George P. Gotsis, M.D.*, Docket No. 83-19, 49 FR 33750 (1984); *Kenneth E. Wilson, D.D.S.*, 46 FR 25018 (1981); *James Waymon Mitchell, M.D.*, Docket No. 79-16, 44 FR 71466 (1979).

Mr. Rosengard and Coolidge Drugs, Inc., The Apothecary, the Respondent in this case, clearly acted as a conduit for the diversion of large quantities of narcotics into the hands of addicts in the Boston area. The pharmacy and its owner realized substantial profits from this activity. It is clear that this practice was not in the public interest. The Massachusetts Board of Registration in

Pharmacy also recognized the activities of Mr. Rosengard and The Apothecary as clearly outside the scope of professional and legitimate pharmacy practice.

In consideration of the foregoing, and having a lawful basis for such action, 21 U.S.C. 824(a), it is the decision of the Administrator that the DEA Certificate of Registration, issued to Coolidge Drugs, Inc., d/b/a The Apothecary, should be revoked. Accordingly, pursuant to the authority vested in him by 21 U.S.C. 824 and 28 CFR 0.100(b), the Administrator hereby orders that DEA Certificate of Registration AC1914490 be, and it hereby is, revoked effective immediately. Any outstanding applications for renewal of such registrations are hereby denied.

Dated: July 31, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85-18611 Filed 8-5-85; 8:45 am]

BILLING CODE 4310-70-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 Office 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 filed out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N 1301, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, 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
Applications for Special Worker and Sheltered Workshop/Patient Worker Certificates
1215-0005; WH-2 WH-205, WH-249, WH-222-MIS, WH-226-MIS, WH-227-MIS, WH-227a-MIS
Annually
State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
25,200 responses; 22,673 hours; 7 forms.

Information is required to determine whether respondents will be authorized to pay subminimum wages to handicapped individuals under the provisions of section 14(c) of the Fair Labor Standards Act. The Wage and Hour Division uses the information to approve such authority for the respondents.

Extension

Employment and Training Administration
JTPA Quarterly Status Report
1205-0200; ETA 8579
Annually
State or local governments
57 respondents; 342 burden hours; 1 form.

The information collected will be used to assess and oversee JTPA programs, both individually and collectively. In addition, the participant and financial data will be used to prepare budget requests and the annual reports to Congress required by section 106(d)(2) of the Act.

Reinstatement

Occupational Safety and Health Administration
Designation of Competent Person—OSHA 73, Log of Inspections and Tests by Competent Person—OSHA 74
1218-0011; OSHA 73
On occasion
Businesses or others for profit; small businesses or organizations
900 responses; 887 hours; 2 forms.

To insure that shipyard personnel do not enter any ships' spaces that contain oxygen deficiency, toxic, or flammable atmospheres, qualified personnel must test these spaces and the results of these tests must be available to those who must enter these spaces so they can take appropriate steps to prevent accidents.

Signed at Washington, D.C., this 1st day of August, 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-18656 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-26, 4510-27, 4510-30-M

Employment and Training Administration

Invitation To Comment on Proposed Quality Control Program for Unemployment Insurance

AGENCY: Employment and Training Administration, U.S. Department of Labor.

ACTION: Notice on design dimensions and consequences.

SUMMARY: This notice sets forth nine design issues relating to a system to detect problems and support corrective actions for the Federal-State Unemployment Insurance (UI) System and invites interested parties to comment.

Over the last 18 months, the Department of Labor has developed a design for a QC program that expands on the voluntary random audit (RA) program and is based on a series of consultations and workgroups. Prior to implementation of a quality control program, the Secretary of Labor directed the Department to structure a wide-ranging review of the plans for quality control. The continuing goal of the Secretary is to maintain and improve the

accuracy and timeliness of Unemployment Insurance revenue and payment activities by establishing and installing a system to detect problems and support corrective action. The Secretary of Labor has sent individual letters to the governors of the States asking for their personal review and comment on the design dimensions and consequences related to the system. He is planning to meet with representatives of groups who have a continuing interest in unemployment insurance and will also convene a general meeting open to the public.

DATE: Written comments must be received by close of business on September 5, 1985.

ADDRESS: Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6636.

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20013. Telephone: 202–376–6636.

Design Dimensions and Consequences

Introduction

A substantial error rate exists in the payment of UI benefits. Recent audit findings suggest that up to 12 percent of the benefits paid to UI claimants each year may be paid in error. Similar problems exist on the revenue or tax side where the exact dimenstions of the problem are unknown but also appear to be substantial. This notice identifies the primary design dimensions for a system to detect and correct such errors. For each dimension, the basic design options and the chief consequences to be expected from choosing each option are identified. Any error identification and correction system requires concrete choices along these dimensions. Many of these choices are interdependent; the choice of an option along one dimension implies certain choices along others. It is these choices which are the subject of the current policy review. The underlying assumption for this review is that there will be an assessment system established that will allow for the identification of errors and the correction of those errors.

Dimensions, Options and Consequences

System Operations

What should be the balance between State and Federal responsibilities in operating the system? The polar options are total State versus total Federal operation of the system, with an almost infinite division of responsibilities in between. Other choices may determine this one; for example, if the data are to be totally for in-State use, total State system operation and direction seems most appropriate.

Total State operation reflects the State's primary responsibility for proper and efficient administration and the diversity of State UI laws, and is consistent with the long-standing Federal-State partnership in UI. It is appropriate if the results are to be used only by States. This approach may also lead to inconsistent methods, inaccurate results, and limited incentives for corrective action.

Total Federal operation would follow the model establishment in other Federally-administered QC programs. It would ensure maximum uniformity of methods and procedures and hence reliability of results. On the other hand, it could tend to undermine State commitment to the system and reduce State incentives for corrective action. It may also represent an unwarranted expansion of Federal responsibility.

Mixed Federal/State division of responsibilities may avoid the pitfalls of both extremes. The Federal strength is in policy oversight and ensuring technical and methodological consistency; State strengths, on the other hand, tend to be intimately familiar with their unique laws and procedures and a commitment to working with their own programs. Such a division of responsibilities for the system would closely model those embodied in the UI program itself.

Coverage

Should State coverage under this system be optional or required? Although the 46-State RA program was voluntary, other departmental systems (i.e., workload validation, quality appraisal and periodic reports) are required.

A voluntary system may be more consistent with the Federal-State partnership concept and would be the more appropriate choice if the results are to be used only by States. In other voluntary systems it has proven very difficult to ensure the uniform definitions and methodologies are used by jurisdictions electing to participate.

Mandatory participation would more readily support findings generalizable to the national level. Also, if there is to be mandatory corrective action (see below), QC would be mandatory as well. If this mechanism is made central to the Department's overall scheme of ensuring proper and efficient administration of UI in accordance with the Social Security Act it should be mandatory.

Access to Data

Who should have access to the overall findings and case related data? If the system is to focus only on processes, and be totally State oriented, this is not a national design issue. However, if the system is to develop data on individual claims (e.g., through case investigations), even though within Privacy Act restrictions, a national design and security issue is involved. The related matter of data security is a technical issue that attends any gathering of confidential data. Clearly, access to the individual case data must be restricted to intended users.

Publicly release data on error rates and procedural deficiencies. States have a natural incentive to correct errors since UI benefits are funded by employer contributions under State-set tax schedules. And as public officials, State administrators are responsible to the voters and taxpayers in their States. If employers and others have information on error rates or procedural deficiencies they will likely demand that problems be corrected.

Do not publicly release data on error rates and procedural deficiencies. The release of error rate data risks unwarranted or simplistic conclusions and comparisons within and among States by persons who do not understand the impact of variations in individual State laws and procedures and the limitations of the data.

State Option. Allowing States to decide about release of individual or "micro" data (and possibly error rates?) would avoid State Privacy Act and other policy restrictions. It could vitiate the use of the system for making national policy or legislative decisions, however, and allow some States to withhold information essential to judging the adequacy of their program operations.

Federal Access to Micro Data Under Privacy Act would enable use of the data for Federal executive and legislative branch policy guidance and evaluation as well as similar State use. The Combined Wage and Benefit History system provides a precedent for Federal use of such data. However, some States argue that such Federal access would conflict with their privacy laws.

Scope

What should be the geographical or jurisdictional scope of the investigations? Essentially all structured error identification systems, rely on

samply methodology. At one extreme, samples could be large enough and drawn in such a way to permit statistical inferences on both a statewide and intrastate basis down to local jurisdictions (e.g., city, county, local office, etc.). At the other extreme, a nationwide sample could permit only systemwide inferences. In practical terms, however, the most viable options are sampling and inferences on a statwide basis versus a single national sample also yielding inferences for selected States. RA used a representative State sample in all states.

A single national sample would be the least expensive option. Samples could be drawn in States selected to be representative of the nationwide UI population as a whole. A single national sample would be of limited benefit to States in identifying State-specific errors or supporting State-level corrective action. Differences in State laws would also reduce the practical and policy utility of the resulting data at both State and Federal levels.

Representative State samples in all States is a more expensive option. The additional cost would permit the identification of State specific errors and problems which can also be aggregated to support nationwide analyses. State analysis and corrective action can also be supported and the impact of differences in State laws explained.

Investigative Objective (s)

Should the case reviews of the sample claims focus on administrative procedures, on program outcomes or both? One approach would be to limit reviews to the accuracy of the outcome of each case investigated (e.g., benefits over/underpaid). Another would be to examine only the adequacy of the approach used to arrive at this result (e.g. SESA benefit processing activities). A third alternative is to examine both the outcome and the approach and infer procedural correctness from the accuracy of the outcomes. The RA has used this latter approach.

Procedural investigations would be the least expensive and could provide for a review of an agency's entire administrative system. While they provide information on procedures and processing errors, they do not yield data on underpayments/overpayments as such, both the measured impact of mending processes and the degree of payment accuracy would thus remain uncertain.

A pure outcomes investigation would focus strictly on identifying and correcting individual case errors (e.g., individual paid claims). Identifying and correcting such errors and publicizing results could provide strong incentives for States to reduce errors and otherwise improve their performance, as well as actively deter employers and claimants from fraud or compliance violation by increasing the risk of discovery and disclosure. Under this approach cases sampled need not be representative of the overall caseload and limited information would be produced on causes and sources of errors.

Outcome-to-process inferences would involve investigation of case outcomes with investigators gathering adequate infomration to also draw valid inferences about the systemic processes of which they are based. This approach would require the collection of more data subjected to more extensive analysis than the other alternatives to draw such conclusions to support corrective action. Some of the data required may also seem, at a first glance, to bear little relation to what is needed to evaluate the outcome of the case under review. Sampled cases must be representative and representative samples used to ensure the validity of the results.

Purpose of the Data Collected by the System

Should the system provide data for corrective action involving only operational and procedural problems or generate information which can be used to effect changes in Federal and State law and policy? One of the few basic decisions that has been made is that the system will be explicitly oriented toward error correction. The factors contributing to errors include State operating procedures, State staff performance deficiencies, State law and policy, and Federal law and policy. The RA was used almost exclusively for error measurement; its technology was too cumbersome and its data elements and sample size too limited to be used for policy and legislative analysis.

A narrowly-defined system used only to identify and correct State operational problems would be easier to structure and to control, and would require little, if any, data that would raise privacy or confidentiality concerns.

A broad based system that is usable for State and Federal legislative and policy analysis to reduce errors is feasible with current technologies. Such an approach implies the collection of data that is available in existing State central files and directly from claimants during the course of the investigation, but which does not appear on its face to be relevant to the payment of benefits and collection of taxes. Many of these useful data elements raise Privacy Act concerns so that additional protections would be needed to avoid its misuse.

Methodology

Should the system feature standard definitions, procedures, and methodologies? There are many variations in the way data elements can be defined, samples selected, verification investigations conducted, and operations organized. The RA used systematic random selection of sample cases and in-person verification. Many varifications, few of them tested, are possible. The answer to this question may depend on the choice made about the purposes of the system: If it is to be used to make inferences about performance at both the State and Federal level, sampled jurisdictions must use the same approaches. If the system is for State use only, uniform procedures are desirable to ensure data quality, but not requried.

Error Correction Strategies

How can the system best accomplish the objective of ensuring States will take corrective action to reduce error rates or otherwise improve processes? Choices here are related to choices made on publication of data and purposes of data collection.

Encourage, but do not require, corrective action. Publication of error rates and public response to such information provide a powerful incentive for corrective action without any further requirement.

Provide incentives. Publication of data on error rates alone may be sufficient to ensure corrective actions are taken, and taken swiftly enough. On the other hand, incentives may be needed and could be provided through administrative funding mechanisms (e.g., tying some additional funding to improved payment error rates or tax collection efficiency), availability of special corrective action funding, or Federal technical assistance.

Require corrective action. Even though most UI funds are State monies, the Federal Government also has a major interest in UI efficiency because tax and benefit flows are included in the unified Federal budget and States administrater a variety of Federal UI programs. Despite publicity and other incentives, some States may fail to take corrective action in all or some areas. Publicity can be manipulated; and incentives may prove too weak. Corrective actions could be mandated in such instances.

Programs Included

How comprehensive should the system be? If the system is to be focused in one way or another on outcomes and not just on process, the extent of the outcomes to be examined must be determined. A fully comprehensive system would investigate all aspects, including both revenue collection, benefit claims and appeals, of all nine Federal or Federal-State UI programs: regular (intrastate) UI; interestate benefits (IB); combined wage claims (CWC); Unemployment Compensation for Federal Employees and for Ex-servicemembers (UCFE/UCX); Extended Benefits (EB); Disaster Relief (DUA); Trade Adjustment Assistance (TAA); and Redwoods. A more selective system would develop and apply objective decision rules, such as cost-benefit criteria, for selecting coverage. The main dimensions for making such decisions are program identity, type of action, and potential for errors (i.e., benefit payments and/or revenues). Random audit, for example, covered only benefit payment actions of regular intrastate, combined wage claims, UCFE, and UCX programs.

A comprehensive system would identify all errors, needing correction in all nine Federal or Federal/State UI programs. This would also be the most expensive approach since the various programs differ in eligibility requirements (entailing different data elements); some programs are intermittent or cover very limited population, and not all States are fully automated in all program areas.

A partial coverage system Would be less expensive to administer, but leave costly gaps in knowledge and error correction efforts. Partial coverage could, however, target scarce resources to programs with greatest dollar volume, vulnerability, or greatest known problems or involving least cost to review. The RA program was a program of partial coverage. By including regular intrastate, CWC, and UCFE/UCX programs, over 90 percent of benefit payment volume was covered. These components were also the most readily investigated, being permanent programs of stable dimensions operating on an intrastate basis. The EB payments are of major dimensions during recessions, and interstate benefit payments are thought to be more error-prone than intrastate. The IB payments require more complex designs to investigate. States and DOL have experience, through RA, with benefit actions and paid claims. Paid claims account for about 83 percent of all benefit actions, and all are centrally automated; however, the use of this approach is known to understate underpayments since claims denied are not examined. Including continued claims denials would raise coverage to about 98 percent of actions but require access of data not automated in some States; most of the remaining 2 percent could be covered by adding monetary denials of initial claims. Leaving claims denied unexamined results in a simpler, less expensive and more cost-beneficial system but one less balanced in terms of the accuracy of benefit processes.

Revenue collections are an area of known problems but one as yet unexplored through a random audit-like approach. Tax operations are complex and would require benefit-like decisions about the scope of actions covered and methodology to be used. Omitting revenues would lower cost but leave the revenue half of UI processes without an error measurement mechanism and place an unfair burden on law-abiding employers. Covering revenue operations would greatly increase the complexity of the system, while tapping potential revenue gains from correcting undercollections and collection delays on $20 billion of tax liabilities annually.

Signed at Washington, D.C. this 30th day of July 1985.

Roberts T. Jones,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 85-18570 Filed 8-5-85; 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 of partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 16, 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 August 16, 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, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 29th day of July 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
Allis Chalmers Corp. (UAW)	Milwaukee, WI	7/22/85	7/17/85	TA-W-16,179	Wheel tractors.
Bata Shoe Co. (workers)	Elkins, WV	7/19/85	7/22/85	TA-W-16,180	Rubber soles.
B.F. Goodrich Co., Tire Group, Textile Products (workers)	Exeter, PA	7/22/85	7/12/85	TA-W-16,181	Nylon tire fabrics.
Joycee Fashions, Inc. (workers)	Hialeah, FL	7/18/85	7/15/85	TA-W-16,182	Womens blouses & pants.
Middletown Footwear Factory, Inc. (workers)	Middletown	7/9/85	7/1/85	TA-W-16,183	Shoes & slippers.
Magnetic Peripherials, Inc. (workers)	Eden Prairie, MN	7/11/85	7/8/85	TA-W-16,184	Head arm assembly.
Ohio Ferro-Alloys Corp. (workers)	Powhantan Point, OH	7/19/85	7/15/85	TA-W-16,185	Silicon metal.
Opelika Mfg Co. (ACTWU)	Phenix City, AL	7/19/85	7/15/85	TA-W-16,186	Towels, potholders, mitts, screen print.
Texas Apparel Co. (ACTWU)	Eagle Pass, TX (Alice Ave)	7/11/85	7/8/85	TA-W-16,187	Boys & mens jeans.
Texas Apparel Co. (ACTWU)	Eagle Pass, TX (Loop 431)	7/11/85	7/8/85	TA-W-16,188	Boys and mens jeans.
Texas Apparel Co. (ACTWU)	El Paso, TX	7/11/85	7/8/85	TA-W-16,189	Boys and mens jeans.
Thomas Industries (IBEW)	Fort Atkinson, WI	7/23/85	7/19/85	TA-W-16,190	Paddle fans, outdoor residential light fixtures, bath cabinets, mirrors.
Aeolian Corporation (United Furniture Workers of Amer)	Memphis, TN	7/9/85	7/1/85	TA-W-16,191	Factory complete finished pianos.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bisbee Salvage & Equipment (workers)	Bisbee, AZ	7/2/85	7/24/85	TA-W-16,192	Flux for copper smelter.
Caledonian Manufacturing Company (workers)	St. Johnsbury, VT	7/5/85	7/29/85	TA-W-16,193	Fiberglass cloth.
Great Western Sugar Co. (workers)	Greeley, CO	6/20/85	6/7/85	TA-W-16,194	Raw sugar beets.
Inteleplex Corp. (IBEW)	Pleasantville, NJ	7/23/85	7/8/85	TA-W-16,195	Sales, installation, repair of telephone.
Outboard Marine Corp. (OPEIU)	Galesburg, IL	7/8/85	7/1/85	TA-W-16,196	Outboard motor gas tanks & component parts.
Phlps Dodge Corp., Copper Queen Branch (company)	Bisbee, AZ	7/9/85	7/2/85	TA-W-16,197	Flux for copper smelters.
Sportwins, A Div. of Apparell Industry (workers)	Carlstadt, NJ	7/18/85	7/1/85	TA-W-16,198	Sewing ladies slacks, skirts & shorts.
U.S. Steel Corp., Clairton Works (workers)	Clairton, PA	7/22/85	7/12/85	TA-W-16,199	Bookkeeping & accounting records & reports.
Ely Group, Inc., Rockford Textile Mill (workers)	McMinnville, TN	7/22/85	7/11/85	TA-W-16,200	Cotton, wool & sport & casual hosiery.
Siemens-Allis Corp. (AUW)	Milwaukee, WI	7/22/85	7/17/85	TA-W-16,201	Large motors, generators, transformers.

[FR Doc. 85-18561 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,874]

Century Brass Products, Inc. Waterbury, CT; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Century Brass Products, Incorporated, Waterbury Connecticut. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-15,874; Century Brass Products, Incorporated, Waterbury, Connecticut (July 25, 1985)

Signed at Washington, D.C. this 29th day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-18562 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance, Simpson Timber Co. et al.

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 July 22, 1985–July 26, 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 firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like 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-15,868; Simpson Timber Co., McCleary Door & Plywood Plant, McCleary, WA

TA-W-15,932; Laranne Sportswear, Inc., Brooklyn, NY

In the following case the investigation revealed that criterion (3) has not been met for the reason specified.

TA-W-15,914; Carus Chemical Co., LaSalle, IL

Aggregate U.S. imports of potassium permanganate did not increase as required for certification.

TA-W-15,941; Blake Drilling & Exploration, Inc., Midland, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-16,026; The Arrow Co., Elysburg, PA

A certification was issued covering all workers of the firm separated on or after May 17, 1984.

TA-W-16,027; The Arrow Co., Lewistown, PA

A certification was issued covering all workers of the firm separated on or after May 17, 1984.

TA-W-15,959; Commuter Industries, Inc., Cascade, IA

A certification was issued covering all workers of the firm separated on or after April 18, 1984.

TA-W-15,898; Rowher Manufacturing Co., Tunkhannock, PA

A certification was issued covering all workers of the firm separated on or after March 26, 1984 and before March 31, 1985.

TA-W-15,952; Lefere Forge & Machine Co., Jackson, MI

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-15,882; Eastland Shoe Manufacturing Co., Lewiston, ME

A certification was issued covering all workers of the firm separated on or after June 1, 1984 and before August 19, 1984.

TA-W-15,887; Northland Shoe Manufacturing Co., Fryeburg, ME

A certification was issued covering all workers of the firm separated on or after May 1, 1984 and before January 18, 1985.

TA-W-15,886; Jack Winter, Inc., LaCrosse, WI

A certification was issued covering all workers of the firm separated on or after March 28, 1984.

TA-W-15,806; Simpson Timber Co., Northwest Operation, Shelton, WA

All workers of the Simpson Timber Co., Northwest Operations, Shelton, WA and surrounding area engaged in employment related to the production of logs and lumber separated on or after February 12, 1984.

TA-W-15,909; General Electric Co., Battery Business Dept., Gainesville, FL

A certification was issued covering all workers of the firm separated on or after November 1, 1984.

TA-W-15,918; General Electric Columbia, MD

A certification was issued covering all workers of the firm separated on or after April 4, 1984.

TA-W-15,902; Wilson Sporting Goods Co., Cookeville, TN

A certification was issued covering all workers of the firm separated on or after December 1, 1984 and before May 1, 1985.

TA-W-15,935; New Coat Factory, Highland Park, NJ

A certification was issued covering all workers of the firm separated on or after March 18, 1984 and before November 30, 1984.

TA-W-15,904; Airway Industries, Inc., Ellwood City, PA

A certification was issued covering all workers of the firm separated on or after April 2, 1984 and before January 1, 1985.

TA-W-15,904A; Airway Industries, Inc., West Pittsburgh, PA

A certification was issued covering all workers of the firm separated on or after April 2, 1984 and before June 30, 1985.

I hereby certify that the aforementioned determinations were issued during the period July 22, 1985–July 26, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Streets N.W., Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: July 30, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-18563 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-30-M

Unemployment Insurance System Quality Control Program; Open Meeting

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and purpose for a public meeting on the design of a Quality Control System for the Unemployment Insurance Program.

DATE: August 21, 1985, 8:30 a.m. to 5:30 p.m.

ADDRESS: Shoreham Hotel, Congressional Room, 2500 Calvert Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20013 (202/376-6636).

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to solicit the views of a wide range of individuals and organizations who may have an interest in the design of such a system. The focus of the system is to detect problems and support corrective actions in the UI program. This meeting provides a forum for the discussion of such comments and concerns. Presentations will be made by individuals representing major groups who have an interest in unemployment insurance. The audience will be encouraged to comment.

Signed at Washington, D.C. this 30th day of July 1985.

Roberts T. Jones,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 85-18569 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the regional administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated October 17, 1984 from Jim Robison, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards amendments comparable to 29 CFR 1910.177 Subpart N, Servicing of Single Piece and Multi-Piece Rim Wheels (Amended), as published in the **Federal Register** (49 FR 4338) on February 2, 1984. The State's original standards received OSHA approval and were published in the **Federal Register** (45 FR 74095) on November 7, 1980 in response to 29 CFR 1910.177 as published in the **Federal Register** (44 FR 6706) on January 29, 1980.

