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Highlights

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Highlights

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Presidential Documents

Title 3—

The President

Executive Order 12333 of December 4, 1981

United States Intelligence Activities

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

Part 1

Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 *Goals.* The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 *The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 *National Foreign Intelligence Advisory Groups.*

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

(1) Production, review and coordination of national foreign intelligence;

(2) Priorities for the National Foreign Intelligence Program budget;

(3) Interagency exchanges of foreign intelligence information;

(4) Arrangements with foreign governments on intelligence matters;

(5) Protection of intelligence sources and methods;

(6) Activities of common concern; and

(7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives

of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 *The Intelligence Community.* The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 *Director of Central Intelligence.* In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 *Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.*

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 *Senior Officials of the Intelligence Community.* The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 *The Department of State.* The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 *The Department of the Treasury.* The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 *The Department of Defense.* The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency,* whose responsibilities shall include;

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency,* whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs,* whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps,* whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.* If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 *The Department of Energy.* The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Part 2

Conduct of Intelligence Activities

2.1 *Need.* Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between

the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of Information.* Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 *Collection Techniques.* Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present of former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 *Attorney General Approval.* The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 *Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 *Contracting.* Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 *Consistency With Other Laws.* Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 *Undisclosed Participation in Organizations Within the United States.* No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 *Human Experimentation.* No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 *Indirect Participation.* No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

Part 3

General Provisions

3.1 *Congressional Oversight.* The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 *Implementation.* The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 *Procedures.* Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visably present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and

functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 *Purpose and Effect.* This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 *Revocation.* Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

Ronald Reagan

THE WHITE HOUSE,
December 4, 1981.

[FR 81-35203
Filed 12-4-81; 4:09 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12334 of December 4, 1981

President's Intelligence Oversight Board

By the authority vested in my as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by assuring the legality of activities of the Intelligence Community, it is hereby ordered as follows:

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Intelligence Oversight Board, which shall be composed of three members. One member, appointed from among the membership of the President's Foreign Intelligence Advisory Board, shall be designated by the President as Chairman. Members of the Board shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The Board shall utilize such full-time staff and consultants as authorized by the President.

Sec. 2. The Board shall:

(a) Inform the President of intelligence activities that any member of the Board believes are in violation of the Constitution or laws of the United States, Executive orders, or Presidential directives;

(b) Forward to the Attorney General reports received concerning intelligence activities that the Board believes may be unlawful;

(c) Review the internal guidelines of each agency within the Intelligence Community concerning the lawfulness of intelligence activities;

(d) Review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) Conduct such investigations as the Board deems necessary to carry out its functions under this Order.

Sec. 3. The Board shall, when required by this Order, report directly to the President. The Board shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the Board shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other agencies of the Intelligence Community.

Sec. 4. The heads of departments and agencies of the Intelligence Community shall, to the extent permitted by law, provide the Board with all information necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community shall, to the extent permitted by law, report to the Board concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

Sec. 5. Information made available to the Board shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the Board, each member of the Board's staff, and each of the Board's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her service with the Board except to the President or to such persons as the President may designate.

Sec. 6. Members of the Board shall serve without compensation, but may receive transportation, expense, and per diem allowances as authorized by law. Staff and consultants to the Board shall receive pay and allowances as authorized by the President.

Ronald Reagan

THE WHITE HOUSE,
December 4, 1981.

[FR Doc. 81-35204
Filed 12-4-81; 4:10 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 235
Tuesday, December 8, 1981

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Flaxseed Purchase Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule deletes the regulations codified at 7 CFR 1421.175–1421.177 (1980-Crop Flaxseed Purchase Program Regulations). Provisions setting forth the availability, and purchase rates and discounts have been published annually in the **Federal Register** and later codified in the Code of Federal Regulations. These program provisions enable eligible flaxseed producers to receive price support through purchases. In order to avoid amending the Code of Federal Regulations each year a program is implemented, the annual crop year data will no longer be codified in the Code of Federal Regulations. If the determination is made to have a price support program in a future crop year, the provisions setting forth the program data will be published as a notice in the **Federal Register.**

EFFECTIVE DATE: December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Celestine Ware, (202) 382–9880.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as "not major" since it will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will not have a major impact specifically on area and community development. Therefore, review as established by Office of Management and Budget Circular A–95 was not used to assure that units of local government are informed of this rule.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Previously, provisions setting forth the availability and purchase rates and discounts were published annually in the **Federal Register.** These provisions were later codified in the Code of Federal Regulations. In the future, however, if a flaxseed purchase program is authorized for a particular crop year, availability and purchase rates and discounts will be published as a notice in the **Federal Register.** Since this final rule makes no substantive change in the regulations but merely deletes the regulations applicable to the 1980-crop year for flaxseed, it has been determined that no further public rulemaking is required.

The provisions previously appearing at 7 CFR 1421.175–1421.177 shall remain applicable to the respective crop years.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

§§ 1421.175 through 1421.177 [Removed]

Final Rule

Accordingly, the regulations appearing at 7 CFR 1421.175 through 1421.177 (1980-Crop Flaxseed Purchase Program Regulations) are hereby removed from the Code of Federal Regulations.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); secs. 301, 401, 63 Stat. 1054, as amended (7 U.S.C. 1447, 1421))

Signed at Washington, D.C., on December 1, 1981.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc 81-35132 Filed 12-7-81; 8:45 am]
BILLING CODE 3410-05-M

7 CFR Part 1421

[Amdt. 1]

1980 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the 1980 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program: (1) To provide availability dates, the maturity date for making loans and purchases; and (2) to delete references to annual crop supplements.

DATE: Effective December 7, 1981.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7987. A final Regulatory Impact Analysis is being prepared and will be available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice of determination applies to are:

Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, a review as established by Office of Management and Budget Circular A-95, was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

In previous years, loan and purchase availability dates, maturity dates, loan rates, and purchase rates were published annually in annual crop year supplements. Such supplements were codified and published in the Code of Federal Regulations. However, since these provisions were only applicable to a single crop year, they were virtually obsolete by the time they were actually printed in the Code of Federal Regulations. Accordingly, effective with the 1981 crop of peanuts, loan rates, purchase rates, and locational differentials will be published as a notice in the **Federal Register**. Also, certain provisions relating to loan and purchase availability dates and loan maturity dates will be transferred to the permanent program regulations. The purpose of this rule is to amend the permanent program regulations to reflect the above change.

Since this final rule makes no substantive changes in the regulations but merely provides availability and maturity dates and deletes references to the annual crop supplements which were previously codified, it is hereby determined that no further public rulemaking is required with respect to this rule. Accordingly, this final rule shall become effective upon date of filing with the Director, Office of the Federal Register.

Final rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, the regulations at 7 CFR 1421.280, 1421.281, 1421.286, 1421.288, and 1421.292 (b) (2) and (3) are revised to read as set forth below. The material previously published in these sections remains in full force and effect with respect to the applicable crop years.

§1421.280 Purpose.

This subpart (including any amendments or notices published in the **Federal Register** with respect thereto), the Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts Regulations in Chapter VII of this Title 7 (hereinafter referred to as "acreage allotment regulations") and the General Regulations Governing Price Support for the 1978 and Subsequent Crops in this Subchapter B (hereinafter referred to as the "general regulations") to the extent that the provisions thereof are not made inapplicable by the provisions of this subpart, contain the terms and conditions under which CCC will make farm-stored peanut loans to, and purchases from, eligible producers on eligible 1980 and subsequent crops of farmers stock quota peanuts and loans to eligible producers on eligible 1980 and subsequent crops of additional farmers stock peanuts. The General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations in this Subchapter B and any amendments and notices published in the **Federal Register** with respect thereto (hereinafter referred to in this subpart as "the peanut warehouse storage regulations"), contain the terms and conditions under which eligible producers may obtain price support advances on eligible 1979 and subsequent crops of warehouse-stored farmers stock peanuts from certain area marketing associations which, acting in behalf of such producers collectively, will obtain price support warehouse storage loans from CCC.

§1421.281 Availability.

(a) *Loans.* Requests for loans on eligible farm-stored additional peanuts must be submitted by producers to the appropriate county ASCS office on or before January 31 of the year following the year in which the crop was produced. Requests for loans on eligible farm-stored quota peanuts must be submitted by producers to the appropriate county ASCS office on or before March 31 of the year following the year in which the crop was produced.

(b) *Purchases.* Producers desiring to offer for purchase eligible quota peanuts not under loan must execute and deliver to the appropriate county ASCS office, on or before April 30 of the year following the year in which the crop was produced, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of peanuts to be sold to CCC. Additional peanuts are not eligible for purchase.

§1421.286 Price support rates.

(a) *Quota peanuts.* Loans and purchases on quota peanuts shall be at the basic quota price support loan rate for that type farmers stock peanuts as published annually in a notice in the **Federal Register.**

(b) *Additional peanuts.* Loans on additional peanuts shall be made on the basis of a percent of the basic quota price support loan rate for that type farmers stock peanuts as published annually in a notice in the **Federal Register.**

§ 1421.288 Maturity of loans.

Farm-stored peanut loans will mature on demand but no later than June 30 of the year following the year in which the crop was produced.

§ 1421.292 Settlement.

* * * * *

(b) *Settlement values.* * * *

(2) *Values for quota peanuts.* The settlement value for quota peanuts shall be the applicable quota support rates including premiums and discounts as published annually in a notice in the **Federal Register** except that the additional support rate shall be used for any peanuts from a farm delivered by a producer to CCC which, when added to the peanuts otherwise marketed or considered marketed from the farm as quota peanuts, would exceed the farm poundage quota if CCC determines that the producer made an inadvertent error in determining the loan quantity. However, if such excess quantity was not due to an inadvertent error, such quantity shall not be accepted and shall be subject to marketing quota and/or poundage quota penalties as set forth in 7 CFR Part 729. In addition, the additional support rate shall be used for all peanuts which do not grade Segregation 1 at time of delivery if the producer does not elect to settle such additional loan peanuts as quota peanuts. If the producer elects to settle such peanuts as quota peanuts, the quantity shall not exceed the smaller of the difference between the production of Segregation 1 peanuts on the farm and the farm poundage quota or the undermarketing of quota peanuts shown on the farm marketing card.

(3) *Values of additional peanuts.* The settlement value for additional peanuts shall be the applicable additional support rate including the premiums and discounts as published annually in a notice in the **Federal Register.**

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 403, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445c, 1421, 1423, 1425))

Signed at Washington, D.C., on December 1, 1981.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-35131 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 91

Inspection and Handling of Livestock for Exportation; Deletion and Addition to Ports of Embarkation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of final rule.

SUMMARY: This action affirms the final rule published in the **Federal Register** on July 13, 1981, which deleted New York, New York, from the list of ports which have facilities available only for certain species of animals, and added New York, New York, and Portland, Oregon, to the list of airports and ocean ports designated as ports of embarkation for all species of animals. The final rule also revised the method of listing said ports and provided a listing of the name, address, and telephone number of export inspection facilities located at the designated ports of embarkation. No comments were received, therefore, this document is necessary to announce that the final rule, as published, will not be amended.

EFFECTIVE DATE: December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule." The Department has determined that this rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A document published in the **Federal Register** on July 13, 1981 (46 FR 35912-35913), deleted New York, New York, from the list of ports which have facilities available only for certain species of animals, and added New York, New York, and Portland, Oregon, to the list of airports and ocean ports designated as ports of embarkation for all species of animals.

The final rule also revised the method of listing said ports and provided a listing of the name, address, and telephone number of export inspection facilities located at the designated ports of embarkation and revised the citation of authority to include relevant delegations of authority and organizational information.

The only alternative to these amendments that was considered was not to amend the regulations. This alternative was rejected for the following reasons. The port of New York, New York, was previously approved only for horses because facilities at that port could only accommodate horses. The port of Portland, Oregon, had been designated as a port of embarkation in certain circumstances because it did not have facilities to accommodate all classes of livestock. Both ports now have approved facilities which can accommodate all classes of livestock. Therefore, not to amend the regulations would impose an unnecessary burden on exporters of additional classes of livestock desiring to use such ports when the facilities at such ports are now able to accommodate all classes of livestock. Also, the list of ports of embarkation was reorganized and additional information added in order to provide a clear, complete reference for the public of export inspection facilities.

This amendment was made effective immediately in order to inform exporters of the current situation so that they could make appropriate plans to export their animals and avoid unnecessary restrictions on the exportation of animals.

Comments were solicited for 60 days after publication of the amendment. No comments were received. Therefore, it has been determined that the final rule amending 9 CFR 91.14(a) should remain effective as published in the **Federal Register** on July 13, 1981 at 46 FR 35912-35913.

(Sec. 10, 26 Stat. 417; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; secs. 12, 13, 14, and 18, 34 Stat. 1263, as amended; (21 U.S.C. 105, 112, 113, 120, 612, 613, 614, and 618) 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this first day of December 1981.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 81-34958 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-34-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: On October 22, 1981, the Farm Credit Administration published final regulations implementing those provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) which expand the authority of financing institutions, other than Farm Credit System institutions, to borrow from and discount with Federal intermediate credit banks (46 FR 51882). This document revises 12 CFR 614.4560(b)(5) of those final regulations regarding the authority of financing institutions to establish and maintain access to a Federal intermediate credit bank.

EFFECTIVE DATE: Subject to two-House congressional veto as explained in the Supplementary Information, notice of actual effective date will be published.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578 (202-755-2181).

SUPPLEMENTARY INFORMATION: The revision to 12 CFR 614.4560(b)(5) published in this document is a necessary clarification of the final regulations published on October 22, 1981 (46 FR 51882) which expand the authority of financing institutions, other than Farm Credit System institutions, to borrow from and discount with Federal intermediate credit banks. To ensure efficient and expeditious implementation of these expanded authorities it is necessary that the revision of 12 CFR 614.4560(b)(5) published in this document be effective on the same date as the final regulations published in 46 FR 51882. The effective date of the final regulations published in 46 FR 51882 is subject to section 5.18(c) of the Farm Credit Act of 1971, as

amended which provides for a two-House congressional veto. The changes to 12 CFR 614.4560(b)(5) published in this document are also subject to the provisions of section 5.18(c) regarding the two-House congressional veto. Because of these considerations, the Farm Credit Administration finds it is unnecessary and contrary to the public interest for this final rule to be subject to the notice and public procedure requirements of 5 U.S.C. 553.

A final notice establishing the effective date of the final regulations will be published in the **Federal Register.**

PART 614—LOAN POLICIES AND OPERATIONS

Accordingly, Subpart P, Part 614 of Chapter VI, Title 12 of the *Code of Federal Regulations* is amended as shown.

Subpart P—Federal Intermediate Credit Bank Financing of Other Financing Institutions

Section 614.4560(b)(5) is revised to read as follows:

§ 614.4560 Establishing and maintaining access.

* * * * *

(b) * * *

(5) Credit lines with a Federal intermediate credit bank shall be established based solely on the managemeant ability, financial condition, and needs of the OFI. The line shall be renegotiated based on these same criteria when the needs of the OFI increase. A credit line shall be established for at least a 2-year term in support of the OFI's continuing need for access. The OFI shall provide the FICB a 2-year projected average daily loan balance. Failure to maintain an annual average daily balance of loans discounted to at least 70 percent of the projected average daily balance shall subject the OFI to payment of an annual loan commitment fee. The fee shall be equal to 1 percent of the difference between the projected and approved average daily balance and the actual average daily balance of loans outstanding or discounted. The Federal intermediate credit bank must make exceptions when failure to comply with this requirement is caused by a general decrease in agricultural borrowings caused by an economic decline, but no exception shall be made when failure to comply with this requirement is due to borrowings obtained from other sources or repurchase of loans by an affiliate. Repeated failure to utilize the line of credit at an acceptable level may result in loss of access. No fee shall be assessed if the relationship is terminated by the Federal intermediate credit bank for reasons other than those stated in this section. OFIs with inactive access relationships on the effective date of these regulations shall be notified and given a reasonable opportunity to activate or cancel the relationship.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2246 and 2252)

Donald E. Wilkinson,

Governor.

[FR Doc. 81-35128 Filed 12-7-81; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Parts 614 and 615

Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Final rule; notice of effective date.

SUMMARY: The Farm Credit Administration published final regulations on October 22, 1981 (46 FR 51876) implementing provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96–592) which authorize banks for cooperatives of the Farm Credit System to provide international trade financing and related services to eligible borrowers. The final regulation also amended the regulation relating to interest rates which permits the boards of directors of banks for cooperatives to develop and adopt an interest rate plan, subject to Farm Credit Administration approval, within which bank management may establish rates.

In accordance with § 5.18(b)(1) of the Farm Credit Act of 1971, as amended, the subject final regulations became effective on November 21, 1981.

EFFECTIVE DATE: November 21, 1981.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578 (202–755–2181).

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, as amended, 12 U.S.C. 2243, 2246, and 2252)

Donald E. Wilkinson,

Governor.

[FR Doc. 81-35152 Filed 12-7-81; 8:45 am]

BILLING CODE 6705-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16, 17, 18 and 21

Reporting Requirements for Contract Markets, Futures Commission Merchants, Members of Exchanges and Large Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules and corrections.

SUMMARY: The Commission is amending § 18.00 of its regulations to eliminate the routine filing of series '03 reports by large traders. Traders will, however, be required to file such reports within 24 hours of a special call by the Commission or its designee. In addition, the Commission is adopting other amendments to its reporting requirements which affect routine reports that the Commission will continue to collect. These are as follows:

1. Amendments to Commission rules §§ 15.00, 15.02 and 15.03 which set the reporting levels for series '03 reports the same as those for '01 reports and designate '01 forms by exchange rather than by commodity;

2. Amendments to Part 17 of the Commission's rules which:

(a) Require futures commission merchants (FCMs) and clearing members of contract markets to file series '01 reports and Form 102 for accounts which they own or control;

(b) More fully specify the manner in which positions are reported on the series '01 reports;

(c) Eliminate the practice of clearing members mailing '01 reports except under certain circumstances;

(d) Require that '01 reports be filed by 9:00 a.m. local time;

(e) Add certain information which must be provided on the Form 102; and

(f) Explicitly require that Form 102 be updated if information previously reported to the Commission relating to financial interest in or control of an account is no longer accurate;

3. Amendments to Commission rules §§ 18.04 and 18.05 which add certain information to be provided by traders on the Form 40 and revise the information required to be maintained by traders and provided to the Commission on request; and

4. Amendments to Commission reporting rules which clarify certain changes the Commission made when it adopted rules governing the three year pilot program in commodity options.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Associate Director, Market Surveillance Section, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-3310.

SUPPLEMENTARY INFORMATION: On August 21, 1981, the Commission published for public comment proposed amendments to its large trader reporting system (46 FR 42463). The amendments were intended to reduce existing paperwork burdens on large traders and the Commission by eliminating the requirement that such traders file series '03 reports on a routine basis.[1] Instead, the Commission proposed that large traders be required to file '03 reports within 24 hours of a special call by the Commission or its designee. Amendments were also proposed which were designed to facilitate the Commission's market surveillance efforts in the absence of routine '03 reporting and to conform various reporting requirements with current industry practices also were proposed.

Seven persons, including FCMs, large traders and the United States Department of Justice, responded to the Commission's request for comments on these proposals. These commentators unanimously supported the Commission's proposal to eliminate the requirement that large traders file '03 reports on a routine basis. Two persons questioned the necessity for certain other proposed amendments. After reviewing the proposals and the public comments thereon, the Commission has determined that these amendments will substantially decrease certain paperwork burdens on large traders and on the Commission itself; that they will in no way limit the obligations of such traders to maintain all books and records which are currently or may in the future be required; and they will not impede the ability of the Commission and its staff to obtain full and unfettered access to such information upon request. On the basis of its judgment that, on balance, these proposals will not interfere with the Commission's ability to discharge its statutory obligations and conduct its important market surveillance program, the Commission has determined to adopt these amendments as discussed below.

[1] The series '03 reports are required to be filed with the Commission by any trader who owns or controls a reportable futures position. A reportable futures position is a futures position in any one future of a commodity on any one contract market which equals or exceeds certain levels as set forth in Commission rule § 15.03(c), 17 CFR 15.03(c) (1981). Once traders have obtained a reportable position, they must report trades, positions, exchanges of futures for physicals and delivery information on series '03 reports and classify such positions as speculative or hedging, 17 CFR 18.00.

Require Series '03 Reports on Special Call

Series '03 reports for a specific commodity are currently filed whenever a trader with a reportable position in that commodity makes a futures transaction such as a trade or delivery. 17 CFR 18.00 (1981). The Commission estimates that about 367,000 such reports are routinely filed by large traders each year. As noted by the Commission in the August 21, **Federal Register**, because of recent rule changes, the Commission now collects much of the information currently contained on series '03 reports through the series '01 reports and Forms 102 and 40, (46 FR 42463).[2]

Accordingly, the Commission proposed amendments to its regulations which would require that a trader only file series '03 reports within 24 hours of a special call by the Commission or its designee for the period of time specified in the special call during which the trader held a reportable position.[3] In conjunction with requiring series '03 reports on special call, the Commission proposed to remove rules §§ 18.03 and 18.07 and to amend rules §§ 15.00(b) and 15.03 to make the reporting levels for series '03 reports the same as for series '01 reports, 46 FR 42464 (1981).[4]

Five persons commented on the Commission's proposal to require the filing of series '03 reports on special call. All commentators agreed with the Commission that the benefits which would accrue from reducing the reporting burden on the public outweighed any information loss to the Commission. The Commission is therefore adopting the amendments to Parts 15 and 18 as proposed.

In adopting these amendments, the Commission will no longer obtain on a routine basis traders' classification of their futures position as speculative or hedging. The Commission fully intends, however, to continue monitoring the degree of hedge and speculative participation in futures markets. Certain provisions in the Commodity Exchange Act ("Act") require that the Commission distinguish between positions which are held for speculative reasons and those which are held to reduce price risks associated with the conduct and management of a commercial enterprise.[5] Although traders' positions can be classified as commercial or noncommercial on the basis of information received from traders on the Form 40, the Commission will seek to determine alternative ways in which it can measure more precisely the relative amounts of speculation and bona fide hedging in individual markets.

The Commission also wishes to reiterate the view it expressed in proposing this amendment that the elimination of the requirement that '03 reports be filed on a routine basis will cause the Commission to rely more heavily on series '01 reports and Forms 40 and 102 to satisfy its routine needs for large trader information.[6] Concomitant with the increased reliance which the Commission intends to place on these reports to satisfy its informational needs, the Commission will carefully monitor their accuracy and timeliness and vigorously pursue any apparent reporting violation.

Other Proposed Amendments

In addition to the above, the Commission proposed amendments to its reporting requirements which it considered necessary in order to

[2] Under Commission Rule 17.00, FCMs and foreign brokers must report daily each reportable position as well as delivery information and exchanges of futures for physicals ("EFPs"), 17 CFR 17.00 (1981). These positions are reported on Series '01 forms. Form 102 is filed with the Commission by FCMs and foreign brokers and identifies accounts which are reported to the Commission on series '01 reports, 17 CFR 17.01 (1981). Form 40 is provided by a reportable trader and gives certain background information on the trader. 17 CFR 18.04 (1981).

[3] The Commission noted in its August 21, 1981, **Federal Register** release that generally more complete information concerning a trader's position is reported on the series '03 reports than on the series '01 reports. The Commission stated, however, that when circumstances dictate, it can obtain the additional information it may require by making a call on specific traders, 46 FR 42464.

[4] Commission rule § 18.07 exempts foreign traders from filing series '03 reports for any commodity regulated under the Act but not specifically set forth in Section 2(a) of the Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, 17 CFR 18.07 (1981). Such reports are, however, required on call by the Commission. Commission rule § 18.03 specifies the time and place for filing series '03 reports, 17 CFR 18.03 (1981).

The Commission's proposed amendments to rules 15.00 and 15.03 would lower the reporting levels for series '03 reports in wheat, corn and soybeans from 1,000,000 bushels to 500,000 bushels, in soybean meal, soybean oil, copper and gold from 200 contracts to 100 contracts, in live hogs, sugar, long-term U.S. T-bonds and GNMAs from 100 contracts to 50 contracts, in platinum and foreign currencies from 100 contracts to 25 contracts and in 90-day and 1-year T-bill contracts from 50 contracts to 25 contracts, 17 CFR 15.00 and 15.03 (1981).

[5] See for example sections 4a(1) and 5(g) of the Act, 7 U.S.C. 6a(1) and 7(g) (1976 and Sup. III 1979).

[6] The Commission also noted that, in addition to market surveillance and enforcement of speculative limits, large trader date provides the basis for the Commission's monthly report on commitments of large traders, 46 FR 42464. The Commission stated its intention to continue publishing this report using information received on the series '01 reports and the Form 40 as a basis for the publication. Because of computer systems changes that are currently being implemented, however, the Commission will suspend publication of its commitments of traders reports after the effective date of these amendments until further notice.

conduct surveillance without benefit of the series '03 reports and to update its reporting rules to reflect current practices. These were as follows:

1. *FCM and Clearing Member Reporting on Series '01 Forms.* In order to obtain the information required on the series '01 reports and Forms 102 for all large traders, the Commission proposed amendments which would make the house accounts of FCMs and accounts of clearing members who are not FCMs subject to the requirements of Part 17.[7] Clearing members would be required to report the information required under Part 17 for the firm and for officers or employees of the firm who own or control reportable positions. The proposed amendments provide, however, that an FCM or clearing member shall not report positions which the firm owns or controls that are carried fully disclosed on the books of another FCM. House or customer positions carried on an omnibus basis with another FCM would be reported by the FCM or clearing member originating the omnibus account. In conjunction with the above, the Commission proposed to amend rule § 15.01 to reflect the fact that clearing members would be subject to the reporting requirements in Part 17. No comments were received on these aspects of the proposed amendments. Accordingly, the Commission is adopting these amendments as proposed.[8]

2. *Reporting Positions on the Series '01 Forms.* In order to clarify the manner in which information should be reported on the series '01 reports, the Commission proposed amendments to Commission rule § 17.00, 17 CFR 17.00 (1981), which:

(a) Specify the manner, net or gross, in which position information should be reported;

(b) Describe circumstances under which positions held in a customer trading program of an FCM must be combined with other positions of the FCM for reporting purposes;

(c) Define financial interest for reporting purposes; and

(d) Require persons reporting on series '01 reports to obtain instructions from the Commission if combining accounts according to Commission requirements would result in reporting the same position more than once.

No comments were received on these proposed amendments. Therefore, the Commission is adopting these amendments as proposed.

3. *Changes Affecting Forms 102 and 40.* In order to obtain information necessary for market surveillance and to ensure that information on file is currently accurate, the Commission proposed the following amendments to Rule 17.01 affecting the Form 102 and rule § 18.04 affecting the Form 40, 17 CFR 17.01 and 18.04 (1981):

(a) Making explicit the requirement that FCMs, exchange members and foreign brokers update a Form 102 if the information concerning financial interest in or control of an account has changed;[9]

(b) Changes specifying that the *business* telephone numbers of traders be provided on the Forms 102 and 40;

(c) Elimination of the question asking for date and place of birth from the Form 40;

(d) Changing a question on the Forms 102 and 40 to ask for principal business or occupation rather than "principal business or industry and occupation." In addition, traders would be required to indicate on the Form 40 whether their futures trading is for, or on behalf of, or in association with a customer trading program of an FCM, a commodity pool, a producer cooperative, any business activity in which the trader is commercially engaged or for personal use;

(e) Adding a requirement that FCMs and traders report on the Forms 102 and 40, respectively, the name of a trader's employer and a trader's job title;

(f) Adding a requirement that FCMs and traders report on the Forms 102 and 40, respectively, information concerning the ownership and location of all accounts in which the trader has a 10 percent or more financial interest;

(g) Adding a requirement that corporations, associations and trusts in addition to providing the names of persons controlling their trading also indicate which commodities such persons trade;

(h) Adding a requirement that persons provide on the Form 40 the name and location of all offices of an FCM through which the person trades; and

(i) Miscellaneous revisions to the Form 40 which change the order of questions which are asked and remove an inapplicable update provision contained in § 18.04(e), 17 CFR 18.04 (1981).[10]

Two persons commented on various aspects of the above proposed amendments. Both persons objected to the requirement that an FCM provide information concerning accounts in which a trader has a financial interest of 10 percent or more. This information concerns the name of such account, the name of the account owners, and the name and location of the firm through which the accounts are carried. Both commentators opined that an FCM should not be required to obtain information concerning their customers' futures market activities at other FCMs and stated this information could more appropriately be obtained from the traders themselves. For similar reasons, these commentators opposed the requirement that Form 102s be updated within 24 hours by the FCMs if the information pertaining to financial interest in or control of an account is no longer accurate. One commentator did not believe that the 24 hour requirement would give sufficient time in which to update the information.

The Commission believes that these commentators may have misconstrued the intended scope of the proposed information gathering requirement. The Commission intended that this requirement should extend only to providing information concerning accounts carried on the books of the reporting FCM and has revised its proposal to make this explicit. In this respect, the Commission does not believe that it is beyond the capability of an FCM when reporting information on a Form 102 concerning a trader to determine if the subject trader has a financial interest in other accounts carried on the FCMs books and report this to the Commission. With regard to updating the Forms 102, the Commission continues to believe that if information on the books of an FCM changes regarding financial interest in or control of an account, this information can be made available to the Commission within 24 hours of the time such change

[7] Currently, Rule 17.00(d) permits FCMs to omit from series '01 reports any accounts in which the FCM has a financial interest and for which the FCM files a series '03 report, 17 CFR 17.00(d) (1981). In addition, futures positions owned or controlled by clearing members which are not FCMs and positions of officers of employees of such clearing members are reported only on series '03 reports and not series '01 reports.

[8] The Commission notes also that in adopting amendments to its reporting requirements for options, certain revisions to Rule 15.01 which list the rules under which specified persons are required to report were not at that time made. 46 FR 54500 (November 3, 1981). Since such changes are administrative in nature, the Commission at this time is amending Rule 15.01 to reflect reporting requirements for options and futures.

[9] Regulation 17.01 currently lacks an explicit provision concerning updating. However, in the Commission's view, traders have always had an obligation to correct inaccurate Form 102s under Sections 4g(1) and 6(b) of the Act.

[10] This section provides that "a trader who has filed a Form 40 with the Commission at any time during the period of February 1, 1977, to January 31, 1979, shall not be required to file the trader's first undated Form 40 under this section until the anniversary date of the filing of the most recent Form 40 filed during that period.

occurs.[11] Accordingly, the Commission is adopting its proposed amendments to rule §§ 17.01 and 18.04 as discussed above.

4. *Place and Time of Filing Reports.* In order to receive reports from FCMs and clearing members expeditiously and to conform its rules to current practices, the Commission proposed amendments to rule § 17.02, 17 CFR 17.02 (1981) which:

(a) Provide that reports required by Part 17 be filed by 9:00 a.m. local time for the city in which the contract market is located or at such other time as approved by the Commission;

(b) Make clearing members subject to the provisions of rule § 17.02. Such amendments do not permit clearing members to mail reports concerning transactions involving contract markets with which they are associated as clearing members unless the Commission does not maintain an office in the city in which the clearing member and contract market are located; and

(c) Delete the requirement that reports which are mailed must be postmarked.

No comments were received on these proposed amendments. The Commission is therefore adopting the amendments to rule § 17.02 as proposed.