These State standards, which are contained in AAC 01.0810, Servicing of Single Piece and Multi-Piece Rim Wheels, were promulgated after public hearings on July 19, 20, and 23, 1984 and publication on June 18 and 25, 1984 in Statewide media. The public comment period was open for thirty days by Jim Robison, Commissioner, under authority vested by AS 19.60.020. The State incorporated editorial modifications consisting of the replacement of parentheses with commas, the word *shall* has been changed to *must*, and the phrase *the employer shall* has been deleted throughout the standard as the employer's responsibilities are spelled out in Alaska's State Statutes, Section 18.60.075, Safe Employment.

2. Decision

The above State standard has been reviewed and compared with the relevant Federal standard and OSHA has determined that the State standard is at least as effective as the comparable Federal standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good

cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which include public comments and further public participation would be repetitious.

This decision is effective this August 6, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 25th day of June 1985.

James W. Lake,

Regional Administrator.

[FR Doc. 85-18564 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-26-M

Nevada State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the act and 29 CFR Part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By letter dated June 5, 1985, from Kathy Allen to Ray Owen and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1910. 234 sulky type mover and deadman control (50 FR 4648). These standards are contained in the Department of Occupational Safety and Health, Standards for General Industry, and were promulgated by resolution adopted by the Department of Occuplational Safety and Health pursuant to Nevada Occupational Safety and Health Act.

2. Decision

Having reviewed the State submission in comparison with Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly should be approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the aproved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and Director, Department of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710, and Directrorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 6, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California this 18th day of June 1985.

Russell B. Swanson,

Regional Administrator.

[FR Doc. 85-18565 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-26-M

Orgeon State Standards; Approval

1. Background

Part 1953 of Tilte 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

The State submitted by letter dated January 22, 1985 from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to the State Standard that is comparable to the Federal standard, 29 CFR 1910.111, Storage and Handling of Anhydrous Ammonia, as orginally published in the **Federal Register** (37 22458) on October 19, 1971, as part of Subpart H, Hazardous Materials. The State's response to the original Federal standard, Subpart H, was published in the **Federal Register** (40 FR 57805) on December 12, 1975. The Oregon Anhydrous Ammonia standard is contained in OAR Chapter 437-126-01 through 437-126-305. The amendment was adopted on December 17, 1984 and became effective on January 1, 1985 pursuant to OAR 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under the Oregon WCD Administrative Order, Safety 19-1984. The Administrative Order adopted changes to make the State standard consistent with the Federal standard; correct syntax, spelling, and references; and to re-number the standard in the format requried by Oregon Administrative Rules. A public meeting was not held prior to adoption, but the State mailed the proposed Amendment of Rules to affected employers on November 1, 1984 pursuant to OAR 436-90-505.

2. Decision

Having reviewed the State submission in comparison with the Federal standard, it has been determined that

the State standard is identical to the comparable Federal standard and accordingly is approved. It has been determined that the State standard is at least as effective as the comparable Federal standard. It has also been determined that the differences between the State and Federal standard are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington DC. 20210.

4. Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Orgaon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

(1) The standards are essentially identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

(2) The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective August 6, 1985.

(Section 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 26th day of June 1985.

John A. Granchi,

Acting Regional Administrator.

[FR Doc. 85-18566 Filed 8-5-85; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, CE 308-4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 3.52, "Standard Format and Content for the Health and Safety Sections of License Renewal Applications for Uranium Processing and Fuel Fabrication." The guide is being developed to provide more specific guidance for preparing health and safety sections of license renewal applications.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They are not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data.

Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 27, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 30th day of July 1985.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Division of Engineering Technology Office of Nuclear Regulatory Research.

[FR Doc. 85-18665 Filed 8-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

General Public Utilities Nuclear Corp.; Environmental Assessment and Notice of Finding of No Significant Environmental Impact

The U.S. Nuclear Regulatory Commission (the Commission) is planning to issue concurrently with an Amendment of the Director of the Office of Nuclear Reactor Regulation's Order an Exemption relative to Facility Operating License No. DPR-73, issued to General Public Utilities Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2), located in Londonderry Township, Dauphin County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action: The action being considered by the Commission is the issuance of exemptions from the requirements of 10 CFR 50, Appendix A, General Design Criteria (GDC) 34 and 37. These criteria state requirements for residual heat removal system capabilities and for testing emergency core cooling systems, respectively. On November 6, 1984, the licensee submitted Technical Specification Change Request No. 46. This correspondence contains a request to delete the Decay Heat Removal System from the TMI-2 Proposed Technical Specifications (PTS). Review of the PTS by staff resulted in a list of questions forwarded to the licensee on February 6, 1985. In response to those questions, the licensee considered that exemptions to GDC 34 and 37 were appropriate. These exemptions were

requested in the licensee's letter dated March 26, 1985.

The Need for the Action: The exemptions are warranted because of the successful use of the loss-to-ambient cooling mode at TMI–2 for residual heat removal. This is a passive method for removing decay heat and therefore it is very stable. The licensee also proposed in Technical Specification Change Request 46 to have available a Reactor Building Sump Recirculation System (RBSRS) to be used in the case of an unisolable leak.

When considering the current status of the TMI–2 core and the amount of time that would be available to install the RBSRS, an in-place, routinely tested emergency core cooling is not necessary. The licensee has proposed to test the major system components separately to ensure that if they are needed, they will function properly. In-place testing is not desirable because of the risk of spread of radioactive contamination and because of radiation exposures to the workers.

Environmental Impacts of the Proposed Actions: The staff has evaluated the subject exemptions and concluded that they will not result in significant increases in airborne or liquid radioactivity inside the reactor building or in corresponding releases to the environment. There are also no non-radiological impacts to the environment as a result of this action.

Alternative to this Action: Since we have concluded that there is no significant environmental impact associated with the subject exemptions, any alternatives to this change will have either no significant environmental impact or greater environmental impact. This would not reduce significant environmental impacts of plant operations and would result in the application of overly restrictive regulatory requirements when considering the unique conditions of TMI–2.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Alternate Use of Resources: This action does not involve the use of resources not previously considered in connection with the Final Programmatic Impact Statement for TMI–2 dated March 1981.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the subject exemptions. Based upon the foregoing environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see; (1) Letter to B. J. Snyder, USNRC, from F. R. Standerfer, GPUNC, Technical Specifications Change Request No. 46, dated November 6, 1984, (2) Letter to F. R. Standerfer, GPUNC, from B. J. Snyder, USNRC, NRC Questions on Technical Specifications Change Request No. 46, dated February 6, 1985, (3) Letter to B. J. Snyder, USNRC, from F. R. Standerfer, GPUNC, Technical Specifications Change Request No. 46 (response to NRC questions), dated March 27, 1985, and (4) Letter to B. J. Snyder, USNRC, from F. R. Standerfer, GPUNC, General Design Criteria 34 and 37, dated March 26, 1985.

The above documents are available for inspection at the Commission's Public Local Document Room, 1717 H Street NW., Washington, DC, and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

July 31, 1985.

[FR Doc. 85–18663 Filed 8–5–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al., Milestone Nuclear Power Station Unit No. 2; Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability

I

Northeast Nuclear Energy Company (NNECo), Western Massachusetts Electric Company, and the Connecticut Light and Power Company (the licensees) are the holders of Facility Operating License No. DPR–65 which authorizes the operation of Milestone Nuclear Power Station, Unit No. 2 (the facility) at steady-state power levels no in excess of 2700 megawatts thermal. The facility is a pressurized water reactor (PWR) located in New London County, Connecticut.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of constuction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

NNECo responded to Generic Letter 82–33 by letter dated April 15, 1983. By letters dated August 11, 1983, November 28, 1983, December 20, 1983, January 31, 1984 and April 9, 1984, NNECo modified several dates as a result of negotiations with the NRC staff. In these submittals, NNECo made commitments to complete the basic requirements. NNECo's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 14 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed NNECo's commitments.

IV

The June 14, 1984, Order stated that for those requirements for which NNECo committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 14, 1984 Order, NNECo's letters dated March 25, 1985, February 26, 1985 and July 17, 1984, provided completion schedules for the following requirements:

1. Safety Parameter Display System (SPDS).
1b. SPDS fully operational and operators trained.
2. Detailed Control Room Design Review (DCRDR).
2b. Submit a summary report to the NRC including a proposed schedule for implementation.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.
3b. Implement (installation or upgrade) requirements.

The attached Table summarizing NNECo's schedular commitment for the above items was developed by the NRC staff from the information provided by NNECo. The staff has reviewed NNECo's March 25, 1985, February 26, 1985 and July 17, 1984 letters and finds that these dates are reasonable and achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of NNECo's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that license DPR-65 is modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this Order in the manner described in NNECo's submittals noted in Section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

VI

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

Dated in Bethesda, Maryland this 27th day of July 1985.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

MILLSTONE UNIT 2.—Licensee's Additional Commitments on Supplement 1 to NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1b. SPDS fully operational and operators trained	Prior to start of Cycle 8 or by March 25, 1987, whichever is later.
2. Detailed Control Room Design Review (DCRDR)	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	September 26, 1986.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3b. Implement (installation or upgrade) requirements	
	Item No.[1]	*Implementation Schedule*
	A-1 (Pressurizer Level)	Prior to the Start of Cycle 8 or by December 31, 1986 whichever is later.
	A-3 and B-5 (RCS Hot Leg Water Temperature)	Prior to the Start of Cycle 7 or by December 31, 1985, whichever is later.
	A-9 and B-10 (Degrees of Subcooling)	Prior to the Start of Cycle 7 or by December 31, 1985, whichever is later.[2]
	B-8 (Core Exit Thermocouple)	Do.
	B-9 (Coolant Level in Reactor)	Prior to the Start of Cycle 7 or by December 31, 1985, whichever is later.[2]
	D-18 (SRV Position)	Prior to the Start of Cycle 10 or by December 31, 1989, whichever is later.[2]
	D-21 (Condensate Storage Tank Level)	Prior to the Start of Cycle 8 or by December 31, 1986, whichever is later.
	D-33 (Emergency Ventilation Damper)	Prior to the Start of Cycle 7 or by December 31, 1985, whichever is later.
	E-3b (Vent from S/G or Steam Dump)	Prior to the Start of Cycle 8 or by December 31, 1986, whichever is later.

[1] Item numbers correspond to those items listed in NNECo letter dated April 9, 1984.
[2] These dates do not include ICC displays that may be part of NNECo's SPDS.

[FR Doc. 85-18664 Filed 8-5-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40-8681]

Umetco Minerals Corp.; Draft Finding of no Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA-1358 for Operation of the White Mesa Uranium Mill Located in San Juan County, UT

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of draft finding of no significant impact.

(1) Proposed Action. The proposed administrative action is to renew Source and Byproduct Material License SUA-1358 authorizing Umetco Minerals Corporation to continue operation of their White Mesa Uranium Mill located in San Juan County, Utah.

(2) Reasons for Draft Finding of No Significant Impact. An Environmental Assessment was prepared by the staff at the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV. The Environmental Assessment performed by the Commission's staff evaluated potential impacts on-site and off-site due to radiological releases which may occur during the course of the operation. Documents used in preparing the assessment included operational data from the licensee's prior milling activities, the licensee's renewal application dated January 30, 1985 as revised by submittal dated May 1985, additional submittals dated May 8th and 10th, 1985, and the Final Environmental Statement prepared by the Commission staff for the original White Mesa uranium project license dated May 1979. 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 draft finding of no significant impact and summarize the conclusions resulting from the environmental assessment.

(a) The ground water monitoring program in effect at the White Mesa Mill is sufficient to detect releases and thereby minimize any impact on ground water.

(b) Radiological effluents from the proposed operation of the mill will be minimal and well within regulatory limits, and will be monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant impacts due to radiological releases from the milling operation.

(d) Radioactive wastes will be minimal and will be disposed of in tailings cells which will be reclaimed in accordance with applicable federal and state regulations.

In accordance with 10 CFR 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a draft finding of no significant impact and to accept comments on the draft finding for a period of 30 days after issuance in the **Federal Register.**

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 at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Denver, Colorado, this 26th day of July 1985.

For the Nuclear Regulatory Commission

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 85-18666 Filed 8-5-85; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Debtor's Financial Statement.

(2) Form(s) submitted: G-423.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 1,550.

(7) Annual reporting hours: 1,550.

(8) Collection description: Under the Railroad Retirement and Railroad Unemployment and Insurance Acts, the Board has authority to secure from a debtor a statement of the individual's assets and liabilities if waiver of the overpayment is requested.

Summary of Proposal(s)

(1) Collection title: Earnings and Disability Monitoring.

(2) Form(s) submitted: G-19, G-254.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion and annually.

(5) Respondents: Individuals or households businesses or other for-profit.

(6) Annual responses: 11,400.

(7) Annual reporting hours: 1,231.

(8) Collection description: The reports obtain information about an annuitant's employment and earnings. Under the RRA, an annuity can be reduced or not paid depending on the amount of earnings and type of work performed. Certain work may indicate a recovery from disability.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85-18679 Filed 8-5-85; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Application for Hospital Insurance Benefits.

(2) Form(s) submitted: AA-6, AA-7, AA-8.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 2,300.

(7) Annual reporting hours: 340.

(8) Collection description: The Board administers the Medicare program for persons covered by the railroad retirement system. The collection obtains information about non-retired employees and survivor applicants needed for enrollment in the plan.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6680), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–18580 Filed 8–5–85; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review.

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Representative Payee Monitoring.

(2) Form(s) submitted: G–99a, G–99c.

(3) Type of request: New collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 28,000.

(7) Annual reporting hours: 3,569.

(8) Collection description: Under section 12(a) of the RRA, the Board is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to determine if a representative is handling benefit payments in the best interests of the annuitant.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collecting should be address to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6680), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–18581 Filed 8–5–85; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Rule 17f–2(a)

No. 270–34

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f–2(a) (17 CFR 240.17f–2(a)) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires securities industry personnel to be fingerprinted. The potential affected persons are approximately 9800 partners, directors, officers and employees of registered exchanges, broker-dealers, transfer agents and clearing agencies.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

July 29, 1985.

[FR Doc. 85–18648 Filed 8–5–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–13882]

Application and Opportunity for Hearing: Salomon Brothers Mortgage Securities V, Inc.

August 1, 1985.

Notice is hereby given that Salomon Brothers Mortgage Securities V, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Texas Commerce Bank National Association ("TCB") with respect to two series (each a "Series") of Collateralized Mortgage Obligations ("Bonds") issued pursuant to two supplemental indentures (each a "supplemental Indenture") to an indenture (the "Basic Indenture") previously qualified (File No. 22–13551) under the Act is not so likely to involve a material conflict of interest with the trusteeship of TCB with respect to (a) the Applicant's Series 1985–1 Collateralized Mortgage Obligations (the "Series 1985–1 Bonds") previously issued pursuant to the initial supplemental indenture to the Basic Indenture (the "Series 1985–1 Supplement"), and (b) the Applicant's Series 1985–2 Collateralized Mortgage Obligations (the "Series 1985–2 Bonds") previously issued pursuant to a supplemental indenture to the Basic Indenture (the "Series 1985–2 Supplement"), as to make it necessary in the public interest or for the protection of investors to disqualify TCB from acting as trustee under any Supplemental Indenture.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section) it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or other indentures under which other securities of such obligor are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

1. The Basic Indenture, dated, as of March 1, 1985, between the Applicant and TCB, as trustee (the "Trustee"), provides for the issuance of one or more Series of Bonds, with each such Series of Bonds to be issued pursuant to a separate Supplemental Indenture. The Basic Indenture further provides that the

collateral granted to the Trustee as security will serve as security only for that Series of Bonds; that an event of default with respect to any other Series of Bonds is not necessarily an event of default with respect to a particular Series of Bonds; that if an event of default with respect to a particular Series of Bonds occurs and the Bonds of such Series are declared due and payable, the holders of Bonds of such Series have no recourse against the collateral securing any other Series of Bonds; that no judgment granted against the Applicant for any amount due with respect to a particular Series of Bonds may be enforced against the collateral securing any other Series of Bonds; and that no pre-judgment lien or other attachment may be sought against any such other collateral.

2. As required by section 310(b) of the Act, Section 6.08 of the Basic Indenture provides in part:

> This Indenture shall always have a Trustee who satisfies the requirements of TIA section 310(a)(1). . . . The Trustee shall be subject to TIA section 310(b), including the optional provision permitted by the second sentence of TIA section 310(b)(9).
>
> In addition to the conflicting interests specified in TIA section 310(b), the Trustee shall be deemed to have a conflicting interest prohibited by section 310(b) and therefore prohibited by this Section 6.08 if by reason of supplements or amendments to this Indenture as originally executed there shall be created covenants, restrictions, conditions or additional events of default which are applicable to less than all Series of Bonds and the existence of which:
>
> (1) would give the Holders of Bonds of any Series any rights with respect to the Trust Estate or any other property held by the Trustee for the benefit of Holders of Bonds of any other Series with respect to which it is also serving as Trustee,
>
> (2) would cause the Bonds of one or more Series not to rank equally with the Bonds of any other Series; *provided, however,* that differences among the Trust Estates securing the Bonds of various Series or differing values of other property held by the Trustee for the benefit of Holders of Bonds of various Series shall not be deemed to cause bonds of any Series not to rank equally with Bonds of any other Series or
>
> (3) is sufficiently likely to involve a material conflict of interest between Series of Bonds that is advisable in the public interest or for the protection of Holders of Bonds of any Series that the Trustee disqualify itself from acting as such with respect to one or more applicable Series of Bonds.

3. The Series 1985–1 Bonds and the Series 1985–2 Bonds are secured by separate security interests in separate and distinct property. Applicant states that it is not anticipated that Applicant will have any significant assets other than the assets separately pledged to secure each Series of Bonds. Applicant believes if TCB should have occasion to proceed against the property securing either Series of Bonds, such action would not affect the security of, or the use of any security securing, the other Series of Bonds, or prejudice the rights of the holders thereof. The Applicant accordingly believes that by serving as Trustee under both Supplemental Indentures, TCB does not thereby represent two classes of Bondholders who could have divergent claims or interest against the assets of the Applicant in case of any bankruptcy or reorganization proceedings.

4. The Applicant believes the differences between the provisions of the Series 1985–1 Supplement and those of the Series 1985–2 Supplement are in any event not likely to involve TCB in a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify TCB from acting as Trustee under both the Series 1985–1 Supplement and the Series 1985–2 Supplement.

The Applicant waives notice of hearing, hearing and any and all rights to specify procedures under Rule 8(b) of the Commission's rules of practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22–13882, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

Notice is further given that any interested person may, not later than August 26, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest, or in the interest of investors, unless a hearing is ordered by the Commission.

For the Commission by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–18651 Filed 8–5–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14651; File No. 812–6059]

Chase Manhattan Bank, N.A.; Notice of Application for Order Permitting Foreign Custodian Arrangements

July 30, 1985.

Notice is hereby given that The Chase Manhattan Bank, N.A., 1 Chase Manhattan Plaza, New York, New York 10081 ("Chase") filed an application on February 13, 1985, and an amendment thereto on June 6, 1985, requesting an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Chase, an investment company under the Act (other than an investment company registered under section 7(d) of the Act) and Nederlandse Credietbank N.V. ("NCB"), from the provisions of section 17(f) of the Act so as to permit Chase, as the custodian of the securities and other assets of a company ("Securities") or as subcustodian of the Securities as to which any other entity is acting as custodian, and such other entity for which Chase so acts, to deposit, or to cause or permit the deposit of, such securities in NCB in The Netherlands, subject to certain conditions. 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 and the rules thereunder for the text of the relevant provisions.

According to the application, Chase presently deposits the securities of its investment company clients with NCB pursuant to the terms and conditions of a Commission order granting exemption from section 17(f) of the Act.[1] Chase represents that NCB, an indirect, wholly-owned subsidiary of Chase, was founded in 1918. Chase further represents that NCB is ranked fifth in total assets among Netherlands commercial banks, has over 40 years custodian experience and currently maintains custody of securities and assets of approximately U.S. $1,114,000. In addition, Chase states that NCB is regulated as a banking institution by the Central Bank of The Netherlands.

The Commission has designated September 1, 1985, as the date by which an investment company with foreign custody arrangements made in reliance upon the Chase Order must conform such arrangements to the requirements of Rule 17f–5, or obtain additional exemptive relief to continue such

[1] See Investment Company Act Release No. 12053 (November 20, 1981), granting the application of Chase Manhattan Bank, N.A., File No. 812–4475 (Chase Order).

arrangements.[2] Chase states that, NCB currently has shareholders' equity of less than U.S. $100 million, and thus, does not satisfy the minimum requirement to qualify as an "eligible foreign custodian" under the Chase Order, as modified by Rule 17f–5. Accordingly, Chase requests an exemptive order permitting Chase to deposit Securities (i) in the Netherlands with NCB so long as such deposit is made in accordance with an agreement, which agreement would be required to remain in effect at all times during which NCB would not meet the requirements of the Chase Order relating to shareholders' equity, among (a) the company or a custodian of the Securities of the company for which Chase acts as subcustodian, (b) Chase and (c) NCB pursuant to the terms of which Chase would act as the custodian or subcustodian, as the case may be, of the Securities of the company and NCB would be delegated such duties and obligations of Chase thereunder as would be necessary to permit NCB to hold in custody the Securities of the company in The Netherlands, provided that such delegation would not relieve Chase of any responsibility to the company for any loss due to such delegation, except such loss as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) and other risk of loss (excluding bankruptcy or insolvency of NCB) for which neither Chase nor NCB would be liable under the Chase Order (*e.g.*, despite the exercise of reasonable care, loss due to Acts of God, nuclear incident and the like).

Chase submits that the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support therof, Chase agrees, as further condition to the exemption requested, that the proposed foreign custodian arrangements with NCB would comply with all the remaining requirements of the Chase Order as modified by Rule 17f–5, except those relating to qualifications of foreign banking institutions as eligible foreign custodians. In addition, Chase submits that NCB is experienced, capable and well qualified to provide custody services to U.S. registered investment companies; and that under the proposed foreign custody arrangements the protection of investors would not be diminished.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 26, 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. 85–18649 Filed 8–5–85; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–14649; 812–6079]

Pierson, Heldring & Pierson N.V.; Application for Order Permitting Foreign Custodian Arrangement

July 30, 1985.

Notice is hereby given that Pierson, Heldring & Pierson N.V., c/o John D. Fitzsimmons, Esq., Willkie Farr & Gallagher, One Citicorp Center, 153 East 53rd Street, New York, New York 10022 ("Applicant") filed an application on March 21, 1985, requesting an order of the Securities and Exchange Commission (the "Commission") pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant, any management investment company registered under the Act (other than an investment company registered under section 7(d)), and any custodian for a U.S. registered investment company from the provisions of section 17(f) of the Act. The requested exemptive order would permit Applicant, subject to certain conditions, to serve as a custodian or sub-custodian for the assets of such investment companies. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and to the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

Applicant states that it is an Amsterdam-based bank organized under the laws of The Netherlands in 1875, and that it is subject to regulation by the Dutch Central Bank. Applicant notes that with total assets of approximately $2.1 billion, it currently ranks as the eighth largest bank in The Netherlands and ranks among the top 500 banks in the world. Applicant states that it is a member of the Dutch stock exchange and conducts a full range of commercial banking and securities activities outside the United States. According to the application, for over 100 years, Applicants has served as a custodian for the assets of, among others, banks, pension funds, insurance companies, broker-dealers and private clients. In addition, the application states that Applicant maintains representative offices in the United States in New York City and San Francisco.

According to the application, in 1975, Applicant became a wholly-owned subsidiary of Amsterdam-Rotterdam Bank N.V. ("Amro"), which, like Applicant, is a bank organized under the laws of The Netherlands. The application states that Amro controls total consolidated assets of some $40 billion and is currently the second largest bank in The Netherlands and the 43rd largest banking organization in the world. Applicant further states that Amro maintains a federal branch in New York City and a representative office in San Francisco. According to the application, by virtue of operating its New York City branch, Amro and its subsidiaries, including Applicant, are subject to certain provisions of the Bank Holding Company Act of 1956 by operation of section 8(a) of the International Banking Act of 1978, and are, therefore, subject to the supervision of, and regulation by, the Federal Reserve Board.