5. *Maintenance of Books and Records.* Regulation § 18.05, 17 CFR 18.05, was originally promulgated pursuant to Section 4i of the Act, which imposes certain book and recordkeeping obligations on reportable traders. The regulation requires reportable traders to maintain books and records of futures positions and transactions in the commodity in which they are reportable and all positions and transactions in the cash commodity and its products and byproducts. To clarify that, in eliminating the routine '03 reporting requirements, the Commission in no way intended to limit the vitally important book and recordkeeping obligations of reportable traders contained in section 4i of the Act and regulation § 18.05 thereunder, or to impede in any way its full, unfettered access to required books and records upon request, the Commission proposed to repromulgate regulation § 18.05 pursuant to both section 4i of the Act and its general rulemaking authority contained in section 8a(5) of the Act. In readopting regulation § 18.05, the Commission wishes to underscore its view that the book and recordkeeping requirements and inspection provision contained therein are essential to accomplish the purposes of the Act and within the Commission's authority to adopt pursuant to section 4i and 8a(5) of the Act.[12] These requirements have always applied to the traders who hold or control a reportable position, and have not been restricted in any way.

6. *Redesignation of Series '01 Reports.* To better reflect current reporting practices, the Commission proposed to designate its series '01 reports by exchange rather than commodity. No comments were received on this proposal. Therefore, the Commission is adopting this amendment.

Further Considerations

Rule § 18.04(e) requires large traders to update previously filed Form 40s annually or when certain specified information changes. Since the Commission is revising the information required on Form 40s, traders would automatically be required to update Form 40s within ten days after the effective date of this revised rule. To minimize this reporting burden during the implementation of these new requirements, the Commission has determined that, unless specifically requested, a large trader that has filed a Form 40 during the period January 1, 1981, through December 31, 1981, need not file an updated Form 40 reflecting the Commission's current amendments until the anniversary date of the trader's most recent Form 40 or unless an updated Form 40 is otherwise required. Thereafter, all large traders will be required to file Form 40 reports annually or when a change occurs in any of the information specified in rule § 18.04.

In addition, the Commission notes that with respect to rules § 17.01 concerning the filing of Form 102 and § 18.05 requiring traders to maintain books and records, the Commission has recently adopted amendments to these rules in conjunction with implementation of its pilot program in commodity options, 46 FR 54500, November 3, 1981. Under new Rule 17.01, FCMs, members of contract markets and foreign brokers are required to file with the appropriate contract market a Form 102 for each reportable options account. Under new rule § 18.05, option traders that hold or control an option position of 25 contracts or more on any one contract market in any one call option or, separately, in any one put option of any one expiration date, are required to maintain the information specified in rule § 18.05 and make such information available on request to the Commission. The Commission's proposed amendments to rule §§ 17.01 and 18.04 will therefore affect the information FCMs and foreign brokers must file concerning reportable options customers and the information certain option traders must maintain.

The Commission does not believe that making options accounts and option traders subject to the current amendments will appreciably increase reporting and record keeping requirements for FCMs, members of contract markets, foreign brokers or traders. Moreover, as noted in the November 3, 1981, **Federal Register**, the Commission determined to provide a regulatory framework for options trading which is similar to the existing framework for the regulation of futures trading, (46 FR 54500). One purpose for this, as stated by the Commission, is to take advantage of "* * * experience with systems which are already in place for surveillance of futures trading * * *" (46 FR 54503). Accordingly, the Commission determined to conform the requirements for options and futures to the extent possible, and to incorporate similar or identical requirements for futures and options in the same rule.

With respect to rules §§ 17.01 and 18.05, the Commission's requirements for surveillance of options and futures are similar in nature. The Commission believes, therefore, that making option accounts and option traders subject to the current amendments to rules §§ 17.01 and 18.05 is within the scope of previously announced Commission policy.

At this time the Commission is also making corrections to the rules which appeared in the November 3, 1981, **Federal Register.** The corrections, which are administrative or technical in nature, are as follows:

1. Rule § 16.02 is revised to specify that contract markets provide *reportable* option positions to the Commission. In the November 3, 1981, **Federal Register,** the term "reportable" was inadvertently omitted;

2. Revise rule § 21.02(a)(2) to specify that open futures contracts reported by persons on special call should exclude *contracts against which delivery notices have been issued by the clearinghouse or stopped by a trader.* This terminology was also inadvertently omitted; and

3. Specifically identify the change in the heading to Part 21 which occurred when the Commission adopted the amendments published in the November 3, 1981, **Federal Register.** The Commission's present action is intended

[11] The Commission has, however, changed the language of Rule 17.01(d) to require updated Forms 102 within one business day rather than within 24 hours to allow for weekends and holidays.

[12] The broad scope of agency rulemaking authority under provisions such as 8a(5) of the Act is well established. *See e.g., FCC* v. *National Citizens Committee for Broadcasting,* 436 U.S. 775 (1978); *Mourning* v. *Family Publication Service, Inc.,* 411 U.S. 351 (1973); *Thorpe* v. *Housing Authority of the City of Durham,* 393 U.S. 268 (1969).

to assure the change will appear in the next revision of the Code of Federal Regulations.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 95-354, 94 Stat. 1164, 5 U.S.C. 601 et. seq. ("RFA"), requires agencies to consider whether proposed rules will have a significant economic impact on a substantial number of small entities. The Commission stated in the August 21, 1981, **Federal Register** that it did not believe that these reporting changes would have a significant adverse economic impact on the parties affected. With respect to large traders, the Commission noted that the proposal will, for the most part, operate to alleviate a reporting burden. With respect to FCMs, the Commission noted that it did not believe that the proposal will add substantially to existing costs of reporting. In view of this, the Chairman, on behalf of the Commission, certified that the Rules will not have a significant impact on a substantial number of small entities.[13] In addition, the Commission invited comment from any small firms which believe that promulgation of these rules will have a significant economic impact upon them, however, no such comments were received.

Cost Analysis and Paperwork Reduction Act

Executive Order 12291 was issued by President Reagan on February 17, 1981, in order to reduce regulatory burdens and provide for Presidential oversight of the regulatory process. The order specifically excludes the independent agencies set forth in 44 U.S.C. 3502(10), and the Commission is one of those enumerated. The Commission, however, has voluntarily undertaken to comply with the spirit of certain sections of the Executive Order 12291 which require a consideration of the costs of regulation. In light of that commitment, the Commission has taken into account the costs associated with the rules discussed herein, and has determined that the benefits which will be derived from those rules outweigh the associated costs.

[13] The RFA permits each agency to establish its own definition of small entities for the purposes of compliance with the procedures specified in the RFA 5 U.S.C. 601(3). In the **Federal Register** release of April 29, 1981, 45 FR 23940, the Commission published for comment its proposed definition in compliance with the RFA. At that time the Commission proposed that FCMs and large traders subject to the reporting requirements of Part 15, 18 and 19 of the Commission's rules not be considered "small entities" for purposes of the RFA. These proposals are still pending.

Pursuant to the provisions of the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned, for use through September 30, 1984, control number 3038-0009 to the amended regulations which appear herein, the series '01 and '03 reports and Forms 40 and 102.

In consideration of the foregoing and pursuant to its authority under section 4c, 4g, 4i, 5(b) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6c, 6g, 6i, 7(b), and 12a(5) (1976 and Supp. III 1979), the Commission is amending Parts 15, 16, 17, 18 and 21 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.00 is amended by revising paragraphs (b)(1) and (b)(1)(i) to read as follows:

§15.00 Definitions.

As used in Parts 15 to 21 of this chapter:

* * * * *

(b) "Reportable position" means:

(1) With respect to reports regarding commodity futures—

(i) For reports specified in Parts 17 and 18, any open contract position in any one future of any commodity on any one contract market, excluding futures contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a contract market which, at the close of the market on any business day, equals or exceeds the quantity specified in § 15.03(a).

* * * * *

2. Section 15.01 is amended by revising paragraphs (a) and (b) and removing paragraph (e) as follows:

§15.01 Persons required to report.

* * * * *

(a) Contract markets—as specified in Parts 16 and 21 of this chapter.

(b) Futures commission merchants, members of contract markets and foreign brokers—as specified in Parts 17, 20 and 21 of this chapter.

* * * * *

3. Section 15.02 is revised to read as follows:

§15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Reporting forms are identified by number as to the market or commodity and class of person. Forms to be used for the filing of reports are as follows:

Commodity	(Series '03 forms) [1]	(Series '04 forms) [2]
Grains (including oil seeds)	203	204
Cotton	303	304
Butter	403	None
Eggs	503	504
Potatoes	603	604
Rice	703	None
Wool	803	None
Edible oil	1,003	None
Meal	1,103	None
Cattle	1,203	None
Cattle products	1,303	None
Hog and hog products	1,403	None
Frozen concentrated orange juice	1,603	None
Poultry	1,703	None
Petroleum and petroleum products	1,803	None
Lumber and lumber products	1,903	None
Metals	2,003	None
Coffee and sugar	2,103	None
Cocoa and rubber	2,203	None
Foreign currency	2,303	None
Silver coins	2,403	None
Not otherwise specified	2,503	None
Financial instruments	2,603	None

[1] Traders who hold or control reportable positions.
[2] All hedgers and merchants, processors and dealers in cotton.

Futures commission merchants, clearing members and foreign brokers file series '01 forms as follows:

Series '01 forms	Markets
01-60	Board of Trade of the City of Chicago.
01-61	Board of Trade of the City of Kansas City, Missouri, Inc.
01-62	Minneapolis Grain Exchange.
01-63	MidAmerica Commodity Exchange.
01-64	Chicago Mercantile Exchange.
01-65	New York Mercantile Exchange.
01-66	New York Cotton Exchange and Associates.
01-69	Commodity Exchange, Inc.
01-73	Coffee, Sugar and Cocoa Exchange.
01-74	International Monetary Market.
01-77	New York Futures Exchange.
01-78	New Orleans Commodity Exchange.

4. Section 15.03 is amended by removing paragraph (c) and by revising paragraph (a) to read as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	200,000
Rye (bushels)	200,000
Barley (bushels)	200,000
Flaxseed (bushels)	200,000
Soybean oil (contracts)	100
Soybean meal (contracts)	100
Live cattle (contracts)	100
Hogs (contracts)	50
Cotton (bales)	5,000
Sugar (contracts)	50
Copper (contracts)	100
Gold (contracts)	100
Silver bullion (contracts)	250
Silver coins (contracts)	50
Long-term U.S. T-bonds (contracts)	50
GNMA (contracts)	50
All other commodities	25

* * * * *

PART 16—REPORTS BY CONTRACTS MARKETS

5. Section 16.02 is amended by revising paragraphs (a)(1), (a)(1)(i), (a)(1)(ii), (a)(1)(iii) and (a)(1)(iv) as follows:

§ 16.02 Publication of volume of trading and open contracts.

(a) When an option becomes the option which will expire next, and, in any case, at least six weeks prior to an option's expiration date, each contract market shall submit a weekly report to the Commission containing the following information for each option trader controlling a reportable option position in the option which will expire next or controlling a reportable option position in an option which will expire in six weeks or less:

(1) With respect to each put and call and each long and short, the following position information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(i) All reportable positions controlled by the option trader in the option which is next to expire, by strike price;

(ii) All reportable positions in any other options which expire within six weeks, by strike price;

(iii) All reportable positions controlled by the option trader in the next-deferred option expiration date, regardless of strike prices;

(iv) All reportable positions controlled by the option trader in all other more distant option expiration dates, regardless of strike prices; and

(v) The total reportable position controlled by the option trader in all option expiration dates, regardless of strike prices.

Each contract market shall identify all reportable option positions controlled by the same trader which are carried at the same futures commission merchant or held by a member of the contract market by use of the number which is assigned by the futures commission merchant or member in accordance with § 17.01(a).

* * * * *

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

6. The title to Part 17 is revised to read as follows: Part 17—Reports By Futures Commission Merchants, Members of Contract Markets and Foreign Brokers.

7. Section 17.00 is amended by revising the section heading, redesignating paragraph (c) as paragraph (f), by removing current paragraph (d), by adding new paragraphs (c), (d) and (e), by revising the italic heading of paragraph (a), and by revising paragraphs (a)(1) and (b) to read as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

(a) *Special Accounts—Reportable Futures Positions, Delivery Notices and Exchanges of Futures for Cash.* (1) Each futures commission merchant, clearing member and foreign broker shall submit a report to the Commission for each business day with respect to all Special Accounts carried by the futures commission merchant, clearing member or foreign broker, except for accounts carried on the books of another futures commission merchant on a fully disclosed basis. Such report shall be made on the appropriate series '01 form and shall show each reportable futures position, separately for each contract market and for each future, in such account as of the close of the market on the day covered by the report. In addition, for each Special Account, as of the close of the market on the day covered by the report, a futures commission merchant, clearing member or foreign broker shall show, separately for each contract market and for each future in the commodity for which a report is filed, the quantity of exchanges of futures for physicals and the number of delivery notices issued for the account by the clearing organization of a contract market and the number stopped by the account.

* * * * *

(b) *Interest in or control of several accounts.* If any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the futures commission merchant, clearing member or foreign broker as a single account for the purpose of determining Special Account status and for reporting purposes, *Provided that:* if combining accounts for purposes of this paragraph would result in reporting the same position more than once, such accounts shall be combined and reported as instructed by the Commission. For the purpose of Part 17, except for the interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, the term financial interest shall mean an interest of 10 percent or more in ownership or equity of an account.

(c) *Customer trading programs and discretionary accounts of traders who are futures commission merchants.* For the purpose of paragraph (b) of this section, positions held in a discretionary account, or held in an account, which is part of, participates in, or receives trading advice from a customer trading program of a futures commission merchant, or any of the officers, partners, or employees of such futures commission merchant, shall be considered positions controlled by such futures commission merchant unless:

(1) A trader other than the futures commission merchant directs trading in such an account;

(2) The futures commission merchant maintains only such minimum control over the trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account; and

(3) Each trading decision of the discretionary account or the customer trading program is determined independently of all trading decisions in other accounts that the futures commission merchant holds, has a financial interest in, or controls.

(d) *Net positions.* Futures commission merchants, clearing members and foreign brokers shall report positions net long or short in each future of a commodity in all special accounts, except as specified in paragraph (e) of this section.

(e) *Gross positions.* In the following cases, the futures commission merchant, clearing member or foreign broker shall report gross long and short positions in each future of a commodity in all special accounts:

(1) Positions which are reported to an exchange or the clearinghouse of an exchange on a gross basis, which the exchange uses for calculating total open interest in each future of a commodity (e.g., positions on the New York Mercantile Exchange, the Chicago Mercantile Exchange and the New Orleans Commodity Exchange);

(2) Positions in accounts owned or held jointly with another person or persons;

(3) Positions in multiple accounts subject to trading control by the same trader.

* * * * *

8. Section 17.01 is amended by redesignating paragraphs (b)(9), (b)(10 and (b)(11) as (b)(10), (b)(11) and (b)(13) respectively, by adding new paragraphs (b)(9), (b)(12) and (d) and by revising the introductory text of paragraph (b) and paragraphs (b)(3), (b)(4), (b)(7) and (b)(13) as follows:

§ 17.01 Special account designation and identification.

* * * * *

(b) *Identification of Special Account.* When a Special Account is reported for the first time, the futures commission merchant, member of a contract market or foreign broker shall identify the account to the Commission or to the contract market on Form 102 showing the information requested thereon, including:

* * * * *

(3) Business telephone number of account owner.

(4) Business or occupation of the account owner, including the name of the person's employer and the person's job title if type of account is individual.

* * * * *

(7) The name address, business telephone number and business or occupation of other persons, if any, who control the trading of this account.

* * * * *

(9) Information concerning other accounts carried by the reporting FCM, member or foreign broker in which the account for which the Form 102 is filed has a 10 percent or more financial interest including, the names of such accounts, the principal owners of such accounts and the names and locations of offices at which such accounts are carried.

(10) For futures, commodities in which positions in the account are associated with a commercial activity of the account owner in related cash commodity (*i.e.*, those considered as hedging).

(11) For options, whether the trader is classified as commercial or noncommercial by commodity option traded.

(12) The name and business telephone number of the account executive handling the account.

(13) Name and address of the futures commission merchant, member of a contract market or foreign broker carrying the account, the signature, title and business phone of the authorized representative of the firm filing the report, and the date of signing the Form 102.