According to the application, pursuant to the terms and conditions of two no-action positions granted by the Division of Investment Management,[1] Applicant

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[2] *See* Investment Company Act Release Nos. 14133 and 14134 (October 9, 1984) [49 FR 36183 & 36182], amending the exemptive orders of The Chase Manhattan Bank and The Bank of New York, respectively. These releases gave investment companies until March 1, 1985, to conform their foreign custody arrangements to the final rule or to the amended orders. That compliance date was extended until June 1, 1985, in Investment Company Act Release No. 14347 (February 4, 1985) [50 FR 52341] and then until September 1, 1985 in Investment Company Act Release No. 14548 (May 30, 1985) [50 FR 24540].

[1] *See* response of the Division of Investment Management to request of The Mitsubishi Bank of California (Pub. avail. Sept. 1, 1982); *see also* response of the Division of Investment Management to request of State Street Bank and Trust Company (pub. avail. Jan. 16, 1984).

currently serves a sub-custodian for U.S. registered investment company assets held as custodian by State Street Bank and Trust Company. The Commission has designated September 1, 1985, as the date by which any investment company with foreign custody arrangements made in reliance upon Commission exemptive orders or staff no-action positions based on such orders, must conform such arrangements to the requirements of Rule 17f–5, or obtain additional exemptive relief to continue such arrangements.[3] Applicant further represents that it has received notice from State Street indicating that Applicant's existing foreign sub-custodian agreement with State Street would be terminated unless Applicant were able to comply with the requirements of Rule 17f–5 or received an exemption from the rule's requirements.

Applicant states that, with current shareholder's equity of approximately U.S. $60 million, it does not satisfy the minimum requirement to qualify as an "eligible foreign custodian" under the Division's no-action positions, as modified by Rule 17f–5. Accordingly, Applicant requests an order of the Commission pursuant to section 6(c) of the Act exemption Applicant from the provisions of section 17(f) of the Act so as to permit its parent bank, Amro, to enter into agreements to provide custodial or sub-custodial services with respect to the assets of U.S. registered management investment companies ("Custodian Agreement"), and to permit Amro to delegate to Applicant the obligation of rendering those services. Applicant represents that each Custodian Agreement will be a three party contract among Amro, Applicant and a United States custodian or registered management investment company pursuant to which Amro will undertake to provide specified custodial or sub-custodial services to such company and will delegate to Applicant the responsibility for rendering those services.

The exemptive relief requested will be subject to the following conditions, that Amro: (1) Will become a party to any Custodian Agreement pursuant to which Applicant would provide custodian services to an investment company, (2) will qualify as a banking institution and satisfy the minimum shareholders equity requirement for an "eligible foreign custodian" in Rule 17f–5, and (3) will be liable under such Custodian Agreements for any loss, damage, cost, expense, liability or claim arising out of or in connection with the performance by Applicant of its responsibilities to the same extent as if Amro had been the party required to provide custody services under such agreements.

Applicant submits that the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support thereof, Applicant agrees, as a further condition to the exemption requested, that the proposed Custodian Agreements would comply with all the remaining requirements of Rule 17f–5 except those relating to qualifications of foreign banking institutions as eligible foreign custodians. In addition, Applicant submits that it is experienced, capable and well qualified to provide custody services to U.S. registered investment companies; and that under the proposed Custodian Agreements the protection of investors would not be diminished.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 26, 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. 85–18650 Filed 8–5–85; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Investment Company Act Release No. 14132 (September 7, 1984) [49 FR 36080], which adopted Rule 17f–5 and notified investment companies that they had until March 1, 1985, to conform their foreign custody arrangements to the rule. That compliance date was extended until June 1, 1985, in Investment Company Act Release No. 14347 (February 4, 1985) [50 FR 52341] and then until September 1, 1985 in Investment Company Act Release No. 14548 (May 30, 1985) [50 FR 24540].

[Release No. 124]

Securities Investor Protection Corp.; Order Affirming Determination

Introduction

In the matter of Securities Investor Protection Corporation, 900 Seventeenth Street, NW., Washington, D.C. 20006. Order affirming determination by the Securities Investor Protection Corporation ("SIPC") that RWS Securities, Inc. and RWS Securities GmbH are not members of SIPC.

Section 3(a)(2) of the Securities Investor Protection Act of 1970 ("SIPA") provides that, with certain exceptions, all broker-dealers registered pursuant to section 15(b) of the Securities Exchange Act of 1934 are members of SIPC. One of those exceptions is for broker-dealers whose "principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions."[1] Pursuant to section 3(a)(2)(B) of SIPA, SIPC must file that determination with the Commission, and the Commission, within thirty days of SIPC's filing, or within such longer period as the Commission may designate of not more than ninety days after the date of SIPC's filing if it finds such longer period to be appropriate and publishes its reasons for so finding, must "consistent with the public interest and the purposes of [SIPA], affirm, reverse, or amend [SIPC's determination]."

Background and Discussion

By letter dated April 26, 1985,[2] the Securities Investor Protection Corporation ("SIPC") requested the Commission to affirm SIPC's determination that RWS Securities, Inc. ("RWS") and RWS Securities GmbH ("GmbH") "are persons whose businesses are conducted outside the United States, its territories and possessions, and that therefore they are not members of SIPC."

The Commission's broker-dealer records show that both RWS and GmbH became registered with the Commission as brokerdealers on June 4, 1976. In the information supplied to SIPC as part of its request for exclusion from SIPC membership, RWS indicated that RWS, a wholly owned subsidiary of Westdeusche Landesbank Girozentrale ("Westdeusche Landesbank"), a bank

[1] Section 3(a)(2)(A)(i) of SIPA.

[2] SIPC has consented to an extension of time for Commission action on this matter until July 22, 1985.

located in the Federal Republic of Germany, is a corporation organized under the laws of the United States and a member of the Boston Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. RWS has only one customer, Westdeusche Landesbank, located in Germany. The firm clears all of its transactions on a fully disclosed basis through a SIPC member. Although RWS receives its revenues from its clearing broker in the United States, those revenues stem exclusively from transactions conducted by RWS for Westdeusche Landesbank, acting on behalf of its customers located in Germany.

The information provided SIPC also indicates that GmbH, a wholly owned subsidiary of Westdeusche Landesbank, is a corporation organized under the laws of the Federal Republic of Germany, located in Germany and a member of the Boston Stock Exchange Inc. and the National Association of Securities Dealers, Inc. GmbH is currently inactive and has no revenue.

Conclusion

Because RWS has indicated that it has only one customer located in Germany, that it introduces all its transactions on a fully disclosed basis through a SIPC member located in the United States, and that RWS' revenues stem exclusively from transactions conducted by RWS for Westdeusche Landesbank, acting on behalf of its customers located in Germany and because GmbH is organized and located in the Federal Republic of Germany and has no revenue, the Commission, consistent with the public interest and the purposes of SIPA under section 3(a)(2)(B) of SIPA, affirms SIPC's determination that RWS and GmbH "are persons whose businesses are conducted outside the United States, its territories and possessions, and that therefore they are not members of SIPC."[2]

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-18652 Filed 8-5-85; 8:45 am]

BILLING CODE 8010-01-M

[2] On August 2, 1979, November 20, 1980 and September 26, 1984 respectively, the Commission affirmed SIPC's determinations that Bona, SA, BB Securities Limited, Inc., and Anderson Man (Investment Services), Ltd. are persons whose businesses are conducted outside the United States, its territories and possessions, and that therefore they are not members of SPIC.

[Release No. 34-22189; File No. SR-Phlx-84-33]

Self-Regulatory Organizations; Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change and Amendments Thereto

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx"), on December 17, 1984, filed with the Commission a proposed rule change to permit the use of letters of credit to satisfy both initial and maintenance margin requirements for positions in foreign currency options written and carried short in a customer's account.[1] On March 1, 1985, the Phlx filed Amendment No. 1 to its proposal which, among other things, describes the procedures to be followed in the event that margin requirements exceed the amount of the letter of credit on deposit with the member firms.[2]

II. Background

Section 7 of the Act provides that the Board of Governors of the Federal Reserve System ("FRB") shall prescribe the rules and regulations governing the amount of credit that initially may be extended and subsequently maintained on any security (other than an exempt security). Although options on foreign currencies traded on a national securities exchange are "securities" under section 3(a)(10) of the Act, the FRB has in effect delegated to the national securities exchanges the authority to adopt rules, subject to the Commission's approval, establishing margin.[3]

In December 1983 the Commission approved a Phlx proposal that permitted the use of letters of credit, for a one year pilot period, to satisfy initial margin when establishing short positions in foreign currency options.[4] The letters of credit to be used in the pilot program contained the issuer's unqualified commitment to pay to the member organization, on demand, a specified sum of money equal to or greater than the amount of the original margin required when the position was opened.

The letter of credit was irrevocable and was required to expire no earlier that expiration of the option nor later than 18 months from the date of its issuance. In addition, to be an approved issuer under the pilot program, an institution would have to satisfy several criteria established by the Phlx.[5] The total amount of letters of credit issued and outstanding at one time by either a U.S. or non-U.S. issuer for the account of any one customer could not exceed 15 percent of that institution's unimparied capital and surplus. In addition, the total amount of letters of credit naming one beneficiary could not exceed 20 percent of that institution's unimparied capital and surplus.

In addition to the above criteria, the member organizations named as beneficiaries were required to provide Phlx with certain information.[7]

[1] Notice of the proposed rule change was given in Securities Exchange Act Release No. 21610, December 28, 1984, 50 FR 1155.

[2] Notice of Amendment No. 1 to the proposed rule change was given in Securities Exchange Act Release No. 21881, March 21, 1985, 50 FR 12098. One letter was received on the proposed rule change. *See* letter from Laura Homer, Securities Credit Offices, Board of Governors of the Federal Reserve System to Richard Chase, Associate Director, Division of Market Regulation, SEC, dated March 18, 1985 ("FRB letter").

[3] Section 220.18(h) of Regulation T (17 CFR 220.18(h)) provides that the required margin for short foreign currency options positions shall be "the amount, other options positions, or foreign currency position specified by the rules of the national securities exchanges on which the option it traded provided that all such rules have been approved or amended by the SEC".

[4] *See* Securities Exchange Act Release No. 20407, December 16, 1983, 48 FR 56882.

[5] The amount of original margin required for these options positions is specified in Phlx Rule 722(d)(2)(B)(iii). The Phlx recently proposed changes to its initial and maintenance margin requirements for foreign currency options which would result in reducing the margin levels for these options products. *See* Securities Exchange Act Release No. 21579, December 18, 1984, 49 FR 50489 [File No. SR-84-32].

[6] Under this criteria, United States institutions ("U.S. issuers") had to be organized under the laws of the U.S. or state and regulated and examined by federal or state authorities having regulatory jurisdiction over banks and trust companies. U.S. issuers also had to have shareholders' equity of $200,000,000 or more. If an issuer was a non-U.S. institution ("non-U.S. issuer") it had to have a federal or state branch or agency located in the U.S. Its principal executive office had to be located in a country that was either rated "AAA" by Moody's Investor Service ("Moody's") or Standard and Poor's ("S&P") or approved by Phlx's Business Conduct Committee as a AAA equivalent country based on consultations with at least two entities experienced in international banking and finance matters. In addition, a non-U.S. issuer not only had to have shareholders' equity of $200,000,000 or more, but also a "P-1 rating from Moody's or an "A-1" rating from S&P on its commercial paper or other short-term obligations. Any letter of credit issued by a non-U.S. issuer also had to be issued and payable by the federal or state branch located in the United States. Both U.S. and non-U.S. issuers participating in the pilot were required to furnish Phlx with quarterly financial statements and annual reports.

[7] The information required by Phlx included the names of the issuer and the account party, the dollar amount covered by the letter of credit, expiration date, class and series of each option for which the letter of credit constitutes original margin, and the amount of original margin required for that options position.

In approving the letters of credit pilot program the Commission recognized that certain risks may result from providing investors with increased leverage through the use of letters of credit to meet customer margin, particularly since Phlx did not require that the letters of credit be collateralized. Nevertheless, the Commission believed that the limited, controlled pilot program being proposed by Phlx at that time significantly reduced its concerns and could be conducted without jeopardizing the financial integrity of the securities industry, the Phlx's foreign currency options market, or the banks and trust companies acting as issuers.

In connection with Commission approval of the pilot program, Phlx agreed to monitor the use of letters of credit during the pilot period and submit to the Commission a report discussing the effects of the use of letters of credit on the marketplace. Phlx submitted this report to the Commission on October 23, 1984.[8] The report indicated that, although Phlx had designated three banks as issuers of letters of credit, the banks had not actually issued any letters of credit because customers were not using this device to meet their initial margin requirements for short foreign currency options positions. The Phlx report based this on a number of factors. First, Phlx found that computational difficulties in determining margin requirements may have inhibited financial institutions and corporate entities from utilizing the pilot program. In this regard, Phlx noted that calculation of the portion of a customer's margin obligations that could be satisfied by letters of credit could be quite complicated, particularly for active accounts engaging in spreads, straddles and other combination strategies. Phlx concluded that these difficulties would be eliminated if the pliot program was expanded to permit the use of letfers of credit to meet maintenance margin requirements as well as initial margin.

Second, Phlx indicated its view that the letters of credit pilot program was not on parity with the use of such letters within the commodities industry, where some investors are permitted to use letters of credit to satisfy both initial and variation margin requirements. Phlx noted that the International Monetary Market ("IMM") where financial futures contracts on foreign currency are traded grants margin exemptions to certain Class B Clearing Members [9] that permit these members to use letters of credit for both initial and variation margin.[10] This type of exemption is unavailable to similar participants in the options foreign currency market. Moreover, calculation of the margin obligations that can be satisfied by letters of credit for such market participants are far less cumbersome than under the Plhx pilot.

Because of the regulatory differences between the securities and commodities markets Phlx believes that the letters of credit pilot program should be expanded to permit its use for maintenance margin in addition to intial margin requirements. Plhx stated this would "return the decision of which similar product to trade to the economic advantages of the product rather than on the regulatory structure of the marketplace". In its report, Phlx also stated that the extension of the pilot to maintenance margin would not undermine the credit framework of the securities industry, due to a lack of cash or marginable security deposit relative to foreign currency-options positions, because the customers who are able to secure letters of credit would be well capitalized multinational corporations and financial institutions (whose credit risk has already been factored into the size of the letter of credit issued by the third party bank).[11]

III. Description of Proposal

Based on its experience with the pilot, Phlx submitted its current proposal to extend the letters of credit pilot program for another one year period with the modifications outlined in its report to the Commission. For the most part, the rules applicable to the use of letters of credit during the previous pilot will apply.[12] The most significant modification to the pilot involves the use of letters of credit to satisfy maintenance as well as initial margin obligations. To accommodate this change, Phlx also has proposed procedures, similar to those provided under Regulation T, to be followed in the event additional margin requirements exceed the amount of the letter of credit on deposit with the member organization.

The Phlx also has proposed certain changes to the reporting requirements of member organizations pertaining to customer use of letters of credit. In addition to the information currently required, such as identification of the customer and issuer of the letter of credit, the Phlx would require specific disclosure of customer account suitability information. Phlx also has clarified the method and frequency of the reporting requirements. Under the proposal, certain information must be provided to Phlx promptly while other information need only the furnished monthly. Finally, the rule eliminates a requirement to report the original margin due with respect to an option position on which the letter of credit was issued and the burden of preparing a special format to report the required information.

IV. Discussion

The Commission has concluded that Phlx's proposal to extend for one year its pilot program, as modified to permit the use of letters of credit to meet maintenance margin requirements, is consistent with the Act and should be approved for an additional year pilot period.[13] As discussed above, for several reasons Phlx's original pilot permitting the use of letters of credit to meet initial margin obligations for short foreign currency options positions was not used by market participants at all during the one year pilot period. For this reason, Phlx has asked that we extend the pilot for another one year period and expand its scope to include maintenance margin requirements.

The extension of the pilot to include maintenance margin enhances the Commission's previous concerns, to a certain degree, over the use of letters of

[8] See letter from Robert B. Gilmore, Senior Vice President, Phlx, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, date October 19, 1984.

[9] Class B clearing memberships are offered to non-bank entities which may solely conduct proprietary arbitrage in foreign currencies between a bank and the IMM and which are guaranteed by another full clearing member. The memberships basically allow a bank to arbitrage between the futures, spot and forward markets in foreign currencies without becoming subject to full registration and reporting requirements.

[10] Maintenance margin in the securities industry and variation margin in the commodities industry are basically intended to serve the same purposes.

[11] Phlx also suggested some changes in the reporting requirements of member firms accepting letters of credit.

[12] For example, the bank eligibility criteria, discussed above, will be the same for the proposed extended pilot.

[13] The FRB staff has indicated that it would not object to Phlx's proposed one-year pilot if it complies with the same terms and conditions stated in its previous letter involving the original pilot and if it will aid the Commission in evaluating the effects of Phlx's proposal. *See* FRB letter, *supra* note 2. Pursuant to an earlier letter from the Federal Reserve Board, in order to isolate transactions for survey purposes and to ensure that mark-to-the-market payments are properly collected, the transactions by writers of foreign currency options using letters of credit should be effected and carried in the non-securities credit account. *See* letter from Robert S. Plotkin, Assistant Director, Board of Governors of the Federal Reserve System to Richard Ketchum, Director, Division of Market Regulation, SEC, dated November 3, 1985. *See also* Regulation T, § 220.9, 12 CFR § 220.9. Short positions not involving the use of letters of credit, however, should continue to be carried in a margin account.

credit for margin purposes. For example, in its approval order of the original pilot the Commission indicated its concern over the potential effects of increased leverage provided to investors through the use of uncollateralized letters of credit.[14] Under the original pilot, this leverage capability was limited since maintenance margin was required to be posted in cash or securities. The Commission's concerns under the original pilot were reduced because a broker's exposure would be known in advance and limited in amount to the initial margin amount. Under the expanded pilot, because uncollateralized letters of credit could be used to meet future maintenance margin calls, a broker's potential exposure could increase during the period the option is outstanding.

Nevertheless, the Commission believes that the expanded pilot program proposed by Phlx has sufficient safeguards to significantly reduce its concerns. Phlx, for example, has agreed to carefully monitor the use of letters of credit during the pilot period. In this regard, we note that, under the pilot, Phlx has the power to suspend, terminate or modify a member organization's ability to accept letters of credit to satisfy a customer's margin obligations.[15] The Phlx's amended reporting requirements should also facilitate general monitoring and ensure that sufficient data will be collected to properly evaluate the pilot program. In this connection, the information required of member firms regarding their customers not only should provide a profile of those using letters of credit but also should provide information to measure aggregate risk exposure resulting from the use of letters of credit under the pilot. Finally, as Phlx has noted, the industry will also police itself with respect to possible risk exposure. As a practical matter, it is likely that letters of credit will only be available to corporate, institutional and perhaps, large individual investors. The ability of a customer to secure letters of credit from a bank will depend on the banks evaluation of the customer's credit risk. Since the size of letters of credit issued to a particular customer will be based on that credit risk analysis, the Commission believes that expanding the use of letters of credit for maintenance margin purposes should not significantly alter the risks to the financial community.

In addition to Phlx's monitoring responsibilities and the member firm's reporting requirements, Phlx again has agreed to provide the Commission with a written report two months prior to the expiration of the pilot program. The report will discuss, among other things, the effects on options trading volume and liquidity of permitting options writers to use letters of credit, the types of market participants using such letters, the institutions functioning as letters of credit and their credit risk containment practices, the types of problems, if any, that have arisen in connection with the use of such letters during the pilot period and the differences between initial and maintenance margin satisfied by using letters of credit.

The Commission is satisfied that the measures established by the Phlx will adequately address its concerns over expanding the pilot program. In the Commission's view, the expanded pilot being proposed by Phlx, if carefully monitored, should not jeopardize the financial integrity of the securities industry, the options markets or the banks and trust companies acting as issuers in the pilot.[16]

V. Conclusion

Pursuant to section 19(b)(2) of the Act, the Commission must approve the foregoing rule change if it determines that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. The Commission has reviewed carefully Phlx's proposed rule change to permit the use of letters of credit by writers of foreign currency options to satisfy both initial and maintenance margin requirements and has concluded that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, the requirements of section 6. Based on the above discussion, the Commission believes the pilot program, as proposed by Phlx, provides sufficient investor protection while facilitating transactions in foreign currency options.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that Phlx's proposed rule change, as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18655 Filed 8-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22278; File No. SR-OCC-85-10]

Self-Regulatory Organizations; Options Clearing Corp.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

On June 26, 1985, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") to reclassify the nature of security interests granted to pledgees under OCC's Options Pledge Program. The Commission is publishing this notice to solicit public comment on the proposal.

Under Article 8 of the Delaware Uniform Commercial Code,[1] there are several ways to perfect security interests in uncertificated securities. These include: (1) Having the pledgor give written notice of the pledge to a financial intermediary on whose books the interest of the pledgor appears (the "financial intermediary model"); and (2) having the pledgor cause the issuer of the securities to register a pledge in

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[14] In approving the use of uncollateralized letters of credit to meet initial margin for short foreign currency options positions, the Commission recognized that certain characteristics of the foreign currency options market differentiated it from the traditional stock options market. In particular, the Commission recognized that letters of credit are customary in financial international trade transactions and that those likely to use the foreign currency options market are accustomed to transacting business on the basis of unsecured letters of credit. In addition, the Commission understands that such letters of credit often are issued against anticipated production of other goods which would be difficult to deposit as collateral. Because of the special characteristics and uses of foreign currency options, the Commission believed that a flexible method of margin to permit firms to write such options without locking up their cash reserves was warranted. Accordingly, the Commission concluded that, with the safeguards imposed by Phlx, a pilot permitting the use of uncollateralized letters of credit to meet certain margin obligations was appropriate in the context of the foreign currency options market.

[15] The Commission and the Board of Governors of the Federal Reserve System have the power to suspend, terminate or modify a member organization's participation in the pilot. The Commission believes that, with proper monitoring, this provision will help ensure that abuses do not occur.

[16] As discussed above, the Commission recognizes that there are risks associated with expanding the use of letters of credit to meet maintenance margin. From a regulatory perspective, the Commission believes that a carefully monitored pilot can significantly reduce these risks. The Commission also is aware that Phlx may be at a competitive disadvantage when compared to its counterparts in the commodities markets that trade foreign currency products. This factor, coupled with the carefully monitored pilot being proposed by Phlx, leads the Commission to conclude that the expanded pilot should be approved for a one year period.

[1] OCC is a Delaware Corporation operating under the laws of Delaware. The Delaware Uniform Commercial Code provisions discussed here also would be in force in any other state that has adopted the 1977 Amendments to the Uniform Commercial Code.

favor of the pledgee (the "registered pledge model"). Since OCC is both the issuer and the financial intermediary with respect to OCC options, OCC can use either model for its Options Pledge Program.[2] That program initially was based on the financial intermediary model. However, for reasons discussed below, OCC is proposing instead to base the program on the registered pledge model.

In structuring the Options Pledge Program, OCC elected the financial intermediary model because it was thought that the registered pledge model was inconsistent with rights granted to pledgors under the program. Specifically, under the Delaware Uniform Commercial Code a registered pledge deprives the pledgor of the right to transfer the pledged securities, and gives the pledgee that right. Under the Options Pledge Program, pledgors must remain free to close out or exercise pledged positions, as long as they substitute cash collateral for the pledged positions. The financial intermediary model does not limit the pledgor's transfer rights and was chosen for that reason.