* * * * *

(d) *Form 102 Update.* If at the time an account is in special account status and a Form 102 filed by a futures commission merchant, member of a contract market or foreign broker is then no longer accurate because there has been a change in the information required under paragraphs (b)(6), (b)(7), (b)(8), or (b)(9) of this section since the previous filing, the futures commission merchant, member of a contract market or foreign broker shall file an updated Form 102 with the Commission or the contract market within one business day after such change occurs.

9. Section 17.02 is amended by revising paragraph (a) as follows:

§ 17.02 Place and time of filing reports.

(a) *Futures Commission Merchants and Clearing Members—*

(1) *Place of filing reports.* The reports required to be filed by futures commission merchants and clearing members under §§ 17.00 and 17.01 on series '01 forms and Form 102, respectively, must be filed at the Commission office in the city in which is located the contract market involved in the reported transactions; except that if there is no Commission office in such city, the reports shall be filed in accordance with instructions from the Commission.

(2) *Time of filing reports.* The reports on series '01 forms and Form 102 shall be filed by futures commission merchants and clearing members with the appropriate Commission office on the business day following the day for which the reports are filed and not later than 9:00 a.m. local time for the city in which the reports are filed or at such other time as instructed by the Commission. If a futures commission merchant, other than a clearing member associated with the contract market involved in the reported transaction, does not have an office in the city in which the appropriate Commission office is located, such reports may be transmitted to such Commission office by mail. Each report transmitted by mail must be mailed not later than the day covered by the report.

* * * * *

10. Section 17.03 is revised to read as follows:

§ 17.03 Use of data processing media.

Any futures commission merchant or clearing member may provide the required series '01 information on compatible data processing punch cards, magnetic tapes, magnetic discs, or updated Commission supplied computer printouts: Provided, that the format and coding structure used thereon have been approved in writing by the Commission. Information provided by means of data processing media must also be accompanied by a complete and accurate printout of information, which shall be submitted by the futures commission merchant or clearing member if a sole proprietorship, by a general partner of a futures commission merchant or clearing member which is a partnership, by the chief executive officer of a futures commission merchant or clearing member which is a corporation, or by a person designated by the futures commission merchant or clearing member for such purpose provided such designee has been identifed as such in writing to the Commission.

11. Section 17.04 is amended by revising paragraphs (a) and the introductory text of paragraph (b) as follows:

§ 17.04 Reporting omnibus accounts to the carrying futures commission merchants or foreign broker

(a) Any futures commission merchant, clearing member or foreign broker who establishes an onmibus account with another futures commission merchant or foreign broker shall report to that futures commission merchant or foreign broker the total open long positions and the total open short positions in each future of a commodity in the account at the close of trading each day in the applicable futures contract. The information required by this section shall be reported in sufficient time to enable the futures commission merchant or foreign broker with whom the omnibus account is established to comply with Part 17 of these regulations and reporting requirements established by the contract markets.

(b) In determining open long and open short positions in an omnibus account for purposes of complying with § 17.00(f) and § 1.37(b) of this chapter, a futures commission merchant, clearing member or foreign broker shall total the open long positions of all traders and the open short positions of all traders in each future of a commodity. The futures commission merchant, clearing member or foreign broker shall, if both long and short positions are carried for the account of the same trader, compute open long or short positions as instructed below.

* * * * *

PART 18—REPORTS BY TRADERS

12. Section 18.00 is amended by revising the introductory paragraph, by removing current paragraphs (h)(2)(i) and (h)(2)(ii), and by adding a new paragraph (h)(2)(i). Section 18.00 is further amended by redesignating paragraphs (h)(2)(iii), (iv), (v), and (vi) as paragraphs (h)(2)(ii), (iii), (iv), and (v), respectively.

§ 18.00 Information to be furnished by traders.

Every trader who owns, holds, or controls, or has held, owned or controlled, a reportable position in a commodity shall within one business day after a special call upon such trader by the Commission or its designee file

reports to the Commission concerning transactions and positions in such commodities. Reports shall be filed over such period of time the trader held or controlled a reportable position as instructed in the call. Each such report shall be prepared on the appropriate series '03, on a separate sheet for each commodity, and shall show for the day covered by the report the following information, separately for each future and for each contract market:

* * * * *

(h) Reporting of Positions Net or Gross.

* * * * *

(2) *Gross positions.* In the following cases, the reporting trader shall report the gross open contracts, i.e., total long open contracts in each future of such commodity in all accounts:

(i) Positions which are reported to an exchange or the clearinghouse of an exchange on a gross basis, which the exchange uses for calculating total open interest in each future of a commodity (i.e., positions on the New York Mercantile Exchange, the Chicago Mercantile Exchange and the New Orleans Commodity Exchange).

* * * * *

§ 18.03 [Removed]

13. Section 18.03 is removed.

§ 18.04 [Amended]

14. Section 18.04(a) is amended by revising paragraphs (a)(1), (a)(2), (a)(6), (a)(7), by redesignating paragraphs (a)(9) and (d) as (a)(10) and (a)(11) respectively and by adding a new paragraph (a)(9) respectively as follows:

* * * * *

(a) Information to be furnished by all traders in Part A of the Form 40 shall include:

(1) Name and address of reporting trader.

(2) Principal business and occupation of the reporting trader and, in addition, whether the trader's futures transactions are made for, on behalf of, or in association with a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged or personal use.

* * * * *

(6) The name, address and business phone of each person who controls the trading of the reporting trader.

(7) The names and locations of all futures commission merchants and foreign brokers through whom accounts owned or controlled by the reporting trader are carried at the time of filing a Form 40, if such accounts are carried through more than one futures commission merchant or foreign broker or through more than one office of the same futures commission merchant or foreign broker and the name of the reporting trader's account executive at each firm or office of the firm.

* * * * *

(9) The following information concerning futures trading accounts which the reporting trader guarantees or in which the trader has a financial interest of 10 percent or more if such accounts are in a name other than that of the reporting trader:

(i) The names of the accounts;

(ii) The names of the owners of the accounts; and

(iii) The names and locations of the brokerage firms at which the accounts are carried.

(10) Information concerning ownership or control by a foreign government, agent of a foreign government entity specially acknowledged by a statute or regulation of a foreign jurisdiction or entity financed by a foreign government either through ownership of capital assets or provision of operating expenses.

(11) Signature of the trader and date of signing the report. If the reporting trader is an organization, the signature must be that of a partner, officer or trustee authorized to sign on behalf of that organization.

* * * * *

15. Section 18.04(b) is amended by removing paragraph (b)(1) and (b)(3), by revising and redesignating paragraph (b)(2) as paragraph (b)(1) and by adding a new paragraph (b)(2) to read as follows:

* * * * *

(b) Information to be furnished in Part B of the Form 40 shall include:

(1) Business telephone number of the reporting trader.

(2) Employer and job title if the reporting trader is an individual.

* * * * *

16. Section 18.04(b) is further amended by redesignating paragraph (b)(4), (b)(5) and (b)(6) as (b)(3), (b)(4) and (b)(5) respectively.

17. Section 18.04(c) is amended by revising paragraph (c)(4) as follows:

* * * * *

(c) Information to be furnished in Part C of the Form 40 shall include:

* * * * *

(4) Name, address, and business telephone number of person(s) actually controlling futures trading and, if different persons are responsible for different commodities, the commodities for which each controller has responsibility.

* * * * *

18. Section 18.04(e) is redesignated as § 18.04(d) and is revised as follows:

* * * * *

(e) *Updating reports.* If at the time a trader holds or controls a reportable position and (i) the trader has not filed a Form 40 during the previous twelve months or (ii) a Form 40 previously filed by the trader is then no longer accurate because since the previous filing there has been a change in the information required under paragraph (a)(1), (a)(2), (a)(3), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (b) or (c) of this section, the trader shall file an updated Form 40 with the Commission not later than 10 calendar days after the expiration of such twelve month period or after such change occurs, respectively.

19. Section 18.05 is revised as follows:

§ 18.05 Maintenance of books and records.

Every trader who holds or controls a reportable futures position or a total of 25 or more open option positions on any one contract market in a put option or separately in a call option of a specified option expiration date, shall keep books and records showing all details concerning all positions and transactions for future delivery in the commodity on all contract markets, all positions and transactions in the commodity option, and all positions and transactions in the cash commodity, its products, and byproducts and, in addition, commercial activities that the trader hedges in the futures commodity in which the trader is reportable, and shall upon request furnish to the Commission any pertinent information concerning such positions, transactions or activities.

§ 18.07 [Removed]

20. Section 18.07 is removed.

PART 21—SPECIAL CALLS FOR INFORMATION FROM CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS, AND FOREIGN BROKERS

21. The part heading for Part 21 is revised as set forth above.

22. Section 21.02 is amended by revising paragraph (a)(2) as follows (introductory text of paragraph (a) is included for the convenience of the user):

§ 21.02 Special calls for information.

(a) *Calls for futures information.* Upon special call by the Commission, each

futures commission merchant, member of a contract market who is not registered as a futures commission merchant, or foreign broker, shall furnish to the Commission the following information for the commodity, contract market, and date specified in such call:

* * * * *

(2) The open contracts held or controlled by such traders in each future excluding contracts against which delivery notices have been stopped or against which delivery notices have been issued by the clearing organization of the contract market upon which delivery will occur.

* * * * *

The aforegoing amendments are adopted effective January 1, 1982. The Commission finds that these actions relieve a burden heretofore imposed and therefore, that notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued in Washington, D.C., on November 30, 1981, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 81-35184 Filed 12-7-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 80F-0046]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sodium and Potassium Salts of N-acetyl-L-methionine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of sodium and potassium salts of *N*-acetyl-L-methionine in food as sources of L-methionine for use as a nutrient in food. This action is based on a petition filed by the Procter & Gamble Co.

DATES: Effective December 8, 1981; objections by January 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 22, 1980 (45 FR 11910), FDA announced that a petition (FAP 0A3496) had been filed by Procter & Gamble Co., 6071 Center Hill Rd., Cincinnati, OH 45224, proposing that § 172.372 *N-Acetyl-L-methionine* (21 CFR 172.372) of the food additive regulations be amended to include the sodium and potassium salts of *N*-acetyl-L-methionine for use in food as sources of L-methionine for use as a nutrient.

Having evaluated the data in the petition and other relevant material, FDA concludes that the proposed use is safe and that the food additive regulations should be amended as set forth below.

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, therefore, will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 172 is amended by revising § 172.372(a) to read as follows:

§ 172.372 N-Acetyl-L-methionine.

* * * * *

(a) *N*-Acetyl-L-methionine (Chemical Abstracts Service Registry No. 65-82-7) is the derivative of the amino acid methionine formed by addition of an acetyl group to the *alpha*-amino group of methionine. It may be in the free, hydrated or anhydrous form, or as the sodium or potassium salts.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 7, 1982 submit to the Dockets Management Branch written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective December 8, 1981.

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

Dated: December 2, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-35040 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 312

[Docket No. 78N-0400]

Protection of Human Subjects; Informed Consent; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an omission which occurred inadvertently in the conforming amendments to the regulation on protection of human subjects; informed consent published in the **Federal Register** of January 27, 1981 (46 FR 8942).

EFFECTIVE DATE: July 27, 1981.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3640.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8942), FDA published the final rules on protection of human subjects; informed consent and standards for institutional review boards for clinical investigations. As discussed in paragraphs 53 and 139 of the preambles to the final rules, respectively, FDA, at the same time, issued conforming amendments to the investigational new

drug regulations in 21 CFR 312.1(a), Forms FD–1572 and FD–1573, to incorporate appropriate implementing provisions for, and cross-reference to, Part 50 (Protection of Human Subjects) and Part 56 (Institutional Review Boards). The agency inadvertently omitted a revision to item 6h in Form FD–1572 and item 4h in Form FD–1573 to incorporate appropriate references to Part 56. This document corrects that omission in Part 312 as follows:

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

In § 312.1 by revising item 6h of Form FD–1572 in paragraph (a)(12) and item 4h of Form FD–1573 in paragraph (a)(13) to read as follows:

§ 312.1 Conditions for exemption of new drugs for investigational use.

(a) * * *
(12) * * *
6. * * *

h. The investigator is required to assure the sponsor that for investigations subject to an institutional review requirement under Part 56 of this chapter the studies will not be initiated until the institutional review board has reviewed and approved the study. (The organization and procedure requirements for such a board as set forth in Part 56 should be explained to the investigator by the sponsor.)

* * * * *

(13) * * *
4. * * *

h. The investigator is required to assure the sponsor that for investigations subject to an institutional review requirement under Part 56 of this chapter the studies will not be initiated until the institutional review board has reviewed and approved the study. (The organization and procedure requirements for such a board as set forth in Part 56 should be explained to the investigator by the sponsor.)

* * * * *

Dated: December 2, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-35039 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 555

Chloramphenicol Drugs for Animal Use; Chloramphenicol Oral Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new drug application (NADA) filed by Philips Roxane, Inc., providing for safe and effective use of a choramphenicol oral solution for treating dogs for certain bacterial infections.

EFFECTIVE DATE: December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, filed a supplement to NADA 65–477 providing for use of an oral solution containing 250 milligrams of chloramphenicol per milliliter for treating dogs for bacterial pulmonary infections, urinary tract infections, enteritis, and infections associated with canine distemper, caused by organisms susceptible to chloramphenicol.

This product conforms to the requirements for certification and conditions of marketing of chloramphenicol oral solution which are codified in 21 CFR 555.110c. Approval is based on submission of published literature and results of a crossover blood level study demonstrating bioequivalence to an oral solution for which certification has been approved. Under 21 CFR 514.1(b)(9), and exemption from the submission of some of the data as required by 21 CFR 514.1(b)(8) has been applied to this NADA. The supplemental NADA is approved and the regulations are amended to reflect the approval.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment. Therefore, an environmental impact statement will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(f)(2)(ii)), may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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 (address above).

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

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 555 is amended in § 555.110c by revising paragraph (c)(2)(ii) to read as follows:

§ 555.110c Chloramphenicol oral solution.

* * * * *

(c) * * *
(2) * * *

(ii) For solutions containing 250 milligrams of chloramphenicol per milliliter see 000010 and 013983 in § 510.600(c) of this chapter.

* * * * *

Effective date. December 8, 1981.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: November 30, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-35041 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of N-ethylamphetamine into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule placing the substance, N-ethylamphetamine, into Schedule I of the Controlled Substances Act. As a result of this rule, N-ethylamphetamine will be subject to the manufacture, distribution, security, registration, recordkeeping, quotas, inventory, order forms, criminal liability, exportation and importation control of Schedule I.

EFFECTIVE DATE: January 7, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement

Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on Thursday, September 10, 1981 (46 FR 45156) proposing that N-ethylamphetamine be placed into Schedule I of the Controlled Substances Act. All interested persons were given until November 9, 1981 to submit any comments or objections in writing regarding this proposal. No comments or objections were received in response to this proposal, nor were there any requests for a hearing.

Based upon the investigations and review conducted by the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health, Department of Health and Human Services, received in accordance with 21 U.S.C. 811(b), the Acting Administrator of the Drug Enforcement Administration, pursuant to 21 U.S.C. 811 (a) and (b), finds that:

(1) Based on information now available, N-ethylamphetamine has a high potential for abuse;

(2) N-ethylamphetamine has no currently accepted medical use in treatment in the United States; and,

(3) N-ethylamphetamine lacks accepted safety for use under medical supervision.

The above findings are consistent with the placement of N-ethylamphetamine in Schedule I of the Controlled Substances Act. All regulations applicable to Schedule I substances are effective on January 7, 1982.

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports N-ethylamphetamine, or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* N-ethylamphetamine must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74 (a)–(f), 1301.75(a), and 1301.76 of Title 21 of the Code of Federal Regulations on or before January 7, 1982. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of N-ethylamphetamine and all labeling of N-ethylamphetamine packaged after January 7, 1982, must comply with the requirements of §§ 1302.03–1302.05, 1302.07, and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified request for an extension of time.