Recently, a pledgee bank brought to OCC's attention another important difference between the two models. Under the financial intermediary model, a purchase (including a pledgee) cannot qualify as a bona fide purchaser within the current operational structure of the Options Pledge Program.[3] Under the registered pledge model, however, a purchaser may qualify as a bona fide purchaser. The distinction between a mere purchaser and a bona fide purchaser is significant because bona fide purchasers take free of any adverse claims.[4]

To ensure that pledgees under OCC's Options Pledge Program can achieve the status of bona fide purchasers, OCC proposes to change the legal basis of its Options Pledge Program from the financial intermediary model to the registered pledge model. However, to enable pledgors to retain transfer rights over pledged securities, OCC proposes to require pledgees to waive all rights under Articles 8 and 9 of the Delaware Uniform Commercial Code that are inconsistent with, or in addition to, the rights given to pledgees under OCC's Options Pledge Program (including the right to transfer pledged securities).

Because of varying state laws concerning rights of pledgees in uncertificated securities, OCC's proposal includes in OCC Rule 614 the requirement that each pledgee conduct its own inquiry into the legal status of any pledges to that pledgee under OCC's Options Pledge Program. In addition, the proposal would amend OCC Rule 614 to state that OCC does not warrant the validity, perfection or priority (except, in each case, against OCC) of pledges under the Options Pledge Program.[5]

OCC believes that the proposal eliminates a potential deterrent to bank participation in OCC's Options Pledge Program by enabling pledgee banks to become bona fide purchasers. OCC believes that greater bank participation in that program in turn increases liquidity in the options market and enhances the clearance and settlement system for options transactions. OCC therefore believes that the proposal is consistent with the Act in general, and in particular with section 17A of the Act.

OCC's proposal has become effective under section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days from the date the proposal was filed, however, the Commission may summarily abrogate the proposal if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Copies of all documents related to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC, and at OCC's principal offices.

Written data, views and arguments concerning the proposal are invited within 21 days from the date this notice is published in the **Federal Register.** Please file six copies of comments, referring to File No. SR-OCC-85-10, with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, by August 27, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

July 30, 1985.

[FR Doc. 85-18654 Filed 8-5-85; 8:45 am]

BILLING CODE 8010-01-M

[2] Under OCC's Options Pledge Program, an OCC clearing member may pledge long options positions to a bank or another clearing member, usually to secure a loan from that bank or other clearing member. *See* OCC Rule 614.

[3] A pledgee can become a bona fide purchaser if the financial intermediary is a "clearing corporation" and the pledge is effected by book-entry pursuant to § 8-320 of the Delaware Uniform Commercial Code. However, in order for a clearing corporation to effect a book-entry transfer of uncertificated securities, the securities must be registered in the name of the clearing corporation or its nominee (§ 8-320(1)). Under OCC's By-Laws, the registered owner of an option is the clearing member in whose OCC account the option is carried—not OCC. *See* OCC By-Laws, Art. VI, Section 9(c).

[4] *See* Delaware Uniform Commercial Code §§ 8-313(2), 8-302(1)(b), and 8-302(3).

[5] OCC's proposal also amends OCC's Standard Pledge Account Agreement form to reflect this clarification of OCC liability.

[Release No. IC-14650; (812-6056)]

State Street Bank and Trust Co.; Notice of Application for Order Permitting Foreign Custodian Arrangements

July 30, 1985.

Notice is hereby given that the State Street Bank and Trust Company ("State Street") 225 Franklin Street, Boston, Massachusetts 02101, filed an application on February 11, 1985, and amendments thereto on June 3, and July 23, 1985, requesting an order of the Securities and Exchange Commission (the "Commission") pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting State Street and the registered management investment companies for which State Street may serve custodian or subcustodian (other than an investment company registered under section 7(d) of the Act) from the provisions of section 17(f) of the Act to the extent necessary to permit the securities and other assets of such companies: (1) To be maintained through State Street's Global Custody Network in the custody of two specified foreign banking institutions and a specified foreign securities depository which do not qualify for the exemption provided by Rule 17f-5 under the Act; and (2) to continue to be maintained in the custody of foreign banking institutions for 90 day period of time, in situations where, subsequent to entering into foreign custody arrangements with such institutions, they may cease to have shareholders' equity of at least the amount required by Rule 17f-5. 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 and the rules thereunder for the text of the relevant provisions.

According to the application, State Street, organized as a bank and trust company under the laws of the Commonwealth of Massachusetts, is a wholly-owned subsidiary of State Street Boston Corporation, a bank holding company. State Street is a "bank" as

that term is defined by section 2(a)(5) of the Act and meets the qualifications set forth in section 25(a)(1) of the Act for custodians of the assets of registered management investment companies. In addition to offering a wide variety of commercial banking and trust services, the application states that State Street is involved extensively in providing custody services to a variety of institutional clients, including registered management investment companies. State Street further represents that pursuant to the terms and conditions of a no-action position granted by the Division of Investment Management,[1] it currently provides foreign custody services to its investment company clients by using a network of foreign banks and trust companies ("banking institutions") and foreign securities depositories as subcustodians. State Street states that this service, State Street's Global Custody Network, currently uses the facilities of 18 foreign banking institutions and 7 foreign securities depositories.

The Commission has designated September 1, 1985, as the date by which any investment company with foreign custody arrangements made in reliance upon Commission exemptive orders or staff no-action positions based on such orders, must conform such arrangements to the requirements of Rule 17f–5, or obtain additional exemptive relief to continue such arrangements.[2] Accordingly, State Street has applied for exemptive relief to permit the assets of registered U.S. investment companies to be deposited in Bank Mees & Hope N.V. ("BMH"), a Netherlands sub-custodian bank which is a wholly-owned subsidiary of Algemene Bank Nederland N.V., and is DBS Trustee Limited ("DBS"), a Singapore trust company which is a wholly-owned subsidary of the Development Bank of Singapore Limited. State Street represents that BMH, established in 1720, has total assets of approximately U.S. $4.54 billion and shareholder equity of U.S. $119.8 million. State Street adds that nearly all Dutch securities held by BMH as custodian are deposited in a Netherlands Central Depository which is the central system in The Netherlands for handling of securities and equivalent book-entries held by institutions for investors and is an eligible foreign custodian under Rule 17f–5. DBS, incorporated in 1975, has provided custodian services since 1878, currently maintains approximately U.S. $3.671 billion in assets under custody, and has shareholder equity of U.S. $173,000. State Street further represents that neither BMH or DBS has $200 million shareholders equity (U.S. or the equivalent of U.S. $) and, thus, do not satisfy the minimum requirements to qualify as "eligible foreign custodians" under State Street's no-action position, as modified by Rule 17f–5.

As a condition to the exemptive relief requested, State Street has agreed that the parent banks of BMH and DBS: (1) Will become a party to the respective agreement pursuant to which BMH and DBS would provide custodian services to an investment company, (2) will qualify as a banking institution and satisfy the minimum shareholders equity requirement for an "eligible foreign custodian" in Rule 17f–5, and (3) will be liable under their respective custodian agreements for any loss, damage, cost, expense, liability or claim arising out of or in connection with the performance by BMH or DBC of the responsibilities to the same extent as if such parent bank had been the party required to provide custody services under such agreements.

State Street also requests exemptive relief to permit investment company assets to be deposited in Frankfurt Kassenverein A.G., a securities depository in West Germany ("Frankfurt Depository"). State Street represents that the Frankfurt Depository does not qualify as an "eligible foreign custodian" under State Street's modified no-action position because it does not operate the only central depository in West Germany and is not a transnational system for the central handling of securities and equivalent book-entries. Notwithstanding the above, State Street represents that the Frankfurt Depository is well qualified to the act as a foreign sub-custodian on behalf of State Street's investment company clients. The Frankfurt Depository is one of the seven central depositories in West Germany, each of which services a particular stock exchange. State Street further states that since the Frankfurt stock exchange is the largest and most active of German stock exchanges, the Frankfurt Depository handles the most significant percentage of all securities transactions within Germany, and that virtually all domestic and foreign banks engaged in the securities, business in Frankfurt are members of the Frankfurt Depository. In addition, State Street asserts that since there is no one central depository in West Germany, the alternative to using the Frankfurt Depository would be to require that securities be kept in a bank vault and transferred by physical delivery, which States Street asserts would significantly increase custody costs and the risks of loss.

In addition, State Street requests exemptive relief to permit investment company assets to continue to be maintained in the custody of a foreign banking institution for a 90 day period after it is determined that such bank no longer satisfies the minimum shareholder equity requirement in Rule 17f–5. According to the application, the State Street no-action position, as modified by Rule 17F–5, could be interpreted to mean that a foreign custodian would become ineligible to act under the modified no-action position if at any time its shareholders' equity drops below the rule's minimum equity requirements, *e.g.*, decreases caused by currency rate fluctuations or other temporary conditions. Under the proposed State Street order, a foreign banking institution would have to meet the rule's minimum eligibility requirements as of the close of the fiscal year immediately preceding the date when an investment company's directors initially evaluate the use of that bank as a custodian of the company's assets and thereafter, as of the close of the fiscal year immediately proceding the directors' re-evaluation of the custodial arrangement. In the event that the directors find that a foreign custodian no longer meets the rule's minimum equity requirements, the company would have ninety days in which to make alternative arrangements.[3]

State Street submits that the requested exemptions would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support thereof, State Street agrees, as a further condition to the

[1] *See* response of the Division of Investment Management to request of State Street Bank and Trust Company (pub. avail. Jan. 16, 1984).

[2] *See* Investment Company Act Release No. 14132 (September 7, 1984) [49 FR 36080], which adopted Rule 17f–5 and notified investment companies that they had until March 1, 1985, to conform their foreign custody arrangements to the rule. That compliance date was extended until June 1, 1985, in Investment Company Act Release No. 14347 (February 4, 1985) [50 FR 52341] and then until September 1, 1985 in Investment Company Act Release No. 14548 (May 30, 1985) [50 FR 24540].

[3] This exemptive relief would be identical to the recent proposal to amend Rule 17f–5 to deal with this problem. *See* Investment Company Act Release No. 14548 (May 30, 1985) [50 FR 24540]

exemptions requested, that the proposed foreign custodian arrangements with BMH, DBS or the Frankfurt Depository would comply with all the remaining requirements of Rule 17f–5 except those relating to qualifications of foreign banking institutions and securities depositories as eligible foreign custodians. In addition, State Street submits that BMH, DBS and the Frankfurt Depository are experienced, capable and well qualified to provide custody services to U.S. registered investment companies; and that under the proposed foreign custody arrangements the protection of investors would not be diminished, given the rigorous selection process to which each such entity was subjected.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 26, 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. 85–18653 Filed 8–5–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 943]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice 655 (44 FR 17846), March 23, 1979, the Department is submitting its November, 1984 to May, 1985 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article III(c)5 of the guidelines published in the **Federal Register** on March 23, 1979.

Date: July 22, 1985.

Hildegard B. Shishkin,

Director, Office of International Conferences.

United States Delegation to the International North Pacific Fisheries Commission, 31st Annual Meeting, Vancouver, British Columbia, Canada, November 5–9, 1984

Commissioners

The Honorable (Head of Delegation), Dayton L. Alverson, Managing Partner, Natural Resources Consultants, Inc., Seattle, Washington
The Honorable Robert W. McVey, Regional Director, Alaska Region, National Oceanic and Atmospheric Administration, Department of Commerce, Juneau, Alaska
The Honorable Clement Tillion, Fisherman, Homer, Alaska
The Honorable Robert W. Thorstensen, Chairman, Icicle Seafoods, Seattle, Washington

Advisers

Robert Ford, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.
Charles Walters, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, D.C.

Private Sector Advisers

George J. Easley, Oregon Trawl Commission, Astoria, Oregon
John Gilbert, Vice President, Bumble Bee Seafoods, Seattle, Washington
Charles Meacham, Anchorage, Alaska
Robert Moss, Fisherman, Homer, Alaska
Keith Specking, North Pacific Fishery Management Council, Juneau, Alaska

United States Delegation to the 28th Session of the Subcommittee on Ship Design and Equipment, Intergovernmental Maritime Organization, London, January 14–18, 1985

Representative

Arthur E. Henn, Captain, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Alternate Representative

Paul J. Pluta, Commander, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers

C. E. Bills, Lieutenant Commander, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
Nancy Fibish, Shipping Attache, United States Embassy, London
John S. Spencer, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Private Sector Adviser

C. Lincoln Crane, Exxon International Company, Florham Park, New Jersey

United States Delegation to the Committee on Gas, 31st Session, Economic Commission for Europe (ECE), Geneva, January 21–25, 1985

Representative

Lucio D'Andrea, Industrial Specialist, Petroleum and Natural Gas, Office of Oil and Gas, Department of Energy

Alternate Representative

George Dempsey, U.S. Mission, Geneva

Private Sector Advisers

Robert B. Kalish, Director, Gas Supply and Statistics, The American Gas Association, Arlington, VA
Stewart B. Kean, President, Utility Propane, Elizabeth, New Jersey

United States Delegation to the Steel Committee, Working Party, Organization for Economic Cooperation and Development (OECD), Paris, January 22–23, 1985

Representative

Ralph F. Thompson, Jr., Acting Director, Office of Basic Industries, Department of Commerce

Advisers

Jorge Perez-Lopez, Deputy Director, Office of International Economic Affairs, Department of Labor
Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Frank Fenton, Vice President for Economics and Trade, American Iron and Steel Institute, Washington, D.C.
Peter Mulloney, Assistant to the Chairman, U.S. Steel Corporation, Pittsburgh, Pennsylvania
John J. Sheehan, Assistant to the President and Director for Legislative Affairs, United Steel Workers of America, Pittsburgh, Pennsylvania

United States Delegation to the United Nations Conference on Conditions for Registration of Ships, Geneva, January 28–February 15, 1985

Representative

Samuel V. Smith, Deputy Director, Office of Maritime and Land

Transport, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Thomas M. P. Christensen, Office of International Activities, Department of Transportation

Congressional Staff Advisers

Gregory Lambert, Counsel, Subcommittee on Merchant Marine, U.S. House of Representatives
Gerald Seifert, General Counsel for Maritime Policy, Committee on Merchant Marine and Fisheries, U.S. House of Representatives

Advisers

Richard Jacobson, U.S. Mission, Geneva
Daniel F. Sheehan, Office of Merchant Marine Safety, U.S. Coast Guard

Private Sector Advisers

Richard J. Daschbach, Assistant to the President for International Affairs, Seafarers International Union of North America, Washington, D.C.
Philip J. Loree, Attorney and Chairman, Federation of America Controlled Shipping, New York, New York
Thomas S. Wyman, Manager, Maritime Relations, Chevron Shipping Company, San Francisco, California

United States Delegation to the Ninth (Extraordinary) Meeting of the Assembly of Parties, International Telecommunications Satellite Organization (Intelsat), Washington, D.C., January 29–31, 1985

Representative

The Honorable William Schneider, Jr., Under Secretary for Security Assistance, Science and Technology, Department of State

Alternate Representative

The Honorable Diana Lady Dougan, Ambassador, Coordinator for International Communication and Information Policy, Department of State

Senior Advisers

The Honorable Mark S. Fowler, Chairman, Federal Communications Commission
The Honorable David J. Markey, Assistant Secretary for Telecommunications and Information, Department of Commerce
Franklin K. Willis, Deputy Assistant Secretary for Transportation and Telecommunications, Department of State

Advisers

James L. Ball, Federal Communications Commission
Earl S. Barbely, Director, Office of International Communications Policy Bureau of Economic and Business Affairs, Department of State
James Earl, Office of the Assistant Legal Adviser for Economic and Business Affairs, Department of State
Gary Fereno, National Telecommunications and Information Administration, Department of Commerce
John T. Gilsenan, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State
Albert Halprin, Federal Communications Commission
Wendell Harris, Federal Communications Commission
Bruce Kraselsky, National Telecommunications and Information Administration, Department of Commerce
Kenneth Leeson, Office of the Coordinator for International Communication and Information Policy, Department of State
David Macuk, National Telecommunications and Information Administration, Department of Commerce
Janice I. Obuchowski, Federal Communications Commission
Thomas Tycz, Federal Communications Commission
Francis Urbany, National Telecommunications and Information Administration, Department of Commerce

Private Sector Adviser

Andrea D. Maleter, Communications Satellite Corporation, Washington, D.C.

United States Delegation to the 13th Subcommittee on Fire Protection, Intergovernmental Maritime Organization (IMO), London, February 4–8, 1985

Representative

Donald J. Kerlin, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Alternate Representative

Bobby G. Burns, Captain, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers

William G. Boyce, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
Nancy Fibish, Shipping Attache, United States Embassy, London
Alexander F. Robertson, Center for Fire Research, National Bureau of Standards, Department of Commerce

Private Sector Advisers

Joseph J. Cox, Director of Marine Affairs, American Institute of Merchant Shipping, Washington, D.C.
John P. Goudreau, Fire Equipment Manufacturer's Association, Marinette, Wisconsin

United States Delegation to the 11th Session of the Group of Rapporteurs on Pollution and Energy, Economic Commission for Europe (ECE), Geneva, February 11–14, 1985

Representative

Richard Wilson, Director, Office of Mobile Sources, Environmental Protection Agency

Alternate Representative

Merrill Korth, Office of Mobile Sources, Environmental Protection Agency, Ann Arbor, Michigan

Private Sector Advisers

Louis Broering, Engine Manufacturers Association, Chicago, Illinois

Harry Weaver, Motor Vehicles Manufacturers Association, Detroit, Michigan

United States Delegation to the 26th Session of the Subcommittee on Containers and Cargoes, Intergovernmental Martime Organization (IMO), London, February 18–22, 1985

Representative

Joseph J. Angelo, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Alternate Representative

Larry Gibson, Lieutenant Commander, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers

Nancy Fibish, Shipping Attache, United States Embassy, London
Jeffrey G. Lantz, Lieutenant Commander, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
Robert Letourneau, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Private Sector Adviser

S. Fraser Sammis, National Cargo Bureau, New York, New York

United States Delegation to the Committee on Invisibles and Finance Related to Trade (CIFT), 2nd Part, United Nations Conference on Trade and Development (UNCTAD), Geneva, February 18–22, 1985

Representative

Brant W. Free, Acting Deputy Assistant Secretary for Services, Department of Commerce

Alternate Representative

Ollie Ellison, Acting Economic Counselor, United States Mission, Geneva

Private Sector Advisers

Arthur L. Blakeslee, III, Vice President, Hartford Insurance Group, Windsor, Connecticut
Richard W. Murray, Vice President, International Operations, The Travelers Companies, Hartford, Connecticut

United States Delegation to the 9th Meeting of the Dangerous Goods Panel, International Civil Aviation Organization (ICAO), Montreal, February 18–March 1, 1985

Member

Edward A. Altemos, International Standards Coordinator, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation

Adviser

Walter G. Greiner, Office of Civil Aviation Security, Federal Aviation Administration, Department of Transportation

Private Sector Adviser

Frank J. Black, Manager, Cargo Services, Air Transport Association, Washington, D.C.

United States Delegation to the Cocoa Conference, United Nations Conference on Trade and Development (UNCTAD), Geneva, February 18–March 8, 1985

Representative

Joan Plaisted, Office of the U.S. Trade Representative, Geneva

Adviser

Jack G. Ferraro, United States Mission, Geneva

Private Sector Advisers

Harold Gettinger, Vice President, M&M Mars, Hackettstown, New Jersey
Johannes Kilian, Gill & Dufus, Inc., New York, New York
Robert Paulson, Westway Merkuria Corporation, New York, New York
Johann Scheu, Cocoa Merchants of America, New York, New York

United States Delegation to the Second Annual Meeting of the North American Commission of the North Atlantic Salmon Conservation Organization (NASCO), Boston, February 20–22, 1985

Commissioners

The Honorable Allen E. Peterson, Jr. (Head of Delegation), Woods Hole, Massachusetts
The Honorable Richard Buck, Hancock, New Hampshire
The Honorable Frank Carlton, Savannah, Georgia

Advisers

Vaughn C. Anthony, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts
C. Phillip Goodyear, Chief Resource Analyst, United States Fish and Wildlife Service, Department of Interior
Joseph H. Kutkuhn, Associate Director for Fishery Resources, United States Fish and Wildlife Service, Department of Interior
Ted. I. Lillestolen, Lieutenant, Foreign Affairs Officer, National Oceanic and Atmospheric Administration, Department of Commerce
Daniel Reifsnyder, Office of Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Private Sector Advisers

Spencer Apollonio, Commissioner, Department of Natural Resources, State of Maine, Augusta, Maine
Glenn H. Manuel, Commissioner, Department of Inland Fisheries and Wildlife, State of Maine, Augusta, Maine

United States Delegation to the Antarctica, Meeting on Antarctic Mineral Resources, Rio De Janeiro, February 25–March 12, 1985

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

John Behrendt, United States Geological Survey, Denver, Colorado
Roger Freeman, Office of Marine and Polar Minerals, Bureau of Economic and Business Affairs, Department of State
Scott Hajost, Office of the Legal Adviser, Department of State
Robert Hofman, Scientific Program Director, Marine Mammal Commission
Robert Konrath, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
James G. Winchester, Associate Administrator, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

James K. Jackson, Office of General Counsel, American Petroleum Institute, Washington, D.C.
Lee Kimball, International Institute for Environment and Development, Washington, D.C.
Robert Rutford, President, University of Texas, Dallas

United States Delegation to the Preparatory Committee for the World Administrative Telegraph and Telephone Conference, 1988 International Telegraph and Telephone Consultative Committee International Telecommunication Union (ITU) Geneva, February 27–March 5, 1985

Representative

Earl S. Barbely, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Advisers

Douglas Davis, Federal Communications Commission
James Earl, Office of the Assistant Legal Adviser for Economic and Business Affairs, Department of State
Gary Fereno, National Telecommunications and Information Administration, Department of Commerce
Wendell Harris, Federal Communications Commission

Private Sector Advisers

Cecil R. Crump, AT&T Communications, Morris Plains, New Jersey
Johy O'Boyle, ITT World Communications, Inc., Secaucus, New Jersey
Phillip C. Onstad, Control Data Corporation, Washington, D.C.
Denis W. O'Shea, IBM Corporation, Purchase, New York
Beverly Ann Sincavage, GTE Telenet Communications Corporation, Vienna, Virginia
Carmine Taglialatela, RCA Communications, Inc., New York, New York
Deborah G. Tumey, Citibank, N.A., New York, New York

Frederick W. Voege, Western Union Telegraph Company, Upper Saddle River, New Jersey

United States Delegation to the First Session of the Programme Group on Ocean Processes and Climate, Intergovernmental Oceanographic Commission/United Nations Educational, Scientific and Cultural Organization (UNESCO/IOC), Paris, March 6–8, 1985

Representative

J. Michael Hall, Director, U.S. TOGA Project Office, National Oceanic and Atmospheric Administration, Department of Commerce

Alternate

Louis B. Brown, Science Associate, Division of Ocean Sciences, National Science Foundation

Advisers

Curtis A. Collins, Program Manager for Ocean Dynamics, Ocean Sciences Research Section, National Science Foundation

William Matuszeski, Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

D. James Baker, President, Joint Oceanographic Institutions, Inc., Washington, D.C.

United States Delegation to the Meeting of Study Group II, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, March 7–15, 1985

Representative

Earl S. Barbely, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

Cecil R. Crump, AT&T Communications, Morris Plains, New Jersey

Ivor Knight, COMSAT Corporation, Washington, D.C.

United States Delegation to the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, Seventh Session, United Nations Economic and Social Council (ECOSOC), New York, March 11–22, 1985

Representative

Clarence Staubs, Chief Accountant's Office, Securities and Exchange Commission

Alternate Representative

James H. Williamson, Bureau of Economic and Business Affairs, Department of State

Private Sector Adviser

Ralph Walters, Touche, Ross and Company, New York, New York

United States Delegation to the 18th Session of the Executive Council and the 13th Assembly of the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO/IOC), Paris, March 11–28, 1985

Representative

Paul Wolff, Assistant Administrator for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce

Alternate Representatives

William Erb, Office of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Robert Junghans, Office of Research and Development, National Oceanic and Atmospheric Administration, Department of Commerce

Advisers

Dorothy Bergamaschi, Office of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Louis B. Brown, Division of Ocean Sciences, National Science Foundation

Manfred Cziesla, Science Adviser, U.S. Observer Mission—UNESCO, Paris

Anthony Rock, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce

Robert Rowland, Office of Energy and Marine Geology, United States Geological Survey, Department of the Interior

Private Sector Adviser

Nancy Maynard, Board of Ocean Science and Policy, National Academy of Sciences, Washington, D.C.

United States Delegation to the Meeting of Study Group XI, International Telephone and Telegraph Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, March 18–29, 1985

Representative

Thijs de Haas, Institute for Telecommunication Sciences, Department of Commerce, Boulder, Colorado

Adviser

Michael S. Slomin, Federal Communications Commission

Private Sector Advisers

Robert M. Amy, IBM Corporation, Research Triangle Park, North Carolina

Wesley E. Henry, Bell Communications Research, Redbank, New Jersey

Eric L. Scace, GTE Telenet Communications Corporation, Vienna, Virginia

United States Delegation to the International Conference on Hazardous Waste Organization for Economic Cooperation and Development (OECD), Basel, March 26–27, 1985

Representative

Gene A. Lucero, Director, Office of Waste Program Enforcement, Environmental Protection Agency

Alternate Representative

Bruce R. Weddle, Director, Permits and State Programs Division, Office of Solid Waste, Environmental Protection Agency

Adviser

William E. Landfair, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Private Sector Advisers

Jane Bloom, Attorney, Natural Resources Defense Council, New York, New York

Charles L. Sercu, Director for Environmental Quality, Dow Chemical Company, Midland, Michigan

United States Delegation to the Special Session of the International Natural Rubber Organization Council (INRO), Kuala Lumpur, April 2–3, 1985

Representative

Rollinde Prager, Director of Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Cornelia Bryant, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Advisers

James L. Gagnon, United States Embassy, Kuala Lumpur

Seward L. Jones, Office of International Sector Policy, International Resources Division, Department of Commerce

Private Sector Advisers

Howard Chapel, Managing Director, Goodyear Orient Private Ltd., Singapore
James F. Hegarty, Firestone Rubber Company, Singapore

United States Delegation to the UN Commission on Transnational Corporations, Economic and Social Council (ECOSOC), New York, New York, April 10–19, 1985

Representative

Seymour Rubin, United States Representative to the UN Commission on Transnational Corporations

Alternate Representatives

The Honorable Alan L. Keyes, U.S. Representative to the Economic and Social Council of the United States
Walter B. Lockwood, Jr., Deputy Director, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State

Advisers

Dennis Goodman, United States Mission to the United Nations, New York
Christine E. Klepacz, Office of International Organizations, Department of Commerce
Caroyl Miller, Office of International Investment Policy, Office of the U.S. Trade Representative, Executive Office of the President

Private Sector Adviser

Ralph A. Weller, Vice President, Otis Elevator Company, New York

United States Delegation to the 2nd Meeting of the Future Air Navigation Systems (FANS) Committee, International Civil Aviation Organization (ICAO), Montreal, April 10–26, 1985

Member

Siegbert B. Poritzky, System Studies and Cooperative Programs, Federal Aviation Administration, Department of Transportation

Advisers

Phillip J. Baker, Colonel, Office of the Secretary of Defense, Department of Defense
Victor Foose, System Studies and Cooperative Programs, Federal Aviation Administration, Department of Transportation
Jack Overfield, Air Traffic Service Branch, Federal Aviation Administration, Department of Transportation

Private Sector Adviser

Raymond J. Hilton, Air Transportation Association of America, Washington, DC

United States Delegation to the International Coffee Organization (ICO) Council Session, London, April 15–19, 1985

Representative

Rollinde Prager, Director, Office of Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Anthony Wallace, U.S. Embassy, London

Advisers

Ralph Ives, Primary Commodities Division, Department of Commerce
Stephen Muller, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, New York, New York
Andrew Scholtz, President, Scholtz & Company
Marvin H. Schur, President, J. Aron & Company, Inc.

United States Delegation to the Meeting of International Telegraph and Telephone, Consultative Committee (CCITT), Study Group XVII, International Telecommunication Union (ITU), Geneva, April 15–19, 1985

Representative

Thijs de Haas, Institute for Telecommunication Science, Department of Commerce, Boulder, Colorado

Private Sector Adviser

Richard P. Brandt, AT&T Communications, Basking Ridge, New Jersey

United States Delegation to the 29th Session of the Subcommittee on Radiocommunications, Intergovernmental Maritime Organization (IMO), London, April 15–19, 1985

Representative

Robert E. Fenton, Captain, Chief, Plans and Policy Division, United States Coast Guard, Department of Transportation

Alternate Representative

Richard L. Swanson, Marine Radio Policy Branch, United States Coast Guard, Department of Transportation

Advisers

Nancy Fibish, Shipping Attaché, United States Embassy, London
Gordon Hempton, Private Radio Bureau, Federal Communications Commission
William Luther, Field Operation Bureau, Federal Communications Commission
Robert C. McIntyre, Engineer, Federal Communications Commission

Private Sector Advisers

Don Derryberry, Exxon Company USA, Houston, Texas
Charles Dorian, Washington, DC
John Fuechsel, National Ocean Industries Association, Washington, DC

United States Delegation to the 22nd Meeting of the North Atlantic Systems Planning Group, International Civil Aviation Organization (ICAO), Paris, April 15–22, 1985

Member

John Sachko, Air Traffic Service, Federal Aviation Administration, Department of Transportation

Alternate Members

Allen Busch, FAA Technical Center, Federal Aviation Administration, Department of Transportation
Guido Cordova, Assistant Manager (Oceanic), Federal Aviation Administration, Department of Transportation
Howard Hess, Office of Flight Operations, Federal Aviation Administration, Department of Transportation
John Matt, Office of International Aviation, Federal Aviation Administration, Department of Transportation

Private Sector Adviser

Richard Covell, Aeronautical Radio, Inc., Annapolis, Maryland

United States Delegation to the Executive Board, United Nations Children Fund (UNICEF), New York, April 15–26, 1985

Representative

Rita DiMartino, United States Representative to UNICEF

Alternate Representative

Dr. Claudine B. Cox, Alternate United States Representative to UNICEF

Advisers

Harold Fleming,
United States Mission to the United Nations, New York, New York
Peter F. Frost, Division of Humanitarian Development, Bureau of International

Organization Affairs, Department of State
Dr. John J. Hutchings, Chief, Research and Training Services, Office of Maternal and Child Health, Department of Health and Human Services
Susan Shearhouse, United States Mission to the United Nations, New York, New York
Mark Ward, Chief, UN Division, Office of Donor Coordination, Bureau for Program and Policy Coordination, Agency for International Development

Privat Sector Adviser

Kimberly A. Gamble, Director, Washington Officer, U.S. Committee for UNICEF, Washington, D.C.

United States Delegation to the Steel Committee, Working Party, Organization for Economic Cooperation and Development (OECD) Paris, April 22–23, 1985

Representative

Ralph F. Thompson, Jr., Acting Director, Office of Basic Industries, Department of Commerce

Adviser

Jorge Perez-Lopez, Deputy Director, Office of International Economic Affairs, Department of Labor

Private Sector Advisers

Frank Fenton, Vice President for Economics and Trade, American Iron and Steel Institute, Washington, D.C.
David Hawley, Manager of Government Affairs, Inland Steel Corporation
John J. Sheehan, Assistant to the President and Director for Legislative Affairs, United Steel Workers of America, Pittsburgh, Pennsylvania

United States Delegation to the Antarctica, Preparatory Meeting for the Thirteenth Antarctic Treaty Consultative Meeting, Brussels, April 22–27, 1985

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Joseph E. Bennett, Division of Polar Programs, National Science Foundation
Robert Hofman, Scientific Program Director, Marine Mammal Commission

Private Sector Adviser

Lee Kimball, International Institute for Environment and Development, Washington, D.C.

United States Delegation to the Marine Environment Protection Committee, Intergovernmental Maritime Organization (IMO), London, April 22–May 1, 1985

Representative

John W. Kime, Commodore, Chief, Office of Marine Environment and Systems, U.S. Coast Guard, Department of Transportation

Alternate Representative

Eric J. Williams, Commander, Assistant Chief, Port and Environmental Safety Division, U.S. Coast Guard, Department of Transportation

Adviser

Joseph J. Angelo, Merchant Vessel Inspection, U.S. Coast Guard, Department of Transportation
Robert Blumberg, Deputy Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Nancy Fibish Shipping Attache, United States Embassy, London
Timothy W. Josiah, Lieutenant Commander, Chief, Environmental Coordination Branch, U.S. Coast Guard, Department of Transportation
John E. Riley, Office of Emergency and Remedial Response, Environmental Protection Agency
Frits Wybenga, Marine Technical and Hazardous Materials Division, U.S. Coast Guard, Department of Transportation

Private Sector Adviser

Joseph J. Cox, Director of Marine Affairs, American Institute of Merchant Shipping

United States Delegation to the Negotiating Conference on Natural Rubber, United Nations Conference on Trade and Development (UNCTAD), Geneva, April 22–May 10, 1985

Representative

Rollinde Prager, Director of Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Gordon Jones, Chief, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Advisers

James L. Gagnnon, United States Embassy, Kuala Lumpur
Seward L. Jones, Office of International Sector Policy, International Resources Division, Department of Commerce

Private Sector Advisers

Collier W. Baird, Jr., President, Baird Rubber Trading Company, Hoboken, New Jersey
Eric P. Bierrie, President, United Baltic Corporation, New York, New York
Thomas E. Cole, Vice President, Tire Division, Rubber Manufacturers Association, Washington, D.C
Warren Heilbron, President, Allen L. Grant Company, New York, New York
Angelo Miglietta, Director, Plantation Operations, UNIROYAL Incorporated World Headquarters, Middleburg, Connecticut
Frank J. Raniolo, President, Alcan Rubber and Chemical Company, New York, New York
John Stenger, Vice President, Baird Rubber and Trading Company, Hoboken, New Jersey
Robert Sterling, Manager, Natural Rubber Purchasing and Raw Materials Planning, B.F. Goodrich Tire and Rubber Company, Akron, Ohio
James N. Walsh, Director of Natural Purchasing, Goodyear Tire and Rubber Company, Akron, Ohio
Ival S. Wilson, Manager, Rubber Purchases, Firestone Corporation, Akron, Ohio

United States Delegation to the Meeting of the International Telegraph and Telephone Consultative Committee (CCITT), Study Group VII, International Telecommunication Union (ITU), Geneva, April 22–May 3, 1985

Representative

Christine Hemrick, Institute for Telecommunication Sciences, Department of Commerce, Boulder, Colorado

Advisers

Gary Fereno, National Telecommunications and Information Administration, Department of Commerce
Edward P. Greene, National Communications System
Neil B. Seitz, Institute for Telecommunication Sciences, Department of Commerce

Private Sector Adviser

Joan T. LaBanca, Bell Communications Research, Red Bank, New Jersey

United States Delegation to the Fifth Regular Meeting of the Conference of Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Buenos Aires, April 22–May 3, 1985

Representative

J. Craig Potter, Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior

Alternate Representative

Rolf Wallenstrom, Associate Director, Federal Assistance, United States Fish and Wildlife Service, Department of the Interior

Advisers

Donald J. Barry, Assistant Solicitor, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior
Clark R. Bavin, Chief, Division of Law Enforcement, United States Fish and Wildlife Service, Department of the Interior
George A. Furness, Jr., Office of Food and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Richard L. Jachowski, Chief, Office of the Scientific Authority, United States Fish and Wildlife Service, Department of the Interior
Thomas J. Parisot, Federal Wildlife Permit Office, United States Fish and Wildlife Service, Department of the Interior
Don R. Thompson, Animal and Plant Health Inspection Service, Department of Agriculture
Joseph A. Yovino, Management Operations Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service, Department of the Interior

Private Sector Adviser

William S. Huey, International Association of Fish and Wildlife Agencies, Washington, D.C.

United States Delegation to the Committee on International Investment and Multinational Enterprises, Working Group on Accounting Standards, Organization for Economic Cooperation and Development (OECD), Paris, April 25–30, 1985

Representative

Clarence Staubs, Deputy Chief Accountant, Securities and Exchange Commission

Alternate Representative

James H. Williamson, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State

Adviser

Appropriate USOECD, Mission Officer, Paris

Private Sector Adviser

Ralph Walters, Senior Partner, Touche Ross and Company, New York, New York

United States Delegation to the Commission on Human Settlements, Eighth Session, UN Economic and Social Council (ECOSOC), Kingston, April 29–May 10, 1985

Representative

Pamela B. Hussey, Deputy Director, Office of Housing and Urban Programs, Agency for International Development

Alternate Representative

John T. Howley, Vice President, International Affairs, National Association of Realtors, Washington, D.C.

Advisers

Sara Frankle, United States Embassy, Kingston
William H. Memler, Office of International Development, Bureau of International Organization Affairs, Department of State

Private Sector Adviser

Jack W. Carlson, Executive Officer, National Association of Realtors, Washington, D.C.

United States Delegation to the Inter-Governmental Group on Rice (IGGR), Food and Agriculture Organization (FAO), Rome, May 6–10, 1985

Representative Ex Officio

The Honorable Millicent Fenwick, United States Representative to the United Nations Agencies for Food and Agriculture, Rome

Representative

Jeffrey A. Hesse, Agricultural Economist, Foreign Agricultural Service, Department of Agriculture

Adviser

James Ross, United States Mission to the United Nations Agencies for Food and Agriculture, Rome

Private Sector Adviser

J. Stephen Gabbert, Executive Vice President, U.S. Rice Millers' Association, Washington, D.C.

United States Delegation to the Meeting of Experts on Aeronautical Satellite Communications, International Maritime Satellite Organization (Inmarsat), London, May 7–10, 1985

Representative

John T. Gilsenan, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Advisers

James Earl, Office of the Legal Adviser, Department of State
Carol Emery, National Telecommunications and Information Administration, Department of Commerce
Edward O'Connor, Transportation and Communications Unit, United States Embassy, London
Lawrence Palmer, Common Carrier Bureau, Federal Communications Commission

Private Sector Adviser

John Oslund, Communications Satellite Corporation, Washington, D.C.

United States Delegation to the Study Group III International Telecommunication Union/International Telephone and Telegraph Consultative Committee (ITU/CCITT), Geneva, May 7–10, 1985

Representative

Earl S. Barbely, Office of International Communications Policy, Department of State

Advisers

Douglas V. Davis, Common Carrier Bureau, Federal Communications Commission
Gary Fereno, National Telecommunications and Information Administration, Department of Commerce
Wendell Harris, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

John J. Lehan, Jr., Communications Satellite Corporation, Washington, D.C.
Wendell E. Lind, ATT Communications, Bedminster, New Jersey
John O'Boyle, ITT World Communications, Inc., Secaucus, New Jersey
Denis W. O'Shea, IBM, Armonk, New York
Beverly Ann Sincavage, GTE Telenet Communications Corporation, Reston, Virginia

Carmine Taglialatela, RCA Communications, Inc., New York, New York
Deborah G. Tumey, Citibank, N.A., New York, New York
Frederick W. Voege, Western Union Telegraph Company, Upper Saddle River, New Jersey

[FR Doc. 85-18571 Filed 8-5-85; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance; Algers, Winslow & Western Railway Co.; et al.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their requests.

All communications concerning these proceedings should identify the appropriate Docket Number (e.g., Waiver Petition Docket Number HS-85-5) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before September 24, 1985 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

PETITION FOR EXEMPTION FROM THE HOURS OF SERVICE ACT

Petitioner's name	Waiver petition docket No.
Algers, Winslow and Western Railway Company	HS-85-4
Chicago, West Pullman and Southern Railroad Company	HS-85-5
Jefferson Warrior Railroad Company	HS-85-6
West Virginia Railroad Maintenance Authority	HS-85-7
City of Prineville Railway	HS-85-8
Great Southwest Railroad, Inc.	HS-85-9
Eastern Shore Railroad, Inc.	HS-85-10

The above named railroads seek an exemption to permit specified employees to remain on duty continuously for a period in excess of 12 hours. Because each of these railroads individually employs no more than 15 employees subject to the Hours of Service Act (45 U.S.C. 64a(e)), it may seek an exemption to permit its employees to remain on duty continuously for periods not to exceed 16 hours. Each petitioner indicates that granting its exemption is in the public interest and will not adversely affect safety.

Issued in Washington, D.C. on July 29, 1985.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 85-18607 Filed 8-5-85; 8:45 am]

BILLING CODE 4910-06-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 151
Tuesday, August 6, 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

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, August 12, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 2, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-18717 Filed 8-2-85; 3:39 pm]

BILLING CODE 6210-01-M

2

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 5, 12, 19, and 26, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 5

Thursday, August 8

10:30 a.m.
Discussion/Possible Vote on Full Power Operating License for Limerick (Public Meeting) (tentative)

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 12

Tentative

Thursday, August 15

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 19

Tentative
No Commission Meetings

Week of August 26

Tentative
No Commission Meetings

To Verify the Status of Meetings Call (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,

Office of the Secretary.

August 1, 1985.

[FR Doc. 85-18719 Filed 8-2-85; 3:54 pm]

BILLING CODE 7590-01-M

federal register

Tuesday
August 6, 1985

Part II

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Revision of Patent Fees; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 50725-5025]

Revision of Patent Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent cases, Part 1 of title 37, Code of Federal Regulations to adjust fee amounts. This action is necessary at this time because operating costs have increased over the past three years and the Commissioner is authorized by section 41(f) of title 35, United States Code, to adjust fees established in section 41(a) and section 41(b) of title 35, United States Code, on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years in the Consumer Price Index. Fees for other processing, services or materials related to patents as provided by section 41(d) and section 376 of title 35, United States Code, are being adjusted to recover the estimated average cost of the Office of such processing, services or materials.

EFFECTIVE DATE: October 5, 1985.

FOR FURTHER INFORMATION CONTACT: Frances Michalkewicz by telephone at (703) 557-1610 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed primarily to adjust patent fees because costs have increased and the Commissioner is authorized to: (1) Adjust statutory patent fees set forth in section 41(a) and section 41(b) of title 35, United States Code, to reflect fluctuations occurring during the previous three years in the Consumer Price Index (CPI), as authorized by section 41(f) of title 35, United States Code; (2) adjust fees for processing, services, or materials related to patents which have been established by the Commissioner in accordance with section 41(d) of title 35, United States Code, to recover the estimated average cost to the Office of such processing, services or materials; and (3) adjust fees for filing and processing an application under the Patent Cooperation Treaty which have been established by the Commissioner to recover the estimated average cost of such processing in accordance with section 376 of title 35, United States Code.

Adjustments to fees for filing and processing a trademark application and for other processing, services or materials related to trademarks were not proposed at this time, pending review of trademark automation cost requirements.

A notice of proposed rulemaking was published in the **Federal Register** on June 21, 1985, at 50 FR 25896-25902. Corrections of typographical errors were published on July 1, 1985, at 50 FR 27030, and on July 15, 1985, at 50 FR 28596. The notice also was published in the *Official Gazette* on July 2, 1985, at Volume 1056, pages 6 through 25. An oral hearing was held on July 18, 1985. Fifteen written letters and statements were submitted. One person testified at the oral hearing. Full consideration has been given to all of these letters, statements, and testimony.

Background Information

Patent and Trademark Office fees are authorized by sections 41 and 376 of title 35, United States Code. Section 41(a) of title 35, United States Code, establishes a number of statutory fees. Among the more significant of these are fees for filing a patent application and issuing a patent. Certain other fees, such as appeal fees, the fee for filing a disclaimer, fees for filing petitions seeking to revive an abandoned application and for extensions of time also are set in section 41(a) of title 35, United States Code. Section 41(b) of title 35, United States Code, sets forth the statutory fees for maintaining a patent in force if the application was filed on or after August 27, 1982.

The provisions of Public Law 96-517 also authorize maintenance fees for applications other than design and plant patent applications filed on or after December 12, 1980 and before August 27, 1982. These maintenance fees are to recover 25 percent of the estimated cost to the Office of processing patent applications.

Section 1 of Pub. L. 97-247 authorized the reduction by 50 percent in the fees paid under section 41(a) and section 41(b) of title 35, United States Code, by independent inventors, small business concerns, and nonprofit organizations, who meet the definitions established. This authorization will expire on September 30, 1985. Legislation has been introduced to authorize this reduction for an additional three years. If such authority is not continued, the small entity reduction will be rescinded and appropriate amendments to the regulations will be made.

Section 41(f) of title 35, United States Code, provides that fees established in section 41(a) and section 41(b) of title 35, United States Code, "may be adjusted by the Commissioner on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor." Section 41(f) also provides that changes of less than one percent may be ignored.

Policy for Applying the Consumer Price Index

The Department of Labor's Consumer Price Index (CPI) is made public approximately twenty-one days after the end of the month being calculated. The time lag between the initiation and the completion of the rulemaking process dictated that the March through September 1985 inflation rate be projected in the original rulemaking proposal. This estimate resulted in a cumulative three-year CPI of 11.7 percent applied to patent fees.

Based upon actual data through June 1985 and projecting the CPI to September 30, 1985, the Administration's revised projected cumulative CPI for the three-year (1982-1985) period is 11.8 percent. The Patent and Trademark Office has used the 11.8 percent projection in adjusting the fees established in section 41(a) and section 41(b) of title 35, United States Code. The revised CPI projection has not caused a change from the proposal in any of the section 41(a) and section 41(b) fees.

After application of the 11.8 percent projected fluctuation in the CPI to fees set forth in section 41(a) and section 41(b), amounts for all non-small entity fees were rounded by applying standard arithmetical rules so that the amounts rounded would be de minimis and convenient to the user. Fees of $100 or more were rounded to the nearest $10. Fees below $100 were rounded to the nearest even number so that all comparable small entity fees would be in whole numbers. Section 41(d) of title 35, United States Code, provides that the "Commissioner will establish fees for all other processing, services, or materials related to patents" which are not covered in section 41(a) and section 41(b) of title 35, United States Code, "to recover the estimated average cost to the Office of such processing, services or materials."

Section 376 of title 35, United States Code, authorizes the Commissioner to set fees for patent applications filed under the Patent Cooperation Treaty. The fees under the Patent Cooperation

Treaty are keyed to full cost recovery of the processing costs under the Treaty.

The general guidelines used by the Patent and Trademark Office in determining the non-statutory fees are set forth in OMB Circular A–25. Costs were determined from the best available records and included direct and indirect costs to the Office of carrying out the activity.

Since these non-statutory fees are expected to remain in place for the three year fee cycle 1986–1988, the calculated costs were then adjusted by a mid-cycle inflation rate of 6.21 percent derived from the Administration's inflation projection. After application of the projected mid-cycle inflation rate, amounts were rounded by applying standard arithmetical rules so that the amounts rounded would be de minimis and convenient to the user. Fees of $100 or more were rounded to the nearest $10. Fees between $2 and $99 were rounded to the nearest whole number. Fees under $2 were rounded for convenience.

The fees established under section 41(d) and section 376 of title 35, United States Code have been modified from the proposal. For the first fee cycle (1983–1985), fees established under section 41(d) and section 376 were set in the aggregate to recover the estimated average cost to the Office of processing, services and materials as defined in PTO budget documents. Because of the significant increase in fees that was instituted on October 1, 1982, as well as the establishment of new fees, the PTO did not have the necessary experience to accurately predict (nor could it control) fee volumes for the first fee cycle. First cycle fees were thus set at levels sufficient to maintain financial solvency despite possible fluctuations in costs or in workload. Fee amounts in most cases also were set at convenient integers (e.g., $5 to $10). For the second fee cycle (1986–1988), the PTO had proposed to set fees established under section 41(d) and section 376 using the same methodology. Several comments to the proposed rules suggested that the PTO should establish section 41(d) and section 376 fees to more precisely recover the estimated average cost to the Office of the processing, service or material. The fees have been modified to reflect the following: (1) PTO experience over the past two and one-half years in predicting fee volumes, (2) virtual elimination of the reserve income for fluctuations in cost or workload, and (3) greater reliance upon and use of the individual fee costs developed by the PTO's Office of Finance.