4. *Quotas.* All persons required to obtain quotas on N-ethylamphetamine shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Every registrant required to keep records who possesses any quantity of N-ethylamphetamine shall take an inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of N-ethylamphetamine on hand.

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding N-ethylamphetamine commencing on the date on which the inventory of N-ethylamphetamine is taken.

7. *Reports.* All registrants required to submit reports pursuant to §§ 1304.37–1304.41 of Title 21 of the Code of Federal Regulations shall do so regarding N-ethylamphetamine commencing on the date on which the inventory of N-ethylamphetamine is taken.

8. *Order Forms.* The order form requirements of §§ 1305.01–1305.16 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the inventory of fenethylline is taken.

9. *Importation and Exportation.* All importation and exportation of N-ethylamphetamine shall be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* The Acting Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to N-ethylamphetamine not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful, except that any person who is entitiled to registration under such Acts may continue to conduct normal business, research or professional practice with N-ethylamphetamine between the date on which this order is published and the date on which he obtains or is denied registration: *Provided*, That application for such registration is submitted on or before January 7, 1982.

11. *Other.* In all other respects, this order is effective January 7, 1982.

Pursuant to Title 5, United States Code, section 605(b), the Acting Administrator certifies that control of N-ethylamphetamine as ordered herein, will have no significant impact upon small business or other entities whose interests must be considered under the Regulatory Flexibility Act.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such, have been exempted from the consultation requirements of Executive Order 12991 and from the postponement of pending regulations under the President's memorandum of January 30, 1981.

Under the authority vested in the Attorney General by section 201(a) of the Act (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby orders that Part 1308, Title 21, Code of Federal Regulations (CFR), be amended by revising paragraph (f) of § 1308.11 of Title 21, Code of Federal Regulations (CFR), to include N-ethylamphetamine therein as item (2), to read as follows:

§ 1308.11 Schedule I.

* * * * *

(f) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline—1503

(2) N-ethylamphetamine—1475

Dated: December 1, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-35123 Filed 12-7-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 420

[Docket No. R-81-944]

Assistance Payments, Homes for Lower Income Families; Revocation of Part

Correction

In FR Doc. 81-33340 appearing at page 56784, in the issue of Thursday, November 19, 1981, make the following change:

On page 56785 in the authority citation, "(Section 221," should be corrected to read "(Section 211,".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Revocation of Obsolete Regulations

AGENCY: Veterans Administration.

ACTION: Revocation of obsolete and superfluous regulations.

SUMMARY: The Veterans Administration has revoked a number of obsolete and superfluous regulations. The provisions of these regulations have been either incorporated into other regulations or have been made obsolete by subsequently enacted legislation.

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr., 202-389-3005.

SUPPLEMENTARY INFORMATION: On August 25, 1981, the Veterans Administration proposed to revoke 38 CFR 3.1550, 3.1552 through 3.1556, 3.1558, 3.1559, 3.1561, 3.1562, 3.1564 through 3.1568, 3.1570 through 3.1575, 3.1690 and 3.1691. See 46 FR 42877 (1981). Interested persons were invited to submit comments, suggestions or objections to the proposal. We received none. The sections are removed.

Approved: December 1, 1981.

By direction of the Administrator.

John P. Murphy,

Acting Administrator.

PART 3—ADJUDICATION

§§ 3.1550, 3.1552-3.1556, 3.1558, 3.1559, 3.1561, 3.1562, 3.1564-3.1568, 3.1570-3.1575, 3.1690, 3.1691 [Removed]

Amend Part 3, Title 38, Code of Federal Regulations by removing §§ 3.1550, 3.1552 through 3.1556, 3.1558, 3.1559, 3.1561, 3.1562, 3.1564 through 3.1568, 3.1570 through 3.1575, 3.1690 and 3.1691.

[FR Doc. 81-35055 Filed 12-7-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1984-1]

Removal of Illinois State Implementation Plan Approval Condition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 12, 1981 (46 FR 31023), the Environmental Protection Agency (EPA) proposed to remove the State Implementation Plan (SIP) approval condition which requires the State of Illinois to utilize emission factors and to promulgate administrative rules interpreting Illinois Rule 108 as it applies to fugitive particulate emissions by July 1, 1980. The determination to remove this condition is based on subsequent information made available to EPA by the Manager of the Illinois Environmental Protection Agency (IEPA) Division of Air Pollution Control.

Interested persons were given until July 13, 1981, to comment. Public comments were received from a public interest group and from the legal representative of three steel companies. The purpose of this notice is to discuss the public comments received and to announce EPA's final rulemaking action removing this plan approval condition.

EFFECTIVE DATE: This final rulemaking becomes effective on January 7, 1982.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 886-6035.

SUPPLEMENTARY INFORMATION: In its final rule on the Illinois SIP published on February 21, 1980 (45 FR 11472), EPA approved the State's total suspended particulate control strategy on the condition that the State utilize emission factors for determining potential emissions from storage piles, promulgate rules specifying the manner in which those emission factors would be used, and submit these rules to the Illinois Secretary of State and EPA by July 1, 1980.

Subsequent information provided in a December 5, 1980, letter to the Regional Administrator from the Manager of the IEPA Division of Air Pollution Control, caused EPA to re-evaluate the need for this condition.

In the December 5, 1980 letter, IEPA asserted that Rule 203(f) together with Rule 108 provides a legally enforceable means to accurately calculate storage pile fugitive emissions both for enforcement purposes and air quality modeling purposes. IEPA maintained that the language of Rule 108 is necessarily general because it is designed to provide for the use of the most up to date and technically correct emission factors for each storage pile. Attempting to codify which emission factor must be used in every instance for every storage pile would be impractical. Administrative delays resulting from the State's rulemaking process would preclude the use of the most up to date and technically correct emission factors in the permitting process.

EPA concurs with the State's assertions. Cancelling this conditon will not significantly reduce the effectiveness of Rule 203(f).

In its notice of proposed rulemaking (46 FR 31023), EPA solicited public comment on the proposed SIP revision and on EPA's proposed rulemaking action. One public comment was received from the legal representative of three steel companies. This comment supported the removal of this condition and continued to object to EPA's conditional approval policy. A second public comment was received from a public interest group. The public interest group was concerned that removal of this condition will jeopardize enforcement and modeling activities in the future.

EPA response and final determination: The public interest group is mistaken in its belief that removal of this condition will eliminate the requirement that Illinois utilize emission factors. Rule 203(f) in conjunction with Rule 108 provides a legally enforceable mechanism to accurately calculate fugitive emissions from storage piles. It is not practical to adopt specific emission factors because they are constantly subject to change. EPA, therefore, approves the removal of the SIP approval condition requiring the State of Illinois to utilize emission factors and to promulgate administrative rules interpreting Illinois Rule 108 as it applies to fugitive particulate emissions by July 1, 1980.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate

circuit by February 8, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only removes a SIP approval condition which subsequent analysis proved unnecessary. It imposes no new regulatory requirements.

Under Executive Order 12291, EPA must judge whether a regulation is major and subject to the requirements of a regulatory impact analysis. This regulation is not major because it only removes a SIP approval condition which subsequent analysis proved unnecessary. It imposes no new regulatory requirements.

(Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: December 2, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

§ 52.725 [Amended]

1. Section 52.725(a) is amended by removing and reserving paragraph (l).

[FR Doc. 81-35059 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1983-7]

Approval and Promulgation of Implementation Plans: Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 29, 1981, the Minnesota Pollution Control Agency (MPCA) submitted an amendment to the Minneapolis-St. Paul transportation control plan. This amendment modifies traffic signalization in St. Paul to reduce carbon monoxide (CO) emissions. EPA has reviewed the amendment and determined that the amendment, along with the Minneapolis-St. Paul transportation control plan approved on June 16, 1980, assures that the CO standard will be attained by December 31, 1982. Therefore, EPA approves this amendment as a revision to the Minnesota SIP. This action will be effective on February 8, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective February 8, 1982.

ADDRESSES: Copies of the amendment to the transportation control plan for the Minneapolis-St. Paul Metropolitan Area are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

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

Minnesota Pollution Control Agency, 1935 West County Road B–2, Roseville, Minnesota 55113

Written comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja at the above EPA Region V address or call 312–886–6038.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (44 FR 8962, 9006), pursuant to the requirements of Section 107 of the Clean Air Act (Act), as amended in 1977, EPA designated the following area, among others, as not meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide: Air Quality Control Region 131 (the Twin Cities Seven County Metropolitan Area).

Part D of the Act, which was added by the 1977 amendments, requires that each state revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987.

On July 3, 1979, the MPCA submitted a transportation control plan for the Minneapolis-St. Paul Metropolitan Area as a revision to the Minnesota SIP.

EPA reviewed the plan and determined that the transportation strategies would reduce emissions of carbon monoxide (CO) and demonstrate attainment of the CO standard by December 31, 1982. Therefore, on June 16, 1980 (45 FR 40579) EPA approved the Minneapolis-St. Paul transportation plan as a revision to the Minnesota SIP.

On July 29, 1981 the MPCA submitted an amendment to the Minneapolis-St. Paul transportation control plan. The amendment is for an area near the intersection of Snelling and University Avenues in St. Paul. Ambient air quality monitoring has shown violations of the eight-hour CO standard at this intersection in 1979, 1980 and 1981. To remedy this problem, the City of St. Paul, on January 19, 1981, changed the traffic signals to reduce vehicle idling, acceleration and deceleration at the intersection. Since the change has been made, no further violations of the carbon monoxide standard have been recorded.

EPA has reviewed this amendment and determined that (1) the signalization changes will reduce emissions of CO, and (2) the transportation control plan with this amendment assures that the CO standard will be attained by December 31, 1982. Therefore, EPA approves this amendment to the transportation control plan for the Minneapolis-St. Paul Metropolitan Area as a revision to the Minnesota SIP.

Since EPA views this action as a noncontroversial rulemaking, it is today approving this amendment to the Minneapolis-St. Paul transportation control plan without prior proposal. This action will be effective February 8, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose the action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only approves a State action and imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely changes the signalization at a traffic intersection and imposes no regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

Note.—Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1981.

(Sec. 110(a)(2)(B) and 172 of the Clean Air Act)

Dated: December 2, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 40 of the Code of Federal Regulations, Chapter 1, Part 52, is amended as follows:

1. Section 52.1220 is amended by adding a new paragraph (c)(19) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(19) On July 29, 1981, the Minnesota Pollution Control Agency submitted an amendment to the transportation control plan for the Minneapolis-St. Paul Metropolitan Area.

[FR Doc. 81-35080 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL 1970-5]

Approval and Promulgation of Implementation Plans; Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document takes final action to approve three revisions to the State of Iowa's plan to implement the National Ambient Air Quality Standards (NAAQS). These revisions were required by EPA's conditional approval of the Iowa Plan. Approval of these revisions allows the conditions of approval to be removed from the state plan.

EFFECTIVE DATE: January 7, 1982.

ADDRESSES: Copies of the state submission are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460; Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319; The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374-3791, FTS 758-3791.

SUPPLEMENTARY INFORMATION: On July 15, 1981 (46 FR 36716), EPA proposed to approve three SIP revisions submitted by the State of Iowa in response to EPA's conditional approval of the Iowa State Implementation Plan (SIP). (See 45 FR 14561, March 6, 1980.) One condition required the state to submit an enforcement procedures manual describing what measures will be implemented by sources that are subject to the state's fugitive dust control regulation. Another condition required that the state's fugitive dust control rule remain in effect once an area is redesignated from nonattainment to attainment as part of the demonstration that the NAAQS will be maintained once they are attained. The third condition required the state to demonstrate that the state rules limiting particulate emissions from fuel burning sources require reasonably available control technology (RACT) on those sources.

The proposed rulemaking (PRM) was based on draft revisions submitted by the Department of Environmental Quality on March 18, 1981. The enforcement procedures manual and revised fugitive dust rule were officially submitted June 1, 1981. They are identical with the drafts. As discussed in the PRM, the state chose to reduce the allowable emissions from fuel burning sources before demonstrating that RACT is required by the SIP. The RACT demonstration was officially submitted July 31, 1981. The minor changes from the draft are discussed below. No public comments were received on the PRM.

The most important change from the state draft was made available to EPA in time to be discussed in the PRM. This is the source specific limit for Unit 1 of the George Neal station. In its final rule, the state also adopted a source specific limit for the stack serving boilers 5, 6, and 7 of the City of Muscatine Municipal Power Plant. The limit of 0.65 pound of particulate per million BTUs of heat input to the boiler (lb/10^6BTU) applies only when boiler 6 is operating alone. If either of the other two boilers is operating the limit reverts to the generally applicable limit for boilers of that size, 0.60 lb/10^6 BTU.

Since this specific limit is 0.05 lb/10^6 BTU greater than the generally applicable rate and the boiler capacity is 193 $\times$ 10^6 BTU/hr., the difference in emissions is only 9.6 lb/hr. or less than 6 tons per year for the approximately 1200 hours this boiler normally operates annually. This is very minor when compared to the overall emission inventory in the Muscatine area of approximately 23,000 tons per year. In addition, the state support document indicates that boiler 6 operates alone only about 16 hours per year and that it would be an undue hardship to require the source to install control equipment for such a small increment of pollution reduction.

EPA received no comment on the proposal to approve the 0.6 lb rate as RACT for Muscatine and similar sources. EPA considers the change from the PRM sufficiently insignificant that the public interest would not be served by delaying final action to allow this one provision to be proposed.

The state also made a number of other non-substantive changes and clarifications to the original draft. Some redundant words were deleted from the description of applicability, the relationship between boilers, stacks and plants was clarified, the final compliance date was adjusted to match the approved SIP, the definition of "existing" was clarified and some text was re-ordered to make it easier to read. As above, clarifications and minor revisions of this sort are not significant enough to warrant re-proposal. The public interest is better served by approving these provisions so that the affected sources may proceed with certainty in conducting their affairs.

In summary, the state has submitted an enforcement procedures manual describing what sources which are subject to the fugitive dust control rule must do and it has revised the fugitive dust control rule to ensure that measures taken to solve a nonattainment problem are not lost when the area is redesignated to attainment. In addition, the state has revised the particulate emission limits for fuel burning sources to 0.60 lb/10^6 BTU for boilers of less than 250$\times$$10^6$ BTU/hr heat input, 0.40 lb/10^6 BTU for boilers between 250 and 500$\times$$10^6$ BTU/hr and 0.30 for boilers over 500 $\times$$10^6$ BTU/hr. These revised limits represent a reduction from the previously approved limits of 0.60 lb/10^6 BTU in Standard Metropolitan Statistical Areas (SMSA) and 0.80 lb/10^6 BTU outside of SMSAs. These revised limits are supported by a demonstration that they represent RACT, as required by Section 172 of the Clean Air Act.

The Administrator's decision to approve the proposed revisions is based on the determination that the proposal meets the requirements of Part D and Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Pursuant to the provision of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic

impact on a substantial number of small entities. The reason for this determination is that it only approves state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves state actions and imposes no additional requirements which are not currently applicable under state law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

(Sections 110, 172 and 301 of the Clean Air Act as amended (42 U.S.C. 7410, 7502 and 7601))

Note.—Incorporation by reference of the State Implementation Plan for the State of Iowa was approved by the Director of the Federal Register on July 1, 1981.

Dated: December 2, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart Q—Iowa

1. Section 52.820 is amended by adding paragraphs (c)(38) and (c)(40) as follows:

§ 52.820 Identification of plan.

* * * * *

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

* * * * *

(38) Revisions to Subrule 400—4.3(2)"c" relating to fugitive emissions control and a document describing how this subrule is to be enforced were submitted on June 1, 1981, by the Department of Environmental Quality.

(39) [Reserved.]

(40) Revisions to Subrule 400—4.3(2)"b" relating to particulate emissions from fuel burning sources were submitted on July 31, 1981, by the Department of Environmental Quality.