It is intended that the amount of any fee due and payable on or after October 5, 1985 is the amount set in this rulemaking. For purposes of determining the amount of the fee to be paid, the date of mailing indicated on a proper Certificate of Mailing, where authorized under § 1.8 of title 37, Code of Federal Regulations, will be considered to be the date of receipt in the Office. A "Certificate of Mailing under § 1.8" is *not* "proper" for items which are specifically excluded from the provisions of § 1.8. Section 1.8 of title 37, Code of Federal Regulations, should be consulted for those items for which a Certificate of Mailing is *not* "proper". Such items include, *inter alia*, the filing of national and international applications for patents and the filing of trademark applications. The provisions of § 1.10 of title 37, Code of Federal Regulations relating to filing of papers and fees by "Express Mail" with certificate, however, do apply to *any paper or fee* (including patent and trademark applications) to be filed in the Office. If an application or fee is filed by "Express Mail" with a certificate of mailing dated on or after October 5, 1985, the amount of the fee to be paid is the fee established herein if a change is being made in the fee.

It is further intended that the amount due and payable for services provided in Fiscal Year 1986 will be the amount set in this rulemaking even if the fee becomes due prior to October 5, 1985. Such fees include, but are not limited to, the annual service charge for subscription services (§ 1.19(c)(1)) and the annual rental for a delivery box (§1.21(d)).

In order to ensure clarity in the implementation of the fee proposals, a discussion of specific sections is set forth below:

Discussion for Specific Rules

Section 1.16 National application filing fees

Section 1.16 is amended to adjust patent application filing fees established in section 41(a) of title 35, United States Code and set forth in paragraphs (a)–(d) and (f)–(j) of this section to reflect fluctuations in the Consumer Price Index.

Section 1.16, paragraph (e) is amended to adjust the patent application surcharge fee authorized by section 111 of title 35, United States Code. Paragraph (e) has been modified from the proposal to limit the adjustment to the surcharge fee to changes which occurred during the past three years in the Consumer Price Index.

Section 1.17 Patent application processing fees

Section 1.17 is amended to adjust patent application processing fees established in section 41(a) of title 35, United States Code, and set forth in paragraphs (a)–(g), (l) and (m) of this section to reflect fluctuations in the Consumer Price Index. The wording of paragraph (l) has been broadened to include reference to applications abandoned under section 371(d) of title 35, United States Code.

Section 1.17, paragraphs (h)–(k) are amended to adjust the patent application processing fees authorized by section 41(d) of title 35, United States Code, to recover the estimated average cost to the Office of such processing. Paragraphs (h)–(k) have been modified from the proposal to more precisely recover the estimated average cost to the Office of processing petitions to the Commissioner, public use proceedings, and non-English language specifications.

Section 1.18 Patent issue fees

Section 1.18 is amended to adjust patent issue fees established in section 41(a) of title 35, United States Code and set forth in paragraphs (a)–(c) of this section to reflect fluctuations in the Consumer Price Index.

Section 1.19 Document supply fees

Section 1.19 is amended to adjust the fees authorized by 41(d) of title 35, United States Code for services and materials as set forth in paragraph (a)–(c), (e) and (f) of this section to recover the estimated average cost to the Office of the specified services and materials. Paragraphs (a)–(c) have been modified from the proposal to more precisely recover the estimated average cost to the Office of supplying the documents specified in these paragraphs. Section 1.19 has been modified further to reduce the fees specified in paragraphs (e) and (f), which were not proposed for adjustment to more precisely recover the estimated average cost to the Office of supplying the documents.

Section 1.19, paragraph (a) is amended further to clarify the services and documents provided. It would provide for copies of specific documents at a flat fee. Copies of general Office records would be provided at a per page fee. Paragraph (a)(4) has been modified from the proposal to provide copies of a patent file wrapper and its contents at $75 for each 200 pages or a fraction thereof.

Section 1.19, paragraph (b) is amended further to delete subparagraph (3). A flat fee for comparing and certifying copies of documents made

from Office records is provided in new paragraph (i) of this section.

Section 1.19, paragraph (c) is amended further to provide for ten subclasses with the annual service charge.

Section 1.19 is amended to provide in new paragraph (h) a $10 per document flat fee for an uncertified copy of a non-United States patent document. This fee would apply to copies of foreign patent applications such as those which are published at 18 months or when allowable for opposition.

Section 1.19 is amended to provide in new paragraph (i) a flat fee for comparison and certification of each copy of a document made from Office records but not prepared by the Office.

Section 1.19 is amended to provide in new paragraph (j) a fee for duplicate filing receipts and corrected filing receipts due to applicant error.

Paragraphs (i) and (j) have been modified from the proposal to more precisely recover the estimated average cost to the Office of supplying the documents specified.

Section 1.20 Post-issuance fees

Section 1.20, paragraphs (a)–(c) are amended to adjust patent post-issuance fees authorized by section 41(d) of title 35, United States Code, to recover the estimated average cost to the Office of such processing. Section 1.20 has been modified from the proposal to more precisely recover the estimated average cost to the Office of the post-issuance fees set forth in paragraphs (b)–(c). Section 1.20 has been modified further to reduce the fee set forth in paragraph (a), which was not proposed for adjustment, to more precisely recover the estimated average cost to the Office of providing a certificate of correction.

Section 1.20, paragraphs (d) and (h)–(j), are amended to adjust patent post-issuance fees established in section 41(a) and section 41(b) of title 35, United States Code, to reflect fluctuations in the Consumer Price Index.

Section 1.20, paragraphs (e)–(g), are amended to adjust post-issuance fees authorized by section 2 of Public Law 96–517, as modified by section 404 of Public Law 98–622. These fees must be set at a level to eventually recover 25 percent of the estimated cost to the Office of processing patent applications. In order to achieve this level of recovery, these maintenance fees are adjusted to reflect fluctuations in the Consumer Price Index.

Section 1.20, paragraph (k), is amended to adjust the patent maintenance surcharge fee authorized by section 2 of Public Law 96–517. Paragraph (k) has been modified from the proposal to limit the adjustment to the surcharge fee to changes which occurred during the past three years in the Consumer Price Index.

Section 1.20, paragraph (l), is amended to adjust the post-issuance fee authorized by section 41(b) of title 35, United States Code. Paragraph (l) has been modified from the proposal to limit the adjustment to the surcharge fee to changes which occurred during the past three years in the Consumer Price Index.

Section 1.21 Miscellaneous fees and charges

Section 1.21 is amended to adjust the miscellaneous fees and charges authorized by section 41(d) of title 35, United States Code and set forth in paragraphs (a)-(f), (h) and (i) of this section to recover the estimated average cost to the Office of such processing. Section 1.21 has been modified from the proposal to more precisely recover the estimated average cost to the Office of the miscellaneous services for which fees were set forth in paragraphs (a)(2)-(a)(6), (b)(1), (d)-(f), (h)(1) and (i). Section 1.21 has been modified further to reduce the fees specified in paragraphs (c) and (h)(2), which were not proposed for adjustment, to more precisely recover the estimated average cost to the Office of those services.

Section 1.21, paragraph (g), is modified from the proposal to change the term "copy machine tokens" to "CopiShare card."

Section 1.21, paragraph (k), is amended to change the word "section" to "part" to clarify that any charge not provided for in these rules would be made at actual cost.

Section 1.21 is amended to provide in new paragraph (m) a $20 fee for processing checks returned "unpaid" by a bank.

Section 1.24 Coupons

Section 1.24 is amended to adjust the fees for the purchase of coupons for patents to make it comparable to the fee required for the purchase of U.S. patents.

Section 1.24 is amended to delete references to forty cent coupons which are no longer sold by the Patent and Trademark Office.

Section 1.25 Deposit accounts

Section 1.25 is amended to establish a restricted subscription deposit account to be used exclusively for subscription orders of patent copies as issued. A minimum deposit of $300 is required to establish and maintain, without payment of a monthly service fee, a restricted subscription deposit account.

Section 1.26 Refunds

Section 1.26 is amended to change paragraph (c) to provide for a refund of $1,300 if the Commissioner decides not to institute reexamination proceedings. The $1,300 refund would apply to those instances where the reexamination fee of $1,770 under § 1.20(c) was paid. The current $1,200 refund will be made in those cases where the current $1,500 reexamination fee was paid.

Section 1.53 Serial number, filing date, and completion of application

Section 1.53 is amended to change paragraph (c) to reduce to $15 the handling fee charged in the event a specification or drawing is not submitted within the time period set by the Office. Section 1.53 has been modified to more precisely recover the estimated average cost to the Office of handling an application with missing parts.

Section 1.297 Publication of statutory invention registration

Section 1.297, paragraph (b), is amended to modify the statement to be printed on each statutory invention registration. The language of the statement is modified so as to be more easily understood.

Section 1.445 International application filing and processing fees

Section 1.445, paragraphs (a)(1), (a)(4), are amended to adjust the fees authorized by section 376 of title 35, United States Code, for international application processing to recover the estimated average cost to the Office of such processing. The cost of the international search fee set forth in § 1.445(a)(2)(i) has been reduced and the amount credited by the Office under § 1.445(a)(2)(ii) is not changed. Paragraphs (a)(1) and (a)(3) have been modified from the proposal to more precisely recover the estimated average cost to the Office of processing international applications. However, the amount of the credit under § 1.445(a)(4) is somewhat less than at present and is the same as in the proposed rules.

Section 1.445(a)(5) is amended to adjust the surcharge authorized by section 371(d) of title 35, United States Code.

Paragraph (a)(5) has been modified from the proposal to limit the adjustment to the surcharge fee to changes which occurred during the past three years in the Consumer Price Index and to provide for a small and large entity amount to be consistent with § 1.16(e).

Section 1.445(a)(6) is amended to adjust the processing fee for an English translation filed after 20 months from the priority date to recover the estimated average cost to the Office of such processing. Paragraph (a)(6) has been modified from the proposal to more precisely recover the estimated average cost to the Office of processing an English translation and to be consistent with § 1.17(k).

Section 1.446 Refund of international application filing and processing fees.

Section 1.446 is amended to delete paragraph (b). The substance of the deleted material is included in § 1.445, paragraph (a)(4).

Response to Comments on the Rules

Specific comments were received on a number of the proposed rule changes. Fifteen letters submitting written comments and eight questions by telephone were received. Oral testimony was presented by one person at the public hearing conducted on July 18, 1985. All of the written and oral comments were considered in adopting the changes set forth herein. The comments submitted appear below along with responses thereto.

Comment: PTO fees are already too high and burdensome to the patent community.

Reply: There has been no indication that PTO fees are burdensome to the patent community. In 1984, we expected to receive 107,000 patent applications and actually received 109,539. In 1985, we are currently receiving applications at an annual rate of approximately 116,000.

The PTO is adjusting patent processing and patent service fees because costs have increased. The Commissioner may adjust patent statutory fees by changes which have occurred during the past three years in the Consumer Price Index (CPI). This authority is provided by 35 U.S.C. 41(f). The intent of the Congress in indexing the statutory patent fees set in 1982 to the CPI was to assure that a precipitous drop in the level of recovery did not occur due to inflation. Indexing of statutory patent fees was not intended to raise additional revenues beyond the rate of inflation.

The Commissioner also is authorized to adjust non-statutory patent fees to recover the estimated average cost to the Office of processing, services and materials. This authority is provided by 35 U.S.C. 41(d). As previously discussed, several of the proposed fees have been modified to more precisely recover the estimated average cost to the Office of processing, materials and services.

Comment: PTO has failed to abide by the provisions of Pub. L. 96-517 and the accompanying report (House Report 96-1307). Specifically, the PTO has failed to abide by the 50 percent recovery limitation for patent processing fees and the restrictions on the use of fee income.

Reply: Pub. L. 96-517, although enacted into law, was never fully implemented because the Congress passed H.R. 6260 which was enacted as Pub. L. 97-247 on August 27, 1982. Pub. L. 97-247 provides for an eventual 100 percent cost recovery through processing and maintenance fees except for the subsidy for certain small entities, and contains no restrictions on the use of income from fee revenues.

This rulemaking adjusts, by the Consumer Price Index (CPI), the patent processing (41(a)) and patent maintenance (41(b)) fees established by Pub. L. 97-247. The CPI adjustment allows the programs supported by sections 41 (a) and (b) fees to keep pace with inflation. Any growth in the aggregate rate of recovery of fees versus costs in this second cycle of fees is due primarily to the first time collection of maintenance fee receipts.

The restrictions on the use of income from fee revenues, which were included in House Report 96-1307 accompanying Pub. L. 96-517, were based upon a 50 percent recovery of patent costs from user fees. Then-Commissioner Mossinghoff testified before the Subcommittee on Courts, Civil Liberties, and Administration of Justice, when Congress was considering H.R. 6260, that the Administration's PTO user fee program was proposed to improve the quality of service at the PTO by reducing patent pendency, trademark pendency and automating patent and trademark operations. The Commissioner went on to say that "The major increases in the three program areas will be paid for by the sharp increase in user fees that we are recommending." The Congressional debate on this proposal indicates that the Subcommittee approved these innovative fee provisions in order to improve the level of patent and trademark services provided to users of the office.

Comment: Fees should relate to the actual "costs of processing patent applications" and should not include "overhead" expenses.

Reply: The fees applicable to patent filing, issuance and maintenance fees were established by the Congress and set forth in 35 U.S.C. sections 41 (a) and (b). Regardless if Congress included "overhead" expenses when setting these statutory patent fees, these fees may be adjusted only to reflect the fluctuations in the CPI every three years. Fees for other processing, services or materials related to patents are set by the Commissioner pursuant to 35 U.S.C. 41(d) to recover the Office's estimated average cost. The legislative history of Pub. L. 97-247, including the accompanying House Report, does not provide guidance regarding how "estimated average cost" was to be determined. These fees were determined under the general guidelines of OMB Circular A-25, entitled "User Charges," which establishes general policies for developing an equitable and uniform system of charges for certain government services and property. Circular A-25 provides that a reasonable charge should be imposed to recover the full cost to the Government of rendering a service to an identifiable recipient, who receives a substantial benefit not accruing to the general public, e.g., receiving a patent. The concept of full cost recovery includes an appropriate overhead charge. Therefore, the inclusion of overhead expenses in calculating the costs of processing patent applications is appropriate.

Comment: The PTO does not include a description of any cost containment measure.

Reply: The PTO has taken all possible measures to contain costs. During fiscal year 1985, a zero-based analysis was conducted of all programs and their associated funding. The purpose of the review was to assure that adequate resources were available to meet the PTO's most important priorities while addressing unanticipated costs such as, the full absorption of the fiscal year 1985 pay raise, new pay scale for patent examiners, higher postal and telephone rates, greater use of PTO services, etc. The PTO's annual budget request is thoroughly reviewed by the Department of Commerce, by the Office of Management and Budget, and by the Congressional Appropriations Committees prior to enactment. The PTO is complying with the President's Deficit Reduction Program. The fiscal year 1986 budget request reflects reductions to travel, printing and consultants as required by the Deficit Reduction Act of 1984; administrative cost savings; and grade reductions and pay cuts. The PTO program to reduce patent pendency, once achieved in 1987, will require less resources than are currently expended. The Automation program, too, as it achieves its major milestones, will deliver cost benefits.

Comment: The PTO has proposed to adjust fees because costs have increased but they did not include an

explanation of how costs were calculated.

Reply: Patent statutory fees, which are set forth in 35 U.S.C. 41 (a) and (b), can be adjusted on October 1, 1985 and every three years thereafter to reflect fluctuations which have occurred in the Consumer Price Index (CPI). The costs of processing a patient application from receipt to issue or abandonment were calculated in 1982 at the time the present fees were set by statute. The most significant elements of processing a patent application are compensation costs, space and the costs incurred for printing the *Official Gazette* and patent grants.

As a result of these increases to the major costs incurred in the processing of a patent application, the PTO is adjusting the statutory 41 (a) and (b) patent fees by the full CPI of 11.8 percent in order to recover the projected budgeted collections for patent processing for the years 1986–1988.

Non-statutory patent and patent service fees are being set to recover the estimated average cost to the Office over the next three years (1986–1988) of processing, services and materials. Costs for goods and services were determined under the general guidelines set forth in OMB Circular A–25 entitled "User Charges," which establishes general policies for developing an equitable and uniform system of charges for certain Government services and property. The cost of all processing, services and/or materials associated with each non-statutory (section 41(d)) patent fee was determined. Since these fees are expected to remain in place for three years (1986–1988), each cost was adjusted by a mid-cycle inflation rate of 6.21 percent which was derived from the Administration's 1986–1988 inflation projection.

Comment: The PTO has proposed to set section 41(d) fees at a level which exceeds the estimated average cost to the Office. PTO's cost calculations do not support the proposed section 41(d) fees.

Reply: Fees established pursuant to 35 U.S.C. 41(d) and 376, non-statutory patent and patent service fees, are being set to recover the estimated average cost to the Office over the next three years (1986–1988) of processing, services and materials. Costs for goods and services were determined under the general guidelines set forth in OMB Circular A–25 entitled "User Charges," which establishes general policies for developing and equitable and uniform system of charges for certain Government services and property.

The PTO employed cost-finding techniques for determining the costs of all processing, services and/or materials associated with each non-statutory patent fee. These costs were documented by the Director, Office of Finance and reviewed by each responsible Assistant Commissioner. Since the revised fees are expected to remain in place for the next three years (1986–1988), each cost was adjusted by the mid-cycle inflation rate of 6.21 percent. The fee was then set based upon this inflated cost.

For the first fee cycle (1983–1985), fees established under section 41(d) and section 376 were set in the aggregate to recover the estimated average cost to the Office of processing, services and materials as defined in PTO budget documents. Because of the significant increase in fees that was instituted on October 1, 1982, as well as the establishment of new fees, the PTO did not have the necessary experience to accurately predict (nor could it control) fee volumes for the first fee cycle. First cycle fees were thus set at levels sufficient to maintain financial solvency despite possible fluctuations in costs or in workload. Fee amounts in most cases also were set at convenient integers (e.g., $5 or $10). For the second fee cycle (1986–1988), the PTO had proposed to set fees established under section 41(d) and section 376 using the same methodology. Several comments to the proposed rules suggested that the PTO should establish section 41(d) and section 376 fees to more precisely recover the estimated average cost to the Office of the processing, service or material. The fees have been modified to reflect the following: (1) PTO experience over the past two and one-half years in predicting fee volumes; (2) virtual elimination of the reserve income for fluctuations in cost or in workload; and (3) greater reliance upon and use of the individual fee costs developed by PTO financial analysts.

In modifying the proposed fees, the PTO used the raw cost data derived for each fee, adjusted that amount by the projected mid-cycle inflation rate of 6.21 percent, and rounded the adjusted cost by applying standard arithmetical rules. Fees of $100 or more were rounded to the nearest $10. Fees between $99 and $2 were rounded to the nearest whole number. Fees under $2 were rounded for convenience.

Comment: The increase in maintenance fees appears to be driven by non-cost considerations. Since they have just begun to be collected, there could be no actual cost histories on which to base the adjustments.

Comment: The increases in claims fees seem to be proposed without any seemingly real increase in cost specifically attributable to these items.

Reply: Patent statutory fees such as claim and maintenance fees, which are set forth in 35 U.S.C. 41 (a) and (b), may be adjusted every three years to reflect changes which have occurred in the Consumer Price Index (CPI) for the prior three years. The costs of processing, issuing and maintaining patents were calculated in 1982 at the time the present fees were set by statute. Patent maintenance fees as set forth in both Public Laws 96–517 and 97–247 are one of several sources of income available to the PTO to cover the costs of processing, issuing and maintaining a patent. The most significant elements of processing, issuing and maintaining patents are personnel compensation, benefits, space and printing costs. Since 1982, these costs have risen in an amount equal to and in some cases, in an amount exceeding, the CPI increase for the individual year.

As a result of these cost increases, the PTO is adjusting section 41(a) and section 41(b) patent fees and the Public Law 96–517 maintenance fees by the full CPI of 11.8 percent.

Comment: PTO's proposed adjustments to section 41(a) and section 41(b) fees are higher than the 11.7 percent fluctuation in the Consumer Price Index because of the rounding principles PTO has applied.

Reply: The intent of the Congress in indexing the statutory patent fees, 35 U.S.C. 41 (a) and (b), to the CPI was to assure that a precipitous drop in the level of recovery did not occur due to inflation with regard to the fees set in 1982. Indexing of statutory patent fees was not intended to be a method of raising additional revenues, nor has the PTO used it for that purpose, but rather for administrative ease. Rounding will ease the administration of these fees by permitting the PTO and users to deal in increments of ten when the adjusted fee is $100 or greater or in even amounts when the fee is below $99. This will ease implementation of the 50 percent reduction in fees for small businesses, non-profit organizations and individuals. Moreover, any surpluses which may result are for the short-term only. By applying routine rounding techniques, there should be a balancing out of shortfalls and surpluses in the long-run.

Comment: The fee for a deferred declaration under 35 U.S.C. 111 should be changed so that such a fee would only be required if the declaration were filed later than three months from the actual filing date.

Reply: The suggestion for permitting the declaration to be filed up to three

months after the actual filing date without a surcharge has not been adopted. It would place administrative burdens on the Office since it would encourage the late filing of oaths or declaration.

Comment: There appears to be no justification for the significant increase to the surcharge fees.

Reply: In proposing adjustments to penalty surcharge fees, the PTO considered the costs incurred in providing special handling to certain cases, and proposed to set the fee at a level that would recover costs and preclude unnecessary resort to pertinent procedures but not so high as to be burdensome where resort to these procedures is necessary. In response to several comments received on the proposed surcharge fees, the proposal has been modified to limit the adjustments to surcharge fees set forth in § 1.16(e), § 1.20(k), § 1.20(l) and § 1.445(a)(5) to changes which have occurred during the past three years in the Consumer Price Index.

Comment: Patent Cooperation Treaty (PCT) fee increases far exceed the 11.7 percent average increase applied to national applications. This increase could seriously affect use of PCT system.

Reply: The PCT fees set under 35 U.S.C. 376 are based on cost recovery and are not adjusted by the Consumer Price Index. The fees under § 1.445 are set to reflect estimated average processing costs. A reduction was made in the amount of the international search fee if performed by the U.S. Patent and Trademark Office. While the credit for a prior U.S. search is unchanged and other PCT fees are increased, the overall adjustment level of PCT fees is generally in line with the CPI.

Comment: The small entity reduction should be adopted for the PCT surcharge.

Reply: The final rule has been modified from the proposal to provide for small and large entity amounts in § 1.445(a)(5). This is to correspond to a similar fee in § 1.16(e).

Comment: The proposed fees for a copy of a patent file wrapper and its contents (§ 1.19(a)(4)) are unfair at the breakpoint. It would be more equitable to charge $75 for each 200 pages or fraction thereof.

Reply: In proposing a fee of $75 for up to 200 pages and $350 for 201 pages or more for a copy of a patent file wrapper and its contents, the PTO was attempting to move to a flat fee for this service. Since there were objections to the breakpoint, the final rule has been modified from the proposal to reflect a fee of $75 for each 200 pages or fraction thereof.

Comment: The proposed increase in § 1.20(c) regarding requests for reexamination and the related decrease in § 1.26(c) relating to refunds where reexamination is not ordered, appeared to be set from a revenue generating standpoint rather than being cost-driven.

Reply: While the comment does not suggest what the fees should be, it is noted that the two fees have to be considered together. The notice of proposed rulemaking set a fee of $1,800 for filing a request for reexamination, which was an increase from the previous fee of $1,500. This fee has been modified from the proposal and is now set at $1,770. The refund where reexamination is denied was proposed to be raised from $1,200 to $1,300, which raises the refund from the amount previously refunded. The amount refunded has not changed from the proposal. The relative amounts of the initial fee and the refund are set to obtain the necessary recovery of costs from reexamination.