§ 52.826 [Amended]

2. Section 52.826 is amended by removing paragraphs (a), (c), (e)(1) and (e)(2).

[FR Doc. 81-35150 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-5-FRL 1988-3]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is correcting an error in the codification of Ohio's total suspended particulate (TSP) designations (40 CFR 81.336) by designating as attainment for TSP all counties in Ohio which are not explicitly listed within the TSP designations as being nonattainment or unclassifiable.

EFFECTIVE DATE: This correction is effective as of December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act, EPA designated certain areas in each Region V State as nonattainment with respect to the NAAQS for TSP, sulfur dioxide, carbon monoxide, ozone, and nitrogen dioxide. EPA is taking the opportunity today to correct an error in the codification of Ohio's TSP designations. EPA listed in its TSP designations only those counties it was designating nonattainment or unclassifiable. EPA inadvertently did not specifically state that the remaining Ohio counties, i.e., those counties which were not specifically listed in the TSP designations, were designated as attainment. EPA is doing so today.

Pursuant to the provisions of 5 U.S.C. section 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only corrects an error in codification. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. Today's action is not Major because it only corrects an error in codification and does not impose any additional requirements in and of itself.

This notice is issued under authority of sections 107 and 301 of the Clean Air Act, as amended.

Dated: November 10, 1981.

Valdas V. Adamkus,

Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40 of the Code of Federal Regulations, Chapter I, Part 81 is amended as follows:

1. Section 81.336, the table entitled "Ohio–TSP" is amended by adding the phrase "all other counties in the State of Ohio" and designating them "Better than National Standards."

§ 81.336 Ohio.

* * * * *

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
*	*	*	*	*
All other counties in the State of Ohio.				X

*EPA designation replaces State designation

* * * * *

[FR Doc. 81-35058 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6094

[U-16587]

Utah; Powersite Restoration No. 727; Revocation of Powersite Reserve No. 363

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order affecting 789.27 acres of public lands and 103.12 acres of nonpublic lands withdrawn as a powersite reserve. This action will restore the public lands to operation of

the public land laws. They have been open to the mining and mineral leasing laws.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of May 27, 1913, which created Powersite Reserve No. 363, Huntington Creek, is hereby revoked in its entirety:

Salt Lake Meridian

T. 16 S., R. 7 E.
Sec. 26, SW¼NW¼ and E½SW¼;
Sec. 27, NE¼NE¼ (now lots 1 to 12, inclusive).
T. 16 S., R. 8 E.,
Sec. 31, lots 3 (now lots 13 and 14), lot 4 (now lots 8 to 12, inclusive) and lot 5.
T. 17 S., R. 8 E.,
Sec. 5, W½SW¼, SE¼SW¼, and SW¼SE¼ (now lot 11);
Sec. 6, lot 6, SE¼SW¼, and SW¼SE¼;
Sec. 7, N½NE¼;
Sec. 8, NW¼NE¼ and N½NW¼;
Sec. 9, N½SW¼ and SE¼SW¼.

The areas described, including both public and nonpublic lands, aggregate 892.39 acres in Emery County.

2. Of the lands described above, the following 103.12 acres are patented:

Salt Lake Meridian

T. 16 S., R. 8 E.,
Sec. 31, lots 8, 10, 11, 12 and 14.
T. 17 S., R. 8 E.,
Sec. 5, SW¼SW¼, part of SE¼SW¼.

3. At 10 a.m. on December 31, 1981, the public lands described in paragraph 1, except as provided in paragraph 2 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 31, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands described in paragraph 1, except as provided in paragraph 2, have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
November 25, 1981.

[FR Doc. 81-35038 Filed 12-7-81; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 81-562]

Change in Office of Executive Director

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Executive Director is being given more administrative and executive responsibility in the direction of the Commission, to include line authority over the Bureaus and Offices in management and administrative matters. With this accretion of duties, the titles are changed to Managing Director and Office of Managing Director.

EFFECTIVE DATE: December 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Charles Marietta, Jr., Office of Managing Director, (202) 632–7513.

SUPPLEMENTARY INFORMATION:

Adopted: October 19, 1981.
Released: December 2, 1981.

1. The Commission has before it a proposed change in the authority of the Executive Director. The changes increase the scope of the Executive Director's responsibilities and the extent of his control over the Commission's management and administration. The title of the position would become Managing Director, to encompass the augmented duties. Implementation of the proposal requires amendments to §§ 0.11 and 0.12 of the Commission's Rules and Regulations.

2. The Communications Act of 1934 (as amended) established the Chairman as executive head of the Agency. The Commission has delegated many related administrative tasks to the Chairman, and in turn to the Executive Director. The Comptroller General of the United States, on July 30, 1979, issued a report entitled, "Organizing the Federal Communications Commission for Greater Management and Regulatory Effectiveness." This report recommended various changes within the Commission, including the establishment of a strong, central officer to assume a position of authority over all Commission administrative matters. The Omnibus Budget Reconciliation Act of 1981 more recently amended the Communications Act establishing such an office. In response, it is proposed to establish the position of Managing Director, supported by the Office of Managing Director. This official will assist the Commission in strengthening management processes such as planning, budgeting, and program evaluation, and in improving efficiency and productivity.

3. The new Office of Managing Director will include all the present functions of the Office of Executive Director. In addition, the Managing Director will be given line responsibility over the bureaus and staff offices with respect to management and administrative matters. This authority will not extend to direction/control of regulatory policy and rulemaking or other substantive regulatory matters. He will serve as principal advisor and spokesman for the Chairman and for the Commission on management and administrative matters. In this capacity, he will make appropriate recommendations on resource implications of Bureau/Office initiatives.

4. The amendment adopted herein pertains to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act do not apply. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

5. Therefore, it is ordered, effective December 16, 1981, that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended by revising §§ 0.11 and 0.12 to read as follows:

§ 0.11 Functions of the office.

The Managing Director is appointed by the Chairman with the approval of the Commission. Under the supervision and direction of the Chairman, the

Managing Director shall serve as the Commission's chief operating and executive official with the following duties and responsibilities:

(a) Provide managerial leadership to and exercise supervision and direction over the Commission's Bureaus and Offices with respect to management and administrative matters but not substantive regulatory matters such as regulatory policy and rule making, authorization of service, administration of sanctions, and adjudication.

(b) Formulate and administer all management and administrative policies, programs, and directives for the Commission consistent with authority delegated by the Commission and the Chairman and recommend to the Chairman and the Commission major changes in such policies and programs.

(c) Assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency.

(d) Advise the Chairman and Commission on management, administrative, and related matters; review and evaluate the programs and procedures of the Commission; initiate action or make recommendations as may be necessary to administer the Communications Act most effectively in the public interest. Assess the management, administrative, and resource implications of any proposed action or decision to be taken by the Commission or by a Bureau or Office under delegated authority; recommend to the Chairman and Commission program priorities, resource and position allocations, management, and administrative policies.

(e) Plan and administer the Commission's Management by Objectives system. Assure that objectives, priorities, and action plans established by Bureaus and Offices are consistent with overall Commission objectives and priorities.

(f) Plan and administer the Commission's Program Evaluation System. Ensure that evaluation results are utilized in Commission decision-making and priority-setting activities.

(g) Direct agency efforts to improve management effectiveness, operational efficiency, employee productivity, and service to the public. Administer Commission-wide management programs.

(h) Plan and manage the administrative affairs of the Commission with respect to the functions of personnel and position management; labor-management relations; budget and financial management; information management and processing; organization planning; management analysis; procurement; office space management and utilization; administrative and office services; supply and property management; records management; personnel and physical security; and international telecommunications settlements.

(i) Serve as the principal operating official on *ex parte* matters involving restricted proceedings. Review and dispose of all *ex parte* communications received from the public and others. In consultation with the General Counsel, approve waivers of the applicability of the conflict of interest statutes pursuant to 18 U.S.C. 205 and 208, or initiate necessary actions where other resolutions of conflicts of interest are called for.

(j) Under the general direction of the Defense Commissioner, coordinate the defense activities of the Commission, including recommendation of national emergency plans and preparedness programs covering Commission licensees and planning for continuity of essential Commission functions during national emergency conditions. Act as alternative Commission representative to emergency planning groups of other agencies.

(k) With the concurrence of the General Counsel, interpret rules and regulations pertaining to fees.

§ 0.12 Units in the office.

(a) Immediate Office of the Managing Director.

(b) Computer Applications Division.

(c) Information Processing Division.

(d) Planning and Analysis Division.

(e) Financial Management Division.

(f) Operations Support Division.

(g) Personnel Management Division.

(h) Emergency Communications Division.

(i) Internal Review and Security Division.

(j) The Secretary.

[FR Doc. 81-35102 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 63

[CC Docket No. 80-767; FCC 81-520]

Elimination of the Telephone Company—Cable Television Cross-Ownership Rules for Rural Areas

Correction

In FR Doc. 81-34702, appearing at page 58682 in the issue of Thursday, December 3, 1981, the date in the last line of paragraph "50.," third column of page 58687, should have read, "December 4, 1981."

BILLING CODE 1505-01-M

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47 CFR Part 64

[Docket No. 20828; FCC 81-481]

Second Computer Inquiry; Order On Further Reconsideration of Prior Determinations

AGENCY: Federal Communications Commission.

ACTION: Order on further reconsideration of prior determinations.

SUMMARY: The Commission acted on petitions for further reconsideration of prior determinations made in the Second Computer Inquiry (Docket No. 20828). See 45 FR 31319 and 46 FR 5984. Various petitioners sought the deregulation of customer premises equipment (CPE), *i.e.*, telephones, PBXs, and data terminals, on a one-time basis rather than on a phased-in, bifurcated basis. Other petitioners sought clarification and strengthening of the structural separation requirements imposed on AT&T for its offering of enhanced services and CPE. The Commission affirmed deregulation of CPE on a bifurcated basis, and extended the effective date for mandatory detariffing to Jan. 1, 1983. The Commission did not impose further structural requirements upon AT&T but did require it to submit accounting plans for the use of (1) installation and maintenance services and (2) shared administrative services provided by Bell Operating Companies and AT&T.

DATES: Date for detariffing "new" customer premises equipment extended from March 1, 1982 to January 1, 1983.

FOR FURTHER INFORMATION CONTACT: James B. Mullins (202) 632-4887.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 64.702 of the Commission's rules and regulations (Second Computer Inquiry); Memorandum opinion and order on further reconsideration.

Adopted: October 7, 1981.

Released: October 30, 1981.

By the Commission: Commissioner Quello concurring in the result; Commissioner Washburn issuing a separate statement; Commissioner Fogarty concurring in part and dissenting in part, and issuing a statement; Commissioners Jones and Rivera approving and dissenting in part, and issuing statements.

1. On April 7, 1980, the Commission adopted a *Final Decision* in this proceeding (45 FR 31319; May 13, 1980),

commonly referred to as the "Second Computer Inquiry" or "Computer II", 77 FCC 2d 384 (1980). On December 30, 1980, we released a *Memorandum Opinion and Order (Reconsideration Order)*, 84 FCC 2d 50 (1980) (46 FR 5984; January 21, 1981), in response to the various petitions for reconsideration of our *Final Decision*. Therein we modified our transition plan by adopting a bifurcated approach for the deregulation of customer-premises equipment (CPE) and reexamined the structure under which certain common carriers could participate in the provision of CPE and enhanced services on a nonregulated basis.[1]

2. Presently before us are petitions for clarification and further reconsideration.[2] Various petitioners seek (a) the detariffing of all CPE at the same time ("flash-cut") as opposed to a phased-in, bifurcated deregulation of CPE, (b) clarification of whether certain existing CPE or "inventory" is to be treated as "new" or "embedded" customer-premises equipment (CPE) for purposes of complying with the bifurcation schedule, and (c) clarification and strengthening of the structural separation requirements imposed on AT&T for its offering of enhanced services and CPE.

3. For reasons discussed below we deny AT&T's petition for "flash-cut" deregulation of all CPE and affirm our bifurcation approach as clarified herein. We also make clear that the "embedded" CPE category includes all CPE owned by a carrier, including inventory, which is tariffed or subject to the separations process as of the bifurcation date. On our own motion, however, we are extending the bifurcation date from March 1, 1982 to January 1, 1983. Finally, we reject the requests to impose more stringent structural separation conditions on AT&T, or to extend the structural separation requirements to other carriers.

[1] For purposes of this docket, customer-premises equipment includes all equipment provided by common carriers in the fifty states, the District of Columbia, Puerto Rico and the Virgin Islands and located on customer premises except over voltage protection equipment, inside wiring, coin-operated or pay telephones, and multiplexing equipment to deliver multiple channels to the customer. *Reconsideration Order*, 84 FCC 2d at 61 n. 10. Mobile radio equipment and transmit earth stations are also not considered to be CPE. What constitutes an enhanced service is set forth in § 64.702 of the Commission's rules, 47 CFR 64.702.

[2] The appendix contains a list of all parties filing pleadings on further reconsideration.

I. Customer Premises Equipment

A. Background

4. Many communications common carriers traditionally have provided CPE to subscribers as part of their communications "public utility" service pursuant to tariffs filed with either state commissions or with this Commission. In the *Final Decision*, however, we concluded that regulation of carrier-provided CPE as part of a common carrier communications service was no longer warranted. 77 FCC 2d at 447. We determined that our statutory mandate could best be fulfilled if all CPE offerings were "detariffed and separated from a carrier's basic transmission service." *Id.* at 439. We recognized that prior to full implementation of our decision it would be necessary to address such issues as depreciation rates for CPE investment recovery, the valuation of assets to be removed from a carrier's regulated rate base, and the impact upon the settlements process of the removal of all CPE from that rate base. *Id.* at 449–50. We anticipated that this Commission, the Joint Board, state commissions and the carriers could make the necessary decisions and adjustments in time to implement our decision to deregulate CPE fully on March 1, 1982. *Id.* at 448. Accordingly, we ordered all telephone companies providing exchange service to file unbundled rates for all their CPE offerings with their respective state commissions no later than March 1, 1981, with detariffing of all carrier-provided CPE to follow by March 1, 1982. *Id.* To minimize any possible dislocations to residential subscribers created by our deregulation decision, we required each telephone company electing to remain in the CPE business after March 1, 1982, to offer to existing residential customers the option to continue leasing instruments in place on that date at a fixed rate set prior to deregulation. *Id.* at 448–49.

5. On reconsideration, we affirmed our determination that the provision of CPE is not communications common carriage and should be offered separate and apart from a carrier's tariffed services. 84 FCC 2d at 65. We recognized a need, however, to reexamine our scheme for deregulating all CPE offerings by March 1, 1982. *Id.* at 66. Petitions and comments filed on reconsideration focused our attention on major state and federal regulatory problems associated with the unbundling and detariffing of all existing CPE as of March 1, 1982.[3] They also cast doubt upon the legality of our proposed rate "freeze" designed to protect residential subscribers.[4] Several parties had suggested that we adopt a transition plan that "would enable regulators to address separately equipment which is embedded in the separations process and tariffed with various States." 84 FCC 2d at 66.[5]

6. In our *Reconsideration Order* we adopted a bifurcated transition plan which distinguished between "new" and "embedded" CPE.[6] We determined that this plan would permit further comments upon appropriate mechanisms for deregulating embedded CPE while at the same time allowing for a more immediate deregulation of new CPE. Accordingly, we ordered that new CPE provided after March 1, 1982 be offered on a non-regulated basis, and we required the deregulation of all federally tariffed CPE as of this date.

B. Pleadings

7. AT&T requests that we reconsider further the bifurcated plan we adopted in our *Reconsideration Order*, claiming that such an approach cannot work for the Bell System. It claims that the operational and financial problems which bifurcation creates for the Bell Operating Companies (BOCs) and the separate subsidiary will result in higher costs and service deterioration for customers of both regulated and unregulated Bell affiliates.[7] AT&T claims that detariffing maintenance for regulated services will not ameliorate these problems enough to prevent those adverse consequences. Accordingly, it urges this Commission to order the

[3] *See, e.g.*, Petition for Reconsideration, filed by the National Association of Regulatory Utility Commissioners (NARUC Petition) on June 12, 1980, at 11, and Petition of the Rural Electrification Administration for Reconsideration (REA Petition) filed June 12, 1980, at 5, for a discussion of the massive administrative problems that the unbundling and detariffing deadlines created for both state regulators and telephone companies.

[4] *See, e.g.*, Petition for Reconsideration of GTE Telephone Companies (GTE Reconsideration Petition) filed June 12, 1980 at 42–44; NTIA Reconsideration Petition at 21–23; RTC Reconsideration Petition at 21–26.

[5] *See, e.g.*, GTE Reconsideration Petition at 45–49; NTIA Reconsideration Petition at 17–19; Attachment to Petition for Reconsideration filed by the United States Independent Telephone Association on June 12, 1980.

[6] We considered "embedded" CPE to be that equipment which is tariffed at the state level and subject to the separations process. "New" CPE is "that equipment which is not in service as of March 1, 1982 and is offered to consumers after this date. For accounting purposes and compliance with corporate structure requirements, therefore, new CPE is "that equipment not in the subscriber's possession as of March 1, 1982." *Reconsideration Order*, 84 FCC 2d at 66–67.

[7] Petition for Further Reconsideration of the American Telephone and Telegraph Company (AT&T Petition) at 5–13, Appendix A.

"flash-cut" deregulation of all CPE on a single date, following the resolution of threshold issues relating to asset valuation and jurisdictional separations.[8] In addition, as part of its "flash-cut" proposal, AT&T seeks to have us authorize the transfer of all its embedded CPE to the unregulated subsidiary, which it believes will minimize the operational and financial problems AT&T perceives will flow from bifurcation.

8. AT&T notes that the BOCs provide CPE to a full spectrum of customers throughout the country, and it argues that if this is to continue, the separate subsidiary will require revenues sufficient to support the costs of such service. According to AT&T, bifurcation would deny the separate subsidiary these necessary revenues. AT&T equates embedded CPE with revenue production and new CPE with cost incurrence. Under AT&T's analysis, bifurcation creates a mismatch between revenues and costs. If bifurcation is retained, AT&T asserts, the only rational course of action open to the separate subsidiary would be to concentrate its efforts upon only the most profitable segments of the CPE market (Petition at 10). AT&T claims that, at least during the interim until others could fill the service gap created by such a business decision, customers would experience delays, inconvenience and higher costs in obtaining and maintaining their CPE.

9. AT&T also asserts that bifurcation will compel duplication of personnel and facilities and additional recordkeeping. Among the functions that Bell alleges the BOCs and the separate subsidiary must duplicate are: Order-taking, installation, maintenance, inventory management, distribution, and set recovery.[9] AT&T estimates that such duplication would cause the BOCs and the separate subsidiary to incur hundreds of millions of dollars in additional costs which could be avoided under their flash-cut proposal.[10]

10. AT&T argues that even by employing the most efficient, innovative business techniques, neither the BOCs nor the separate subsidiary could meet customer expectations of continued high levels of service. Among the operational problems AT&T anticipates are: (1) Customer confusion and dissatisfaction arising from the need to deal separately with both a BOC and the separate subsidiary for moves, changes, repairs and disconnection of CPE; (2) Duplicate recordkeeping and reporting to identify and monitor CPE ownership for purposes of repair, moves, disconnects and transfer; (3) Duplicate personnel to receive and process service orders, visit customer premises, and handle return of CPE to Phone Center Stores; (4) Substantial duplication by the separate subsidiary of BOC facilities such as trucks, garages, repair centers, maintenance inventory and distribution pipelines; (5) Customer confusion and dissatisfaction arising from the different repair procedures and charges of the BOCs and the separate subsidiary; (6) Customers' inability to determine ownership of a defective unit and thus to determine who has responsibility for repairing the unit; (7) Service charges for unnecessary premises visits because a customer called the wrong affiliate; and (8) The need to establish within the separate subsidiary and each BOC a system for accepting and identifying sets customers return to the wrong entity. (AT&T Petition at A–6 and A–7).

11. Pleadings filed in response to AT&T's Petition generally were critical of its proposal. NTIA states that the bifurcation of new and embedded CPE provides a practical basis for resolving many of the transitional problems associated with CPE deregulation. It is not convinced that the particular "flash-cut" transition proposed by AT&T will better serve the public. It also disagrees with AT&T's implied position that its competitive subsidiary should carry with it some "universal service" obligation transferred from the Bell Operating companies and, therefore, should receive special consideration. (NTIA Comments at 2). It contends that AT&T's problems with the bifurcation criteria can to a substantial degree be avoided by simply making some adjustments to the bifurcation criteria.

12. GTE also opposes the AT&T petition because it believes that bifurcation will minimize transitional problems and avoid the confusion which "flash-cut" would create. It asserts that bifurcation enables the Commission "to address, in an orderly fashion, the complex issues involved in transition to an unregulated environment." According to GTE, the Commission should deny AT&T's proposal in order to avoid unnecessary delay in deregulation and to provide a 1982 "cap" for regulated CPE investment while disposition of embedded CPE is resolved. (Opposition at 4). GTE observes that granting the AT&T petition would require premature involvement in the complex issues related to deregulation of the embedded CPE and result in delays in achieving any CPE deregulation. It points to the adverse impact upon independent telephone companies (Independents) in the settlements process if the Commission were to bifurcate immediately the Independents' CPE offerings while at the same time allowing Bell to offer new CPE under tariff until all threshold issues were resolved.[11]

13. The United States Independent Telephone Association (USITA) also believes that only the bifurcated approach will assure prompt deregulation of CPE. It opposes the AT&T petition, but suggests that a clarification of the term "embedded CPE" would greatly ease the operational and financial problems AT&T poses in its petition without producing any adverse effects upon the independent telephone companies. (Response at 3–6).

14. The United Telephone System, Inc. opposes AT&T's petition on grounds that flash-cut would significantly impair United's financial integrity and, consequently, its ability to serve its customers economically and efficiently. (Opposition at 2). While not disputing the existence of the operational and financial problems AT&T describes, United notes that these problems affect only AT&T because structural separation requirements have been imposed on AT&T alone, and it urges the Commission to retain the bifurcated approach at least for carriers not in the Bell System. (Opposition at 5). Similarly, the Rural Telephone Coalition (RTC) opposes any changes to the bifurcation plan which would preclude its members from using that approach solely because of adjustments made to accommodate problems unique to the Bell System. The California Public Utilities Commission expressed its concern that no

[8] In the reconsideration proceedings AT&T has asserted that certain threshold issues must be resolved before its separate subsidiary could begin to offer CPE on an unregulated basis. *See* Petition for Reconsideration of the American Telephone and Telegraph Company, filed June 12, 1980, at 82 et seq. These issues relate to depreciation, capital recovery and asset valuation, as well as the transfer to its separate subsidiary of certain of the activities and investment of other Bell entities and development of support systems to enable the subsidiary to conduct these activities independently.

[9] *See* Appendix to AT&T Petition at A–10.

[10] AT&T states that time did not permit study of costs incurred solely because of service and resource duplication. Its cost estimate is based upon the assumption that the separate subsidiary would duplicate the capabilities needed to continue the Bell System's ongoing CPE business. AT&T Petition at A–11. Later in its petition, however, AT&T indicates that it will be necessary for the regulated and unregulated entities to share some of the same systems it asserts here must be duplicated. *See id.* at Appendix B.

[11] *Id.* at 12. GTE notes that the Independents' share of interstate profits in the settlements pool would be diminished because relative to the Bell System their level of terminal equipment investment allocated to the interstate jurisdiction would be reduced.

deregulation of embedded CPE occur before issues relating to valuation, transfer of CPE and adjustments to jurisdictional separations allocations have been resolved. NARUC opposes the AT&T petition, but would delay selecting either method of deregulation until the Joint Board proceeding and the implementation proceedings are completed and the economic effects of detariffing have been fully assessed. (Opposition at 2).

15. Centel believes that while it is not the best alternative, bifurcation is better than the flash-cut approach adopted in the *Final Decision*. Centel declines to support or oppose the AT&T petition, but asserts that the Commission cannot determine the costs and benefits of either the bifurcated approach or the AT&T flash-cut proposal until it has addressed and resolved certain threshold issues.[12] Therefore Centel urges the Commission to act promptly to resolve these issues, and not to deregulate the provision of CPE until they are resolved, even if the March 1, 1982 deregulation date must be postponed.

16. Both Datapoint Corporation and Action Communications Systems oppose AT&T's request for flash-cut deregulation because of their concern about the competitive impact of the separate subsidiary's entering the unregulated CPE marketplace with an established clientele inherited from the BOCs and an immediate revenue-generating capacity. Action perceives the bifurcated transition plan as providing "at least a minimal opportunity to adjust to the unknown impacts" of the subsidiary's entering in even a limited capacity. (Opposition at 2). Datapoint urges that we also resolve the investment recovery and asset valuation question associated with the transfer of embedded CPE and reconsider the need for additional structural separation requirements prior to a flash-cut deregulation, even if this requires postponement of the deregulation date.

17. NATA supports AT&T's flash-cut proposal asserting that bifurcation will destroy competition and harm consumers. (Reply at 7). SPCC would not oppose a flash-cut transition if all CPE were transferred at current book value. (Comments at 4).

C. Discussion

1. Flash-cut v. Bifurcation

18. As noted earlier, on reconsideration we adopted a bifurcated approach to the deregulation of CPE. New CPE was to be deregulated by March 1, 1982; "embedded" CPE was to be deregulated only after a separate "implementation proceeding" which would "address the transitional mechanisms" required for such deregulation. 84 FCC 2d at 67. Briefly, we determined that a bifurcated approach would avoid potential significant dislocations caused by an abrupt transition; would allow time for a solution to be worked out for any jurisdictional separations problems and would allow steady progress towards a more competitive equipment environment. Although we recognized that there might be some difficulties with bifurcation, we concluded that "on balance" a bifurcated approach to deregulation would best serve the public interest.

19. After further reconsideration of this matter we remain convinced that bifurcation—while concededly less than ideal in certain respects—is, nevertheless, the best and perhaps the only realistic alternative available to us. Thus, notwithstanding AT&T's contrary contentions, we still believe that any attempt to detariff all CPE at one time (the so-called "flash-cut" approach) would cause a postponement of probably several years before we could even begin to implement our Computer II decision. As we noted on reconsideration, a delay of this kind would continue to subject offerings of new CPE to the cross-subsidies which inhere in the jurisdictional separations process. Moreover, such delay would unduly withhold from the public all of the substantial benefits stemming from the Computer II decision, whereas bifurcation makes many of those benefits attainable, at least with regard to new equipment, at a fairly early date. Bifurcation also eases some of the difficulties of moving to the new structure. For example, by capping investment in regulated CPE, new CPE will not be entangled in the kinds of valuation and transfer problems that we will encounter with embedded CPE. Finally, the kind of indefinite delay inherent in AT&T's flash-cut proposal would withdraw present incentives for the states and other interested parties to continue activities designed to implement Computer II, and would thus work to even further postpone the day that the public can begin receiving the benefits of that decision. Accordingly, we conclude that the delays attendant to AT&T's proposal would be contrary to the public interest.

20. AT&T appears to agree that prompt action is called for here. (Reply at pp. 23–29). AT&T insists, however, that its proposal for a "flash-cut" is not inconsistent with expedition and that if appropriate action is taken the underlying problems can be quickly resolved. For example, AT&T suggests that any adverse impact on the states because of the jurisdictional separations effects that would accompany an abrupt transition could be largely avoided "* * * by temporarily increasing Separations Manual interstate allocations of nontraffic sensitive plant remaining after detariffing." (Reply at p. 17). Under AT&T's proposal, this increase would be "firmly linked" to an ongoing decrease in interstate non-traffic sensitive allocations "that will continue until those allocations reach levels indicated by strict relative use." (*Id.* at 17).

21. Although we expect the Joint Board will act with reasonable promptness, we are not nearly as sanguine as AT&T that the Joint Board will be able to resolve the difficult and complex issues before it within a relatively short period of time. The many complex proposals submitted to the Joint Board by the commenting parties are perhaps reflective of both the wide diversity of interests represented and the inherent difficulty of the subject matter. Some proposals (such as that submitted by the Joint Board staff) focus on deregulation of CPE alone and urge the Joint Board to consider this problem as a first step before turning to other separations issues. Other proposals (such as that submitted by AT&T) urge a comprehensive solution to all exchange separations problems. While the question is, of course, for the Joint Board to resolve in the first instance, we believe it is fair to expect that if a comprehensive solution of the kind proposed by AT&T is adopted there will be a need to develop a further record. Some of the parties in the Joint Board proceeding have already suggested that this further record can only be developed if appropriate discovery and oral hearing procedures are permitted. Thus, the scheduling of the Joint Board is not a matter of certainty which can be reliably forecast by this Commission as an antecedent to action proposed in Computer II.

22. Moreover, even if it were possible, as AT&T asserts, for this Commission to

[12] Centel identifies these issues as: (a) Revision of separations allocation; (b) prescription of new uniform and realistic depreciation rates; (c) examination of investment recovery and CPE transfer pricing; (d) examination of inside wiring; (e) preservation of tax benefits; (g) resolution and implementation of other unspecified common carrier proceedings which could affect the *Final Decision;* (h) examination of the role of CPE maintenance; and (i) resolution of all jurisdictional questions. Central Telephone and Utilities Corporation Response and Opposition to Petitions for Reconsideration (Centel Response) at 2.

direct the Joint Board to "issue its recommended decision promptly in order to permit timely Commission action," we would be very reluctant to issue such an instruction in a case as difficult, controversial and important as this one so long as the board appears to be making steady progress. In addition to considerations of comity, we recognize that the Joint Board can hardly fulfill its intended statutory function if it is forced to act before it believes it has carefully and thoroughly resolved the issues before it. For these reasons, it is not at all certain that we can count on a Joint Board resolution of the existing separations problems within the very near future. Predicating future Commission action in Computer II based on such an assumption would entail significant risks which, for obvious reasons, we would like to avoid.

23. An even more serious impediment to the prompt implementation of a flash-cut approach is the difficult valuation problem that would attend the establishment of a separate subsidiary on this basis. AT&T argues that we can ease, or perhaps eliminate, any valuation problems if we "* * * first find * * * that book value represents the appropriate economic value to use for transfer of Bell System CPE * * *" and then take a series of "[s]pecific regulatory steps * * * in order to bring book value in line with economic value by the transfer date." (Reply, p. 14). These steps would include the disaggregation of AT&T's depreciation reserve (Account 171) pursuant to a theoretical method.

24. We cannot accept this approach. First, as explained in our recent order in Docket 20188, FCC 81– , adopted October 1, 1980, we have determined that a theoretical allocation of AT&T's depreciation reserve is not appropriate under our rules, and that for both legal and policy reasons we must use actual historical and debit and credit information in disaggregating AT&T's reserve where, as is true in this situation, such information is available.

25. In addition, assuming that the use of a theoretical allocation is satisfactory for AT&T, this would still leave unresolved the valuation problems for independent telephone companies. United, GTE and Continental have maintained a historical breakdown of their depreciation reserves by principal plant category as required by our rules and have not used theoretical reserve allocations. At least one carrier, United, has expressed the view that actual "net book value" cannot be equated with economic value for purposes of the transfer. (Opposition, p. 3). Although AT&T urges that we "* * * take appropriate actions in the implementation proceedings to insure that *all telephone companies* fully recover their investment in tariffed CPE" (Reply at 16) (emphasis in original), it does not explain how this should be done or how the rights of all parties can be protected unless the Commission takes the steps necessary to develop a meaningful evidentiary record.