Comment: A separate schedule of fees should be instituted for interference proceedings, but such fees should apply only to junior parties, since interferences are conducted primarily for their benefit.

Reply: The rules already provide for certain fees relating to interference proceedings; see § 1.644 (e) and (f), and § 1.666 (b) and (c). In general, however, the PTO decided in 1982 that the costs of interference proceedings should be factored into the fees charged in connection with the processing and examination of patent applications, because: (1) An interference is a proceeding instituted by the PTO; and (2) it would not be administratively feasible to attempt to provide a fee schedule to cover the myriad of different situations which may occur in the course of an interference. Since these reasons are still considered applicable, the suggestion has not been adopted.

Comment: The proposed fee for admission to the examination (§ 1.21(a)(1)) for registration to practice is too high for students who often sit for the exam and it is inappropriate because administering the exam is not a service to the public but a cost of operating the PTO.

Reply: The fee for admission to the examination for registration to practice reflects the costs of conducting the examination twice a year nationwide. The significant increase is due to the fact that the fee had been understated in relation to cost during the 1983–1985 fee cycle. Fees established in this rulemaking will more precisely recover the estimated average cost to the Office of administering and grading the examination and are consistent with the cost recovery principles of OMB Circular A–25.

Comment: The proposed fee for requesting a regrading of an examination (§ 1.21(a)(6)) should be waived if the regrading request was necessitated by a PTO error.

Reply: Any fee may be refunded if paid by mistake or paid in excess of that required. See 35 U.S.C. 42(d).

Comment: The PTO should retain the present fee for admission to the examination to practice before the Office (§ 1.21(a)(1)) and increase the fee payable upon registration to practice (§ 1.21(a)(2)).

Reply: This suggestion has not been adopted in this rulemaking. The fees for admission to the examination and for registration to practice have been set to recover the cost of those services.

Comment: The proposed fee for reviewing a decision of the Director of Enrollment and Discipline (§ 1.21(a)(5)) appears to be low in view of the significant amount of time and effort involved in a review.

Reply: The fee for this service, as modified, recovers the estimated average cost to the Office of providing the service.

Comment: The fees for processing an application filed with a specification in a non-English language (§ 1.17(k)) and for filing an English translation of an international application later than 20 months after the priority date (§ 1.445(a)(6)) appear to be in excess of cost.

Reply: The final rules have been modified from the proposed to provide for a fee of $26, the cost of processing applications filed with non-English language specifications in both domestic and international cases.

Comment: An extension of time to August 16, 1985 for the submission of comments was requested.

Reply: The PTO is required by 35 U.S.C. 41(g) to publish a notice of fee increases in the **Federal Register** at least 60 days prior to the effective date of the fee increase. In order to have the proposed fee increases become effective near the start of the fiscal year, the extension of time could not be granted.

Comment: Why were there no proposals to adjust trademark fees?

Reply: Adjustments to fees for filing and processing a trademark application and for other processing, services or materials related to trademarks were not proposed at this time, pending

review of trademark automation cost requirements.

Comment: De we plan to verify the inflation rate before publication of the final rules?

Reply: The projected inflation rate has been verified. The Administration's latest projected annual cumulative Consumer Price Index for the three year period 1982–1985 is 11.8 percent. Application of this index to § 41(a) and § 41(b) fees results in no change from the proposal.

Other Considerations

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. There are no information collection requirements relating to patent fee rules.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The principal impact of the major patent fees has already been taken into account in Pub. L. 97–247, which provided small entities with a 50 percent reduction in the major patent fees. Although that legislation will expire on September 30, 1985, legislation has been introduced to reauthorize the 50 percent reduction in patent fees for an additional three years. The rule change adjusts fees to reflect the change in the Consumer Price Index and cost of processing services as provided by statute (35 U.S.C. 41(d) and 41(f)).

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no 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.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Conflict of interests, Courts, Inventions and patents, Lawyers.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, 41, 111, 157, 302, and 376 and Pub. L. 96–517, 97–247 and 98–622, the Patent and Trademark Office is amending 37 CFR Part 1 as set forth below.

PART 1—[AMENDED]

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.16 is revised to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except design or plant cases:	
By a small entity (§ 1.9(f))	$170.00
By other than a small entity	340.00
(b) In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3:	
By a small entity (§ 1.9(f))	17.00
By other than a small entity	34.00
(c) In addition to the basic filing fee in an original application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20. (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):	
By a small entity (§ 1.9(f))	6.00
By other than a small entity	12.00
(d) In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:	
By a small entity (§ 1.9(f))	55.00
By other than a small entity	110.00
(If the additional fees required by paragraphs (b), (c) and (d) are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims canceled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)	
(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application:	
By a small entity (§ 1.9(f))	55.00
By other than a small entity	110.00
(f) For filing each design application:	
By a small entity (§ 1.9(f))	70.00
By other than a small entity	140.00
(g) Basic fee for filing each plant application:	
By a small entity (§ 1.9(f))	110.00
By other than a small entity	220.00
(h) Basic fee for filing each reissue application:	
By a small entity (§ 1.9(f))	170.00
By other than a small entity	340.00
(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:	
By a small entity (§ 1.9(f))	17.00
By other than a small entity	34.00
(j) In addition to that basic filing fee in a reissue application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 and also in excess of the number of claims in the original patent. (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee purposes):	
By a small entity (§ 1.9(f))	6.00
By other than a small entity	12.00
(Note, see § 1.445 for international application filing and processing fees).	

(35 U.S.C. 6, 41, 111; Pub. L. 97–247)

3. Section 1.17 is amended by revising paragraphs (a) through (m) to read as follows:

§ 1.17 Patent application processing fees.

(a) Extension fee for response within first month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	$28.00
By other than a small entity	56.00
(b) Extension fee for response within second month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	85.00
By other than a small entity	170.00
(c) Extension fee for response within third month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	195.00
By other than a small entity	390.00
(d) Extension fee for response within fourth month pursuant to § 1.136(a):	
By a small entity (§ 1.19(f))	305.00
By other than a small entity	610.00
(e) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:	
By a small entity (§ 1.9(f))	65.00
By other than a small entity	130.00
(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:	
By a small entity (§ 1.9(f))	65.00
By other than a small entity	130.00
(g) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in appeal under 35 U.S.C. 134:	
By a small entity (§ 1.9(f))	55.00
By other than a small entity	110.00
(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph	140.00
§ 1.47—for filing by other than all the inventors or a person not the inventor.	
§ 1.48—for correction of inventorship.	
§ 1.182—for decision on questions not specifically provided for.	
§ 1.183—to suspend the rules.	
§ 1.295—for review of refusal to publish a statutory invention registration.	
§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.	
§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in expired patent.	
§ 1.644(e)—for petition in an interference.	
§ 1.644(f)—for request for reconsideration of a decision on petition in an interference.	
§ 1.666(c)—for late filing of interference settlement agreement.	
§§ 5.12, 5.13, & 5.14—for expedited handling of foreign filing license.	
§ 5.15—for changing the scope of a license.	
§ 5.25—for retroactive license.	
(i) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph	72.00
§ 1.12—for access to an assignment record.	
§ 1.14—for access to an application.	
§ 1.55—for entry of late priority papers.	
§ 1.102—to make application special.	
§ 1.103—to suspend action in application.	
§ 1.177—for divisional reissues to issue separately.	
§ 1.312—for amendment after payment of issue fee.	
§ 1.313—to withdraw an application from issue.	
§ 1.314—to defer issuance of a patent.	
§ 1.334—for patent to issue to assignee, assignment recorded late.	
§ 1.666(b)—for access to interference settlement agreement.	
(j) For filing a petition to institute a public use proceeding under § 1.292	860.00
(k) For processing an application filed with a specification in a non-English language (§ 1.52(d))	25.00
(l) For filing a petition (1) for the revival of an unavoidably abandoned application under 35 U.S.C. 133, or 371 or (2) for delayed payment of the issue fee under 35 U.S.C. 151:	
By a small entity (§ 1.9(f))	28.00
By other than a small entity	56.00

(m) For filing a petition (1) for revival of an unintentionally abandoned application or (2) for the unintentionally delayed payment of the fee for issuing a patent:

By a small entity (§ 1.19(f))	280.00
By other than a small entity	560.00

(35 U.S.C. 6, 41, 157, 376; Pub. L. 97-247)

4. Section 1.18 is revised to read as follows:

§ 1.18 Patent issue fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:	
By a small entity (§ 1.9(f))	$280.00
By other than a small entity	560.00
(b) Issue fee for issuing a design patent:	
By a small entity (§ 1.9(f))	100.00
By other than a small entity	200.00
(c) Issue fee for issuing a plant patent:	
By a small entity (§ 1.9(f))	140.00
By other than a small entity	280.00

(35 U.S.C. 6, 41, Pub. L. 97-247)

5. Section 1.19 is amended by revising paragraphs (a)-(c), (e) and (f), and by adding new paragraphs (a)(7) and (h) through (j) to read as follows:

§ 1.19 Document supply fees.

The Patent and Trademark Office will supply copies of the following documents upon payment of the fees indicated:

(a) Uncertified copies of Office documents:	
(1) Printed copy of a patent, including a design patent, statutory invention registration, or defensive publication document, except color plant patent or color statutory invention registration	$1.50
(2) Printed copy of a plant patent or statutory invention registration in color	6.00
(3) Copy of patent application as filed	9.00
(4) Copy of patent file wrapper and contents, per 200 pages or a fraction thereof	75.00
(5) Copy of Office records, except as otherwise provided in this section, per page	.50
(6) Microfiche copy of microfiche, per microfiche	.50
(7) Copy of patent assignment record	1.50
(b) Certified copies of Office documents:	
(1) For certifying Office records, per certificate	3.00
(2) For a search of assignment records, abstract of title and certification, per patent	12.00
(c) Subscription services:	
(1) Subscription orders for printed copies of patents as issued, annual service charge for entry of order and ten subclasses	7.00
(2) For annual subscription to each additional subclass in addition to the ten covered by the fee under paragraph (c)(1) of this section, per subclass	.70
* * * * *	
(e) List of patents in subclass:	
(1) For list of all United States patents and statutory invention registrations in a subclass, per 100 numbers or fraction thereof	1.00
(2) For list of United States patents and statutory invention registrations in a subclass limited by date or number, per 50 numbers or fraction thereof	1.00
(f) Microfiche copy of patent file record	6.00
* * * * *	
(h) Uncertified copy of a non-United States patent document, per document	10.00
(i) To compare and certify copies made from Patent and Trademark Office records but not prepared by the Patent and Trademark Office, per copy of document	5.00
(j) Additional filing receipts:	
Duplicate	14.00
Corrected due to applicant error	14.00

(35 U.S.C. 6, 41, 157)

6. Section 1.20 is amended by revising paragraphs (a)-(l) to read as follows:

§ 1.20 Post-issuance fees.

(a) For providing a certificate of correction of applicant's mistake (§ 1.323)	$29.00
(b) Petition for correction of inventorship in patent (§ 1.324)	140.00
(c) For filing a request for reexamination (§ 1.510(a))	1,770.00
(d) For filing each statutory disclaimer (§ 1.321):	
By a small entity (§ 1.9(f))	28.00
By other than a small entity	56.00
(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 4 years; the fee is due by three years and six months after the original grant	225.00
(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 8 years; the fee is due by seven years and six months after the original grant	445.00
(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 12 years; the fee is due by eleven years and six months after the original grant	870.00
(h) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 4 years; the fee is due by three years and six months after the original grant:	
By a small entity (§ 1.9(f))	225.00
By other than a small entity	450.00
(i) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 8 years; the fee is due by seven years and six months after the original grant:	
By a small entity (§ 1.9(f))	445.00
By other than a small entity	890.00
(j) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 12 years; the fee is due by eleven years and six months after the original grant:	
By a small entity (§ 1.9(f))	670.00
By other than a small entity	1,340.00
(k) Surcharge for paying a maintenance fee during the 6-month grace period following the expiration of three years and six months, seven years and six months, and eleven years and six months after the date of the original grant of a patent based on an application filed on or after December 12, 1980 and before August 27, 1982	110.00
(l) Surcharge for paying a maintenance fee during the 6-month grace period following the expiration of three years and six months, seven years and six months, and eleven years and six months after the date of the original grant of a patent based on an application filed on or after August 27, 1982:	
By a small entity (§ 1.9(f))	55.00
By other than a small entity	110.00
* * * * *	

(35 U.S.C. 6, 41, 302; Public Laws 96-517, 97-247, 98-622)

7. Section 1.21 is amended by revising paragraphs (a) through (i), and (k), and adding a new paragraph (m) to read as follows:

§ 1.21 Miscellaneous fees and charges.

The Patent and Trademark Office has established the following fees for the services indicated:

(a) Registration of attorneys and agents:	
(1) For admission to examination for registration to practice, fee payable upon application	$250.00
(2) On registration to practice	81.00
(3) For reinstatement to practice	9.00
(4) For certificate of good standing as an attorney or—	
agent	10.00
Suitable for framing	88.00
(5) For review of a decision of the Director of Enrollment and Discipline under § 10.2(c)	92.00
(6) For requesting regrading of an examination under § 10.7(c)	92.00
(b) Deposit accounts:	
(1) For establishing or reinstating a deposit account	8.00
(2) Service charge for each month when the balance at the end of the month is below $1,000	20.00
(3) Service charge for each month when the balance at the end of the month is below $300 for restricted subscription deposit accounts used exclusively for subscription order of patent copies as issued	20.00
(c) Disclosure document: For filing a disclosure document	6.00
(d) Delivery box: Local delivery box rental, per annum	43.00
(e) International-type search reports: For preparing an international-type search report of an international type search made at the time of the first action on the merits in a national patent application	28.00
(f) Search of Office records: For searching Patent and Trademark Office records for purposes not otherwise specified, per one-half hour or fraction thereof	14.00
(g) CopiShare card: Cost per copy	0.20
(h) Recording of documents:	
(1) For recording each assignment, agreement or other paper relating to the property in a patent or application	7.00
(2) Where a document to be recorded under paragraph (h)(1) of this section refers to more than one patent or application, for each additional patent or application	2.00
(i) Publication in *Official Gazette*: For publication in the *Official Gazette* of a notice of the availability of an application or a patent for licensing or sale, each application or patent	7.00
* * * * *	
(k) For items and services, that the Commissioner finds may be supplied, for which fees are not specified by statute or by this part, such charges as may be determined by the Commissioner with respect to each such item or service	[1]
* * * * *	
(m) For processing each check returned "unpaid" by a bank	20.00

[1] Actual cost.

(35 U.S.C. 6, 41)

8. Section 1.24 is proposed to be revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of one dollar for the purchase of trademark registrations and one dollar and fifty cents for the purchase of patents, designs, defensive publications, and statutory invention registrations are sold by the Patent and Trademark Office for the convenience of the general public; these coupons may not be used for any other purpose. The one dollar coupons are sold individually and in books of 50 with stubs for record for $50 and the one dollar and fifty cent coupons are sold individually and in books of 50 with stubs for record for $75. These coupons are good until used; they may be transferred but cannot be redeemed.

(35 U.S.C. 6)

9. Section 1.25, paragraph (a), is revised to read as follows:

§ 1.25 Deposit accounts.

(a) For the convenience of attorneys, and the general public in paying any fees due, in ordering services offered by the Office, copies of records, etc., deposit accounts may be established in the Patent and Trademark Office upon payment of the fee for establishing a deposit account (§ 1.21(b)(1)). A minimum deposit of $1,000 is required for paying any fees due or in ordering any services offered by the Office. However, a minimum deposit of $300 may be paid to establish a restricted subscription deposit account used exclusively for subscription order of patent copies as issued. At the end of each month, a deposit account statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $1,000. For restricted subscription deposit accounts, a service charge (§ 1.21(b)(3)) will be assessed for each month that the balance at the end of the month is below $300.

* * * * *

(35 U.S.C. 6)

10. Section 1.26 is amended by revising paragraph (c) to read as follows:

§1.26 Refunds.

* * * * *

(c) If the Commissioner decides not to institute a reexamination proceeding, a refund of $1,300 will be made to the requester of the proceeding. Reexamination requesters should indicate whether any refund should be made by check or by credit to a deposit account.

(35 U.S.C. 6, 41)

11. Section 1.53 is amended by revising paragraph (c) to read as follows:

§1.53 Serial number, filing date, and completion of application.

* * * * *

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period with which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a $15.00 handling fee.

* * * * *

12. Section 1.297, paragraph (b), is revised to read as follows:

§1.297 Publication of statutory invention registration.

* * * * *

(b) Each statutory invention registration published will include a statement relating to the attributes of a statutory invention registration. The statement will read as follows:

A statutory invention registration is not a patent. It has the defensive attributes of a patent but does not have the enforceable attributes of a patent. No article or advertisement or the like may use the term patent, or any term suggestive of a patent, when referring to a statutory invention registration. For more specific information on the rights associated with a statutory invention registration see 35 U.S.C. 157.

(35 U.S.C. 6, 157)

13. Section 1.445 is amended by revising paragraph (a) to read as follows:

§ 1.445 International application filing and processing fees.

(a) The following fees and charges are established by the Patent and Trademark Office under the authority of 35 U.S.C. 376:	
(1) A transmittal fee (see U.S.C. 361(d) and PCT Rule 14)	$170.00
(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16) where:	
(i) No corresponding prior United States national application with fee has been filed	420.00
(ii) Corresponding prior United States national application with fee has been filed	250.00
(3) A supplemental search fee when required (see PCT Art. 17(3)(a) and PCT Rule 40.2), per additional invention	140.00
(4) The national fee, that is, the amount set forth as the filing fee under § 1.16 (a) through (d) credited, if requested at the time of filing, by an amount of $170.00 where an international search fee as required by paragraph (a)(2)(i) of this section has been paid on the corresponding international application to the United States Patent and Trademark Office as an International Searching Authority. Only one such credit is permitted based on a single international search fee.	
(5) Surcharge for filing the national fee or oath or declaration later than 20 months from the priority date:	
By a small entity (§ 1.9(f))	55.00
By other than a small entity	110.00
(6) For filing an English translation of an international application later than 20 months after the priority date (§ 1.61(b))	26.00

* * * * *

(35 U.S.C. 6, 376)

14. Section 1.446 is amended by removing paragraph (b):

§ 1.446 Refund of international application filing and processing fees.

* * * * *

(b) [Reserved]

(35 U.S.C. 6, 376)

Dated: July 31, 1985.

Donald J. Quigg,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 85-18720 Filed 8-5-85; 8:45 am]

BILLING CODE 3510-16-M

Federal Register

Tuesday
August 6, 1985

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Regulations on Federal Indian Reservations, Indian Territory, and Ceded Lands; Supplemental Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Regulations on Federal Indian Reservations, Indian Territory, and Ceded Lands

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the **Federal Register** on June 4, 1985 (50 FR 23459–23470 and particularly 50 FR 23467–23468), that relate to establishing migratory bird hunting regulations on Federal Indian reservations, Indian Territory, and ceded lands for the 1985–86 hunting season. These seasons will commence on September 1, 1985.

The Service annually prescribes migratory bird hunting regulation frameworks to the States. This proposed rule prescribes hunting regulations to be established for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands in the 1985–86 hunting season. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

DATES: The comment period for these proposed regulations will end on August 17, 1985. The Service will consider proposals from additional tribes with reserved hunting rights until that date. Comments and suggestions regarding the proposed guidelines for establishing migratory bird hunting regulations for Indian tribes and on the draft environmental assessment on the subject also will be accepted through August 17, 1985.

ADDRESS COMMENTS TO: Director (FW/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 536, Matomic Building, Washington, D.C. 20240. Comments received on these proposed late season frameworks will be available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C. The Service's biological opinions resulting from its consultation under Section 7 of the Endangered Species Act are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; U.S.C. 703 et seq.) as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the June 4, 1985, **Federal Register** (50 FR 23459–23470 and particularly 23467–23468), the Service proposed revised guidelines for migratory bird hunting regulations on Federal Indian reservations, Indian Territory, and ceded lands. The guidelines would replace proposed criteria published in the March 23, 1984, **Federal Register** (49 FR 11125–11126). The revised guidelines were prepared in response to tribal requests for recognition of their reserved hunting rights, and in some cases, recognition of their wildlife management authority to regulate hunting by both tribal and non-tribal members.

The proposed guidelines address three types of situations that were identified in tribal requests and reflect the nature of tribal hunting rights, the interest in exercising these rights, and the degree of tribal wildlife management authority. The guidelines include possibilities for: (1) On-reservation hunting (including Indian Territory), by both tribal and non-tribal members, with hunting by non-tribal members to take place within Federal frameworks but on dates different from those selected by surrounding State(s); (2) on-reservation hunting (including Indian Territory) by tribal members only, outside of usual Federal frameworks; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the proposed guidelines would have to be consistent with the closed season requirement mandated by the 1916 Migratory Bird Treaty with Canada.

The Service requested comments on the proposed guidelines and on a draft environmental assessment that evaluates their likely impacts. The Service also indicate the intention to establish special regulations for some tribes in the 1985–86 hunting season. Tribes that desired special seasons were asked to submit a proposal that included details on anticipated harvest, methods that would be used to monitor harvest, steps that would be taken to limit harvest where it could be shown that failure to do so would impact seriously on the resource, and tribal capabilities to establish and enforce migratory bird hunting regulations.

Generally, the Service believes that the guidelines, when made final, will provide appropriate flexibility for Indian tribes to exercise their reserved hunting rights, and that safeguards make it unlikely that adoption of the new criteria will adversely impact the population status of migratory birds.

Review of Comments Received on Proposed Guidelines and Draft Environmental Assessment

Indian Comments

Five Indian tribes, bands, and Indian organizations commented on the proposed revised guidelines. Four of them had responded earlier to the initial guidelines that were published in the March 23, 1984, **Federal Register** (49 FR 11125–11126), and their comments were considered in developing the revised guidelines published June 4, 1985.

1. Penobscot Indian Nation, Old Town, Maine

Comments: In a June 25, 1985, letter, Mr. Tim Lukas, Wildlife Biologist for the Penobscot Nation, pointed out that the Maine Indian Claims Settlement Act

granted the tribe reserved hunting rights in all of its Indian Territory, including newly acquired Trust lands, as well as on its reservation. For this reason, the tribe requested that the guideline relating to on-reservation hunting by tribal members be amended to include Indian Territory. In earlier correspondence, he stated that the tribe has full management authority for hunting by both tribal and non-tribal members on Indian Territory.

Mr. Lukas agreed that, for the most part, the guidelines will provide appropriate flexibility for Indian tribes to exercise their reserved hunting rights. However, he questioned proposed restrictions requiring seasons for non-tribal members to be within annual Federal frameworks, and he indicated that Federal frameworks should be changed in response to tribal requests if supporting data indicate that the changes are biologically justifiable.

The letter also included a proposal for hunting regulations that differ for tribal and non-tribal members, as will be described later in this document.

Response: The Service does not object to amending the guideline regarding hunting by tribal members on-reservation to include Indian Territory.

The Service will consider tribal requests for changes in Federal frameworks, when requests are fully supported by data that document that the proposed changes will not result in an increased harvest that would have an adverse impact on the population status of a particular migratory bird species.

2. Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho

Comments: In a letter dated June 27, 1985, Mr. Dan M. Christopherson, Tribal Wildlife Biologist, stated that waterfowl seasons for non-Indians and non-tribal members on the reservation now are the same as for the State of Idaho but indicated that the tribes would support the guideline that might permit hunting regulations different from those selected by the State. The letter also inquired if the tribes have authority over non-tribal members who hunt on deeded lands on the reservation. At present, The State assumes enforcement responsibility over non-tribal members hunting on these lands. Mr. Christopherson pointed out that tribal members hunt waterfowl mainly for subsistence use only and that they do so at all times of the year. He indicated that the tribal harvest is much smaller than the harvest by non-tribal members, that the tribes woud like to keep their traditional bag limits and seasons and are opposed to the revised guidelines regarding hunting by tribal members only on reservation land. Mr. Christopherson also indicated that their treaty with the United States Government grants tribal members off-reservation hunting rights that are not restricted to ceded lands. He also raised concerns about the effects that the proposed guidelines might have on fish and game codes already in effect on Federal Indian reservations and inquired if other tribes in the Pacific Northwest had received copies of the proposed guidelines.