26. We also do not believe that it would be proper—as AT&T apparently suggests—for this Commission to determine, at the outset of the implementation proceeding or in this proceeding that net book value based on theoretical allocations is the equivalent of economic value for purposes of the transfer of CPE. The amount of CPE to be transferred in accounts 231 (station apparatus) and 234 (large PBXs) is approximately $14 billion. It is essential that considerable care be taken in valuing these assets. If the transfer price is too low, the separate subsidiary would start its operations with a considerable competitive advantage and might cause market distortions for years to come. Monopoly ratepayers would suffer as well. If the transfer price is too high, AT&T will be denied an opportunity to compete on an even-handed basis. The stakes are extremely high for AT&T, for its competitors in the terminal equipment market, for its competitors in the intercity transmission market, and for the public in general. Interested parties must be given a full opportunity to participate and meaningful record on valuation must be developed. We cannot prejudge the matter of valuation or determine at the outset that net book value is the only surrogate for economic value. And this is particularly true where such net book value has been determined on the basis of theoretical studies and estimates of future depreciation.

27. Moreover, apart from CPE, the "flash-cut" approach requires that AT&T transfer substantial additional assets such as land, buildings, tools and equipment. At least for land and buildings, book value or net book value would appear to be a particularly poor measure of economic value. Both categories of assets have very likely increased in market value to the point where market value may be several times book or net book value. AT&T has not explained how this important element of valuation would be handled on an expedited basis. It is true that with a bifurcated approach there also would be a problem in valuing assets such as land and buildings which would be transferred when the separate subsidiary is first created. However, under the bifurcated plan spelled out in this order, this difficulty is lessened by limiting the initial operations of the separate subsidiary to new equipment. With this approach, initial transfers should be kept relatively small and it should be possible, if necesary, to "true-up" transfer prices based upon findings made later during the valuation stage of the implementation proceeding.

28. In addition to the need for resolving certain threshold issues prior to the transfer and deregulation of any embedded CPE, AT&T's petition for "flash-cut" incorporates a second component. This component involves the transfer of all existing CPE to the separate subsidiary subsequent to FCC action on these threshold matters. The embedded CPE would be removed from the books of account of AT&T's affiliated carriers and ownership of such equipment would reside in the separate subsidiary.[13]

29. The second component of AT&T's petition also raises substantial questions. The majority of AT&T's petition is devoted to discussing its operational and financial concerns raised by the bifurcation scheme set forth in our *Reconsideration Order*. Its solution to these concerns is for the FCC to dictate a single detariffing of all CPE. Yet AT&T's solution raises a fundamental issue as to whether AT&T should now be authorized to transfer all existing Bell System CPE to the separate subsidiary, thus precluding examination of other possible alternatives for the disposal of the equipment. We are asked to decide whether the deregulation of CPE dictates that this Commission sanction the transfer of ownership of all AT&T's embedded CPE from its regulated carriers to its unregulated separate subsidiary.

30. Under an FCC-authorized transfer of all existing CPE to the separate subsidiary, the Bell System carriers would no longer own the equipment. As a consequence, a state would be foreclosed from determining the manner in which the equipment it currently regulates should be offered to subscribers within its jurisdiction. States could be foreclosed, for example, from affording subscribers the ability to purchase the CPE they currently use.

31. Various states are currently examining this option. For example, the Public Utilities Commission of the State of California (California PUC) has recently expressed concern about the

[13] The terms "embedded" CPE and "existing" CPE are used interchangeably.

prospect of transferring all of AT&T's CPE to the separate subsidiary:

> The deregulated subsidiary would have a dominant market position to charge excessive prices because it would own the vast proportion of terminal equipment available. That result greatly concerns us. With the sale of terminal equipment under tariff, customers would have the opportunity to purchase that equipment at a reasonable price before it is transferred to the unregulated Bell subsidiary.[14]

32. In light of those findings, the California Commission has decided to vigorously pursue the sale of CPE:

> We think it critical that the public as well as the parties to this proceeding understand that we view sale as a highly desirable course for the future and one that, barring unforeseen obstacles, we will move quickly to implement.[15]

33. The question that confronts us is whether it is a legitimate exercise of federal preemption to authorize the transfer of all existing CPE to the separate subsidiary. We stated in this proceeding that we are preempting the states "only to the extent that their terminal equipment regulation is at odds with the regulatory scheme we have set forth." 84 FCC 2d at 103. This federal regulatory scheme essentially involves the removal of traditional utility type regulation over CPE, and the requirement that if carriers of the Bell System choose to provide CPE, they do so pursuant to the structure we have prescribed.

34. We are not confronted here with state regulation that necessarily conflicts with federal policy. Therefore, federal preemption on such grounds is premature. We are, however, asked to foreclose state deregulation of AT&T's embedded CPE in a manner which the Commission specifically considered as an alternative in establishing federal policy. For instance, in our *Final Decision* we observed that carriers had the option to offer "any other lease or sales proposals to residential subscribers which they wish," and we voiced our interest in "the price charged consumers choosing to purchase their telephone instrument." 77 FCC 2d at 449. Further, it was because of the prospect that the states might deregulate embedded CPE through "sales" that we indicated that the implementation proceeding would address the "basis upon which *unsold* equipment should be removed from a carrier's regulated rate base and books of account." *Id.* (emphasis added).

35. It is clear from this language that we did not intend to foreclose the sale of existing CPE as a mechanism for deregulation. Likewise, it is clear that this Commission did not view the transfer of all AT&T's embedded equipment to its unregulated subsidiary as a prerequisite to the execution of federal policy. In neither the *Final Decision* nor our *Reconsideration Order* did we indicate that deregulation of AT&T's CPE could only be accomplished by transferring the equipment to the separate subsidiary. Our concern is primarily one of disassociating CPE from a carrier's utility service and in so doing removing equipment from the jurisdictional separations process. In this regard the function of this Commission is to ensure that our policy is implemented within reasonable parameters. The sale of embedded CPE complements federal policy to the extent that such equipment is deregulated and the costs are removed from a carrier's rate base and jurisdictional separations process. In addition, we specifically indicated that due consideration would be given to the views of state commissions among others, relating to the price at which unsold telephone company equipment is transferred from the books of Bell System carriers. For these reasons we conclude that to foreclose State Commissions, which have traditionally regulated rates for the vast majority of CPE owned by the Bell System, from proceeding with deregulation through the sale of embedded CPE is unwarranted.

36. In addition to the federal preemption issues raised by AT&T's petition, there are other regulatory concerns that caution against establishing a federal regulatory unbrella over the transfer of all AT&T's existing CPE to the unregulated subsidiary. In our *Final Decision* we concluded that "a carrier should have the same regulatory status in marketing CPE as any other equipment vendor and this should be reflected in our regulatory scheme." 77 FCC 2d at 446. We stated that the separation of CPE from common carrier offerings and its resulting deregulation will provide carriers the flexibility to compete in the marketplace on the same basis as any other equipment vendor. *Id.* at 447. AT&T has in excess of $10 billion of CPE currently subject to public utility regulation. We could not authorize such a large transfer to the separate subsidiary without first examining the timing, extent and terms of the transfer, and its effect upon competition in the equipment marketplace.

2. Clarification of the Treatment of Embedded CPE

37. This Commission is extremely sensitive to the need to minimize the potential for significant dislocations as we proceed to implement our Computer II decision. In going forward with the transition to a deregulated CPE environment, we are mindful of our statutory responsibilities to protect the interests of the communications ratepayer. It is important, therefore, to distinguish a carrier's provision of CPE from its public utility service. The manner in which carriers participate in the provision of nonregulated CPE should reflect the fact that it is a nonutility service. Thus, as equipment is deregulated, we will not be concerned with whether or not a carrier chooses to compete as a new business venture or whether a carrier chooses to serve a particular market. Marketplace forces will ensure that ample CPE is available for everyone.[16] Our obligation in this area is to insure that a carrier's unregulated activities remain divorced from its public utility services. It is most important, therefore, that our transition plan recognize this separation so as to protect the interests of the communications ratepayer.

38. Distinguishing between embedded CPE that is currently regulated and that new equipment which has not become entangled in the intricacies of public utility ratemaking and jurisdictional separations provides a transitional mechanism for the deregualtion of carrier-provided CPE. Various parties, however, have sought modification or clarification of the distinction between new and embedded CPE. They have also inquired whether a carrier can reoffer refurbished embedded equipment on a regulated basis. IDCMA contends that the plan should be modified to require the deregulation of all "'data communications" equipment as of March 1, 1982. Both GTE and United seek clarification of the status of a carrier's inventory. They observe that both settlements revenues and tariffs for CPE offerings filed with the states reflect the presence of such inventory in their regulated accounts. Thus, they urge that inventory on hand as of the date for deregulation be treated as embedded. United also contends that embedded equipment returned in servicable condition, i.e., refurbishable by parts

[14] California PUC Decision No. 93367, at page 167 (August 4, 1981).

[15] *Id.* at 168.

[16] See footnote 22, *infra*. Moreover, even the most remote residential users have access to CPE from other than the local carrier. Today, customers can order CPE from mail order catalogues, just as they once did from turn-of-the-century Sears-Roebuck catalogues.

held in inventory, should continue to be offered under tariff until all CPE is deregulated.[17] NTIA, on the other hand, would require the deregulation of embedded CPE once a "major modification" is made to it.

39. Our *Reconsideration Order* is ambiguous as to the treatment of inventory. This is exemplified, for example, in paragraph 49, where we set forth the standard for distinguishing embedded and new CPE. On the one hand we indicate that embedded CPE is that equipment which is tariffed at the state level and subject to the separations process. On the other hand we state that new CPE is that equipment which is not in the subscriber's possession or in service as of March 1, 1982, and is offered to consumers after this date. Thus, inventory could be classified as embedded because a carrier's investment in inventory is included in the separations process. Yet, it also could be classified as new CPE because it would not be in the subscriber's possession as of the bifurcation date. In addition, footnote 13 states that ". . . customers would continue their relationship with the telephone company as to their embedded CPE under local regulation until they terminated service, returned the equipment, or until the end of the transition period." No mention is made of the status of the embedded equipment returned by a subscriber and normally recycled as part of the carrier's inventory.

40. Because of this uncertainty, we must state with greater clarity the parameters of our transitional plan for the deregulation of CPE on a bifurcated basis. In this regard we note that the premise of our transitional plan is to maintain the status quo for CPE which is regulated as of the bifurcation date. As such, the embedded category should encompass all equipment which is tariffed or otherwise subject to the separation process as of the bifurcation date. A carrier should be allowed to utilize its CPE inventory.[18] It should also be able to continue any customary refurbishing operations necessary to support and maintain its embedded equipment. Accordingly, bifurcation should not affect the customary manner in which a carrier refurbishes, maintains or recycle its regulated equipment.

41. To conclude otherwise requires the resolution of various regulatory issues which are applicable to the deregulation of all embedded CPE. For example, if inventory is treated as new equipment and deregulated as of the bifurcation date, a significant amount of embedded CPE would be deregulated. It is estimated that within the Bell System alone approximately 31 million telephone sets are recycled annually as a result of service terminations or equipment exchanges. Most of these sets are refurbished by Western Electric and recycled by the Bell Operating Companies. During this process, the investment in such equipment remains in the rate base of the carrier and is factored into the jurisdictional separations process. Thus, rather than maintaining the status quo, the result of treating inventory as new CPE would be to prescribe the deregulation of significant portions of embedded CPE equipment prior to addressing related issues, such as asset valuation, the manner and timing for deregulating embedded CPE, and the effect of removing CPE from the jurisdictional separations process. As indicated above, many of these regulatory issues are germane to the deregulation of all embedded CPE, including federally tariffed CPE.

42. To prescribe the premature deregulation of some existing CPE unnecessarily would complicate our transition plan. For this reason, we must reject the proposals of IDCMA and NTIA because they also would result in the deregulation of embedded CPE, which would, in turn, necessitate prior resolution of various regulatory issues. IDCMA's proposal also would require that we adopt criteria to distinguish "data communications" CPE from other kinds of CPE, despite our prior determination that we could not base our treatment of CPE upon a definitional scheme which classified either the device or its functions as communications or data processing. 77 FCC 2d at 436. Moreover, even if we were able to make such a distinction, IDCMA has raised no new facts which warrant a contrary determination or otherwise compel special treatment for this type of equipment. In a similar vein, NTIA's proposal is also unworkable because of the practical problems and potential impossibility associated with determining when a "major modification" occurs with respect to various types of equipment in the marketplace.

43. Some concern has been expressed that, by including inventory within the category of embedded CPE, a carrier has an incentive to substantially increase its inventory because the corresponding investment would be included in its rate base. In a traditional regulatory environment premised on rate base regulation, a carrier may have an incentive to so increase its rate base. It is not as clear that such an incentive exists in an increasingly competitive environment. If this does occur, it will make an accurate accounting of a carrier's embedded CPE as of the bifurcation date all the more important. This will be necessary not only for state and federal ratemaking purposes but also for ascertaining the amount of CPE subject to the separations process. Based on this accounting, regulators will be able to ascertain whether any last minute increase in a carrier's inventory is reasonable in relation to its past practices and whether any costs should be disallowed for ratemaking purposes.

44. In our *Reconsideration Order* we required the deregulation of federally tariffed CPE. This is because all the costs associated with such equipment are allocated to the interstate jurisdiction, with the manner and timing for deregulation solely within our discretion. The amount of federally tariffed equipment is relatively small. The vast majority of it is owned by the BOCs and its deregulation involves asset valuation determinations common to the deregulation of all CPE. While it is possible to address federally tariffed CPE separately, we believe that, on balance, a more orderly transition will evolve with a more efficient use of staff resources, if this Commission addresses similar issues at the same time. Accordingly, we conclude that our *Reconsideration Order* should be modified so that the deregulation of embedded, federally tariffed CPE will occur in conjunction with the deregulation of all other embedded CPE.

45. It is clear that during the bifurcated transition, we are not foreclosing AT&T from conducting business as usual with respect to all its embedded equipment. Our transition plan does not mandate the deregulation of inventory or restrict a carrier's traditional practices associated with refurbishing, recycling or otherwise maintaining its existing equipment.[19]

[17] Petitions for Clarification of the GTE Telephone Companies at 3; Petitions for Clarification/Reconsideration filed by United at 2.

[18] By "inventory" we mean field stock and Class C stock (refurbished equipment) which is now accounted for in the carrier account corresponding to Account 231 (Station apparatus) and PBX inventory which is now reflected in carrier accounts corresponding to account 122 (Material and supplies) or Account 234 (Large private branch exchanges). See 47 CFR 31.231 and 31.234 respectively.

[19] This eliminates or, at a minimum, substantially mitigates the problems AT&T views as being created by a bifurcated approach (listed in para. 10, *infra*). Insofar as it is necessary to be able to distinguish between "new" and "embedded" CPE for billing or return purposes, the definition of new

Continued

Under our bifurcation plan embedded CPE is that equipment or inventory which is tariffed or otherwise subject to the jurisdictional separations process as of the bifurcation date. Any other CPE which is acquired by a carrier or manufactured by an affiliated entity after that date is considered "new" CPE. Because new CPE is deregulated and offered separate from a carrier's utility service, carriers affiliated with AT&T may not acquire "new" CPE because their participation in the provision of non-regulated CPE must be through a separate corporation as set forth in our structural separation requirements in § 64.702 of the Commission's Rules.[20] See 47 CFR 64.702.

3. AT&T's Operational Concerns

46. We have recognized throughout this proceeding that our structural separation requirements will necessitate some operational changes for the Bell System. AT&T raises the possibility, however, that a bifurcated scheme raises such substantial, or even insurmount able, operational problems that it cannot reasonably provide CPE in this manner. In order to assess AT&T's contentions, it is important to (a) understand the assumptions upon which its operational and financial concerns are premised; (b) ascertain the extent to which the bifurcation plan, as clarified herein, ameliorates some of these concerns; and (c) determine what transitional accommodations are necessary to minimize valid operational dislocations.

47. First, it is apparent that AT&T's operational and financial concerns are premised on the separate subsidiary's provision of CPE on an ubiquitous basis analogous to that currently provided by the BOCs. This premise cannot be drawn from, or find support in, our *Reconsideration Order*. It