Response: The proposed guideline that would permit hunting regulations for non-tribal members that differed from State regulations would apply only in cases where a tribe has gained full wildlife management authority through a court decision or statute, or where the State(s) in which the reservation is located has no objection. The Shoshone-Bannock Tribes may not have this authority. Regardless, the Service notes that the tribes have a major successful hunting program for non-tribal members on the reservation, and that the tribes should be cautious about considering changes in hunting regulations that might have an adverse impact on the resource and on subsequent revenues generated by the hunting program.

In regard to jurisdiction over non-tribal hunters on deeded lands, the Service notes that Federal courts have ruled that non-tribal members hunting on lands owned by non-Indians within reservation boundaries are subject to State regulatory authority.

The Service acknowledged in the June 4, 1985, **Federal Register** (50 FR 23459) that the question of special migratory bird hunting regulations for Indians is complex and that the proposed guidelines might not cover all situations. The treaty with the Shoshone-Bannock Tribes that addresses extensive off-reservation hunting may be a case in point. The Service also recognizes that some Indian tribes by long-standing tradition, hunt waterfowl over an extended period of time. However, the Service does not believe that harvest throughout the year is appropriate for the conservation of the migratory bird resource, and explicit language in the 1916 Migratory Bird Treaty with Canada permits a hunting season only between September 1 and March 10 (except for certain States bordering the Atlantic Ocean, where seasons on hunted shorebirds must be between August 15–February 1). The Service lacks authority to act in a manner contrary to the Canadian treaty, and it cannot authorize a year-round tribal hunting season for migratory birds.

Finally, the Service acknowledges that many tribes did not receive notice of the earlier guidelines that were published in the **Federal Register** on March 23, 1984 (49 FR 11125–11126). However, all tribes that wrote the Service regarding the preliminary guidelines were mailed copies of the June 4, 1985, guidelines and the draft environmental assessment. In addition, other tribes on Federal Indian reservations were notified of the revised guidelines by the Service's regional offices and by the Bureau of Indian Affairs.

3. White Earth Tribal Council, White Earth, Minnesota

Comments: In a June 27, 1985 letter, Mr. Dwight Wilcox, Reservation Biologist, did not comment directly on the proposed guidelines but stressed that the reservation was established by treaty and that reserved hunting rights have been upheld in recent years by State and Federal courts. Mr. Wilcox stated that the Tribal Council has sole responsibility to regulate hunting by tribal members. He indicated that the tribe's conservation department has been monitoring tribal harvest and will adjust regulations as necessary. Mr. Wilcox included proposed migratory bird hunting regulations for the 1985 season and suggested that a memorandum of agreement between the tribe and the Service may be appropriate.

Response: The Service concurs that an agreement with the Tribal Council would be desirable and will request to consult with tribal officials in the near future regarding their proposed 1985 hunting regulations.

4. Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin

Comments: Mr. David J. Siegler, Attorney and Policy Analyst for the Commission, wrote the Service on June 27, 1985, in regard to the proposed guideline dealing with off-reservation hunting on ceded lands. The Commission also submitted a proposal for a special migratory bird hunting season in 1985 on ceded lands in Wisconsin. Mr. Siegler generally supported the proposed guideline for tribal hunting on ceded lands, but he raised a number of questions and concerns regarding the manner in which the Service should consult with Commission and State officials and the procedures to be followed in establishing hunting regulations for tribal members. The Service's reponse to Mr. Siegler's comments is included later in this document.

5. *Mille Lacs Band of Chippewa Indians, Vineland, Minnesota*

Comments: On June 28, 1985, Mr. Don Wedll, Commissioner of Natural Resources, wrote the Service and requested changes in the proposed guidelines that deal with tribal members. In essence, Mr. Wedll requested that the restriction of reserved hunting rights to tribal members only be broadened to include any Indian hunting under the jurisdiction of a band or tribe. Mr. Wedll also requested that the request by the Great Lakes Indian Fish and Wildlife Commission for a special hunting season on ceded lands in Wisconsin be expanded to include all territory ceded by Chippewa Indians in 1837. A request also was made to delete the word "special" as it applies to Indian hunting regulations and to substitute "agreement" for "proposal".

Response: The intent of the June 4, 1985, guidelines is to accommodate tribes that have recognized reserved hunting rights. The guidelines do not apply to Indians who are not members of a Federally-recognized tribe or to tribal members who might wish to hunt on the reservation of an entirely different group. The Service believes that these Indians should be subject to the same regulations as non-Indians. However, the Service would not object to members of one Chippewa band in Minnesota hunting on another Chippewa reservation in the State, or to members of Chippewa bands or tribes in Michigan, Minnesota, or Wisconsin who are included under the treaties of 1837 and 1842, from hunting on all Chippewa Federal Indian reservations in the 3 States, provided this is acceptable to the bands and tribes. On-reservation hunting regulations for tribal members should apply to their trust lands only if they also have recognized reserved hunting rights on these lands.

Off-reservation hunting rights of Chippewa Indians in Michigan and Minnesota have not been judicially recognized. The Service notes, however, that the Wisconsin Department of Natural Resources has permitted members of the Mille Lacs Band in Minnesota and the Keeweenaw Bay Indian Community in Michigan to hunt deer on ceded lands in Wisconsin under the bilateral agreement reached with the Great Lakes Indian Fish and Wildlife Commission as a result of the *Voigt* decision. The Service will not object if members of these 2 Chippewa groups also hunt migratory birds on ceded lands in Wisconsin under the same conditions proposed later in this document for the 6 Chippewa tribes in Wisconsin.

The Service does not object to deleting "special" in the description of Indian hunting regulations. This word is used to signify the unique nature of the regulations due to the reserved hunting rights of different tribes and bands. The Service believes that use of the word "proposal" is appropriate, however, because it may be necessary to consult with tribal officials before reaching an agreement on migratory bird hunting regulations.

State and Other Non-Indian Comments

The Service received letters from 4 State Conservation Agencies regarding the proposed guidelines:

1. Oregon Department of Fish and Wildlife

Comments: In a letter dated June 19, 1985, Dr. John R. Donaldson, Director, recognized the need to provide flexibility to tribes that have gained full wildlife management authority, provided the regulations are within Federal frameworks. However, he did not support proposals that would permit hunting outside of the frameworks set for States.

Response: The Service recognizes that there may be concern regarding the guideline that would permit tribal members to hunt migratory birds outside of usual Federal frameworks. However, the Service believes it is appropriate to recognize the unique nature of tribal hunting rights. As discussed in the draft environmental assessment, the service does not believe that tribal hunting outside of usual frameworks will impact adversely on the migratory bird resource unless a large number of tribes request September waterfowl seasons. The assessment pointed out that September hunting of waterfowl has been traditional among some Indian tribes, but that waterfowl are not hunted on most Federal Indian reservations.

2. Wisconsin Department of Natural Resources

On June 27, 1985, Mr. C. D. Besadny, Secretary, commented on the guideline proposed for off-reservation hunting by tribal members on ceded lands and recommended that this guideline be amended to permit such hunting only where a treaty with Indians specifically includes migratory birds or where tribal authority to do so has been decided judicially or has been consented to by the appropriate State. Mr. Besadny stated that Wisconsin now is in litigation with Chippewa Indians in regard to hunting of migratory birds, and he indicated that pending the outcome of this litigation, the State must consent to the proposed season for Chippewa Indians on ceded lands in Wisconsin, as generally described in the June 4, 1985, **Federal Register.** He indicated, however, that the State would negotiate with the Chippewa tribes to establish an interim season. The Service response to this comment is included later in this document under the discussion of the proposal received from the Great Lakes Indian Fish and Wildlife Commission.

3. Washington Department of Game

Comments: In a June 27, 1985, letter, Mr. Jack S. Wayland, Director, raised a number of concerns regarding the impacts that adoption of the proposed guidelines could have on waterfowl management and enforcement programs in Washington. Mr. Wayland pointed out that almost all of the State waterfowl harvest occurs on ceded lands. He expressed concern about the actual increase in waterfowl harvest that might occur and recommended that no experimental zones be established until an evaluation of all existing waterfowl zoning arrangements and the recent waterfowl stabilized regulations study have been completed. The letter also requested that all zoning requests by Indians be reviewed by States and flyway councils before approval and that no experimental seasons be approved without accurate harvest surveys before and during such seasons. Finally, Mr. Wayland expressed concern regarding establishing any special seasons for Indians that would increase waterfowl harvest at a time when it may be necessary to impose harvest restrictions on States.

Response: The Service recognizes Mr. Wayland's concerns regarding the impact that adoption of the proposed guidelines could have in Washington. As he pointed out, waterfowl harvest on Federal Indian reservations and ceded lands is especially important in his State. The Service notes, however, that a significant increase in waterfowl harvest on Federal Indian reservations in the State likely would come about only through changes in hunting season dates that would allow non-tribal members to hunt on reservations on dates that are within Federal frameworks but that might differ from those selected by the State. Such seasons will be permitted only on reservations where tribes have gained full wildlife management authority judicially or through consent of the State. Furthermore, as pointed out in the June 4, 1985, **Federal Register,** the Service will carefully scrutinize proposals from such tribes to ensure that special seasons for both tribal and non-tribal hunters do not impact

seriously on the migratory bird resource. The Service does not believe that any proposals received thus far from tribes with full management authority will have such adverse effects.

The Service concurs that special hunting seasons on ceded lands have the potential of increasing size of the harvest, particularly if a large number of tribal hunters were to participate in such seasons for the first time. The Service also will scrutinize such proposals carefully, and in addition, will consult directly with the tribal officials and the affected States before approving any such seasons.

The Service agrees that it is desirable to obtain accurate harvest information from Federal Indian reservations, and this will be required on reservations where special seasons are likely to cause increased harvest. Most such seasons on both reservations and ceded lands will be experimental pending their evaluation.

The Service intends to explore ways in which Indian tribes will have an opportunity to benefit from participation in flyway committee, technical section, and council meetings. While time did not permit review of tribal proposals for the 1985–86 hunting season, the Service believes that technical consultation by tribes, flyway council groups, and the Service is highly desirable, and the Service will encourage this effort in the future.

4. Minnesota Department of Natural Resources

Comments: In a letter dated July 12, 1985, the Department acknowledged that members of the Minnesota Chippewa Tribe have the right to hunt free of State regulations, but the letter raised concerns regarding the guidelines that would permit tribal members to hunt outside of Federal frameworks. The letter indicated that tribal waterfowl seasons and limits should be subject to Federal regulations.

Response: The Service notes that members of some Chippewa bands in Minnesota have traditionally hunted waterfowl on or around mid-September. The harvest during this time is relatively small and accounts for only a small fraction of the total harvest during the regular State waterfowl season. Under the circumstances, the Service believes it is appropriate for tribal members to continue their traditional September season and that these management measures be documented in Memoranda of Understanding with the Chippewa tribes. As pointed out in the June 4, 1985, **Federal Register** (50 FR 23468), and earlier in this document, the Service would like to consult with officials of the different Minnesota Chippewa Bands with the aim of reaching mutual agreement on hunting regulations. The Service also believes that consultation of a technical nature might be of value to the different bands in further development of waterfowl management programs on the Chippewa reservations in the State.

5. International Association of Fish and Wildlife Agencies

In a telephone conservation on July 25, 1985, Mr. Jack Berryman, Executive Vice President, indicated that the Association would defer comment on the proposed guidelines pending review of this document.

Hunting Season Proposals From Indian Tribes and Organizations

The Service received proposals from 4 tribes and Indian organizations as described below.

1. Great Lakes Indian Fish and Wildlife Commission

On April 30, 1985, the Commission submitted a proposal for a special season for Chippewa Indians on ceded lands in Wisconsin. A supplement dated June 18, 1985, modified the April 30 proposal to address evaluation and other criteria asked for in the June 4, 1985, **Federal Register.** Prior to submitting the proposal, Commission officials discussed tribal interests with Service representatives and officials of the Wisconsin Department of Natural Resources. The Commission pointed out that only a small number of tribal members were likely to hunt ducks and geese during the special season and that the total Indian harvest would be too small to have a significant impact. Among other things, the Commission requested a mid-September opening of the duck season for tribal members and a 10 bird season limit per hunter on Canada geese, all of which could be taken in any day.

State officials objected to the proposed early opening, largely because of concern that hunting by tribal members would disturb and displace waterfowl and cause reduced hunting opportunity for non-Indian hunters when the regular waterfowl season opened. In response, the Commission agreed to evaluate the degree to which tribal hunting displaced waterfowl and indicated that the tribe would cease hunting 5 days before the regular season if study indicated that displacement was occurring. However, the Commission and State did not agree on several issues, and the State later expressed its concerns in a letter to the Service dated June 19, 1985. In the letter, the State again expressed concern regarding the displacement effects that an early season might have and urged that the tribes be granted a 5 day rather than 15 day early season, pending evaluation of impacts. The State also raised a number of other objections regarding the proposed special season. In particular, the letter opposed Service approval of the proposal without consultation with the State.

The Service recognized the need to consult directly with both State and Commission officials and this was done at a meeting in Minneapolis on July 10, 1985. At the meeting, Service representatives attempted to reach a consensus with the Commission and the State on points of disagreement. Service officials pointed out at the meeting that the fall flight of ducks was expected to be below average and that it might be necessary to establish hunting season frameworks that would be more restrictive than usual. The Service also questioned the Canada goose bag limit proposed by the Commission. After the July 10 meeting, the Service considered the recommendations made by the Commission and the State and on July 19, 1985, proposed specific regulations to be implemented on an experimental basis in the 1985 hunting season. In a letter to both parties, the Service proposed compromises in length of the early season and Canada goose bag limits and included a suggested plan to evaluate possible waterfowl displacement. The Service also urged the State and Commission to reach an agreement that would permit enforcement of tribal hunting regulations by State personnel. As discussed earlier in the document, the Service suggested that 2 Chippewa groups in Minnesota and Michigan also be permitted to hunt in Wisconsin if the special season is approved. The regulations proposed by the Service are shown below. If the special season is implemented, the Commission has agreed to collect and evaluate information on hunting activity and harvest, to lead in a cooperative study to evaluate waterfowl displacement, and to meet other requirements described in the June 4, 1985, **Federal Register.** Most such requirements were addressed by the Commission in the June 18, 1984, supplement sent to the Service.

Proposed 1985 Migratory Bird Hunting Regulations for Chippewa Tribal Members on Ceded Lands in Wisconsin[1]

A. Ducks

Season Dates: Begin 15 days prior to opening of regular Wisconsin duck season. End with closure of State hunting season.

Daily Bag and Possession Limits: Same as permitted under Federal frameworks.

Special Scaup-only Season: Same dates, season length, and daily bag and possession limits permitted Wisconsin under Federal frameworks.

Rest Period: A 5-day non-hunting period beginning 5 days before the regular State duck hunting season.

B. Geese

1. *Canada Geese.*

Season Dates: Same as permitted under Federal frameworks.

Bag and Possession Limits: Daily bag limit 3, possession limit 6. No season limit.

2. *Other Geese* (Snow Geese, Blue Geese, White-fronted Geese): Same dates, season length, and daily bag and possession limits permitted Wisconsin under Federal frameworks.

C. Other Migratory Birds

1. *Coot and Gallinule.*

Season Dates: Same as for ducks.

Bag limit: 15 daily, singly or in aggregate. Possession limit 30.

2. *Sora and Virginia Rails.*

Season Dates: September 15 through November 19.

Bag Limit: 25 daily, singly or in aggregate. Possession limit 30.

3. *Common Snipe.*

Season Dates: September 15 through November 19.

Bag Limit: 8 daily. Possession limit 16.

4. *Woodcock.*

Season Dates: September 15 through November 18.

Bag Limit: 5 daily. Possession limit 10.

D. General Conditions

Tribal members will comply with all basic Federal migratory bird hunting regulations, 50 CFR Part 20, shooting hour regulations, 50 CFR Part 20, Subpart K, and non-toxic shot zone regulations, 50 CFR 20.108. For purposes of enforcing bag and possession limits, all waterfowl or other migratory birds in the possession or custody of tribal hunters on ceded lands will be considered to have been taken on these lands.

[1] Final frameworks for waterfowl to be established.

2. *Colorado Indian Tribes, Colorado River Indian Reservation, Parker, Arizona*

On June 24, 1985, the Colorado Indian Tribes proposed hunting regulations for both tribal and non-tribal members. The tribes have recognized full wildlife management authority on their reservation.

The tribes requested a hunting season for mourning doves and white-winged doves that is identical to the 1984–85 season regulations that were selected by California for Imperial, Riverside, and San Bernardino Counties and by Nevada for Clark and Nye Counties. The tribes requested a season for ducks, geese, coots, gallinules, and snipe that is identical to the 1984–85 season that was set in Arizona and in the Colorado River Zone in California.

The regulations proposed for mourning doves and white-winged doves are within Federal frameworks and the Service supports the request. However, while hunting season frameworks for ducks and geese in the 1985–86 season have not yet been established, it is likely that they will be more restrictive than in the 1984–85 season because of reduced numbers in the fall flight. The Service proposes to grant the tribes the same regulations in the 1985–86 season as will be offered Arizona and the Colorado River Zone in California.

3. *Penobscot Indian Nation*

In a June 25, 1985, letter, the tribe proposed to adopt 2 separate migratory bird seasons: a general season for both tribal and non-tribal members, and a sustenance season for tribal members only. The general season would be the same as selected by the State of Maine, as has been the case in the past. The proposed sustenance season would include only ducks and would begin on September 21 and end on November 30 and would permit Sunday hunting (not permitted under State regulations). The daily bag limit under sustenance hunting regulations would be 4 ducks, with no more than 2 wood ducks or 2 black ducks. Where sustenance and general seasons coincide, the daily bag limit for any species or in total would be the greater of the 2 possible limits. All usual Federal basic regulations would apply.

The proposal indicated that migratory bird hunting within Penobscot Indian Territory presently is limited primarily to waterfowl within the reservation and involves a small number of tribal and non-tribal hunters. An estimated maximum of 270 ducks would be harvested during the regular season and up to 71 ducks might be taken during the sustenance season for tribal hunters. Any increased harvest that would occur during the sustenance harvest would be due to Sunday hunting and a bag limit of 2 for black ducks. The tribe requested that the regular season not be established on an experimental basis but agreed to continue annual collection of harvest information from tribal and non-tribal hunters and to determine the additional duck harvest that might occur under sustenance regulations.

In a letter to the Service dated July 19, 1985, Mr. Norman E. Trask, Deputy Commissioner, Maine Department of Inland Fish and Wildlife, expressed concern over the impact that the proposed Penobscot Nation hunting regulations would have on the State's efforts in black duck conservation. Mr. Trask stated that the State's hungting regulations over the past 3 years have significantly reduced black duck harvest. The Department is particularly concerned that the more liberal hunting regulations for tribal members could erode the support of non-tribal hunters for continuation of restrictive hunting regulations for black ducks. The letter concluded by stating that the Department recognizes that the State of Maine has granted hunting rights to the Penobscot Nation but that attempts to rebuild local black duck populations will be severely hampered without full support from all Maine sportsmen. The Service believes it is unlikely that the proposed sustenance regulations would impact adversely on the population status of waterfowl outside of Indian Territory; however, sustenance hunting, particularly in September, could further reduce numbers of breeding black ducks on the Penobscot reservation. For this reason, the Service proposes that Penobscot tribal officials limit sustenance harvest to duck species that are more abundant and that tribal and State officials consult prior to the August 17, 1985, closing date of this document with the aim of reaching mutual agreement in black duck conservation. The Service will consult directly with the tribe and State, if requested.

Public Comment Invited

Based on the results of recently completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting seasons for migratory game birds beginning as early as September 1, 1985, on certain Federal Indian reservations, Indian Territory, and ceded lands. Taking into account both reserved

hunting rights and the degree to which tribes have recognized full management authority, the regulations for tribal or for both tribal and non-tribal members may differ from those established by States in which the reservations, Indian Territory, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, gallinules (including moorhen), woodcock, snipe, mourning doves, white-winged doves, ducks and geese.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions on the Proposals from the public, other concerned governmental agencies, tribal and other Indian organizations, and private interests and he will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances in the establishment of these regulations limit the amount of time that the service can allow for public comment. Two considerations compress the time in which this rulemaking process must operate: the need, on the one hand, for tribes to establish final regulations, and on the other hand, the unavailability before late July of specific reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a comment period past July 17, 1984, is contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director (FWS/MBMO, Rm. 536, Matomic Building), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's Office in Room 536 in the Matomic Building, 1717 H Street NW., Washington, D.C. 20240.

All relevant comments on the proposals received no later than August 17, 1985, will be considered.

Nontoxic Shot Regulations

In the February 12, 1985, **Federal Register**, (50 FR 5759–5764) and more recently in the May 7, 1978, **Federal Register**, (50 FR 19178–19182), the Service published a list of zones and areas where nontoxic shot will be required for waterfowl hunting in the 1985–86 hunting season.

More recently, on June 14, 1985, the National Wildlife Federation sued the Department of the Interior to block use of lead shotgun ammunition for waterfowl hunting in parts of 22 counties in California, Illinois, Missouri, Oklahoma, and Oregon. The lawsuit seeks to protect the endangered bald eagle from lead poisoning. The outcome of this lawsuit, which is now in litigation, could have a bearing on future nontoxic shot regulations on Federal Indian reservations and ceded lands where waterfowl are hunted by tribal and non-tribal members.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provided that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] "by taking such action necessary to insure that any action authorized, funded or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." Consequently, the Service has initiated Section 7 consultation under the Endangered Species Act for the proposed hunting seasons on Federal Indian Reservations, Indian Territory, and ceded lands.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register**, dated March 23, 1984 (at 49 FR 11124), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register**, dated July 19, 1984 (at 49 FR 29239).

Authorship

The primary author of this proposed rulemaking is Fant W. Martin, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

The rules that eventually will be promulgated for the 1985–86 hunting season are authorized under the Migratory Bird Treaty Act of 1918 (40 Stat. 755; 16 U.S.C. 704 et. seq.), as amended.

Dated: July 31, 1985.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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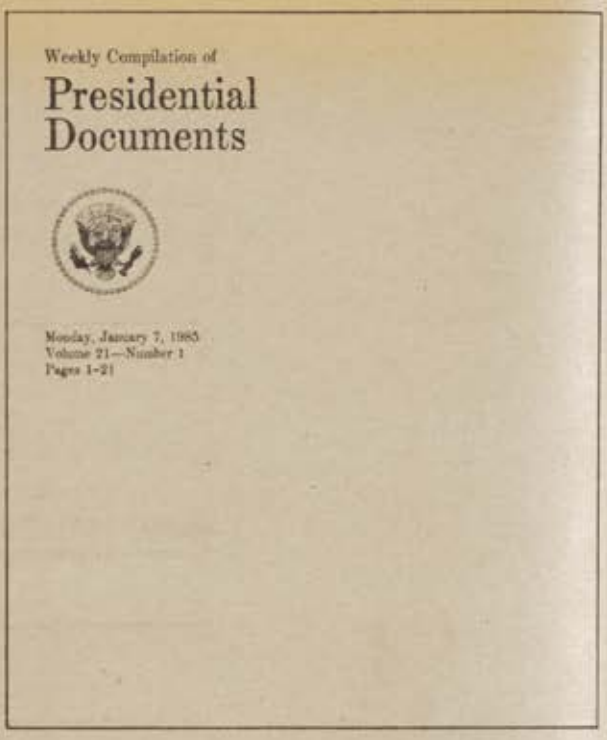

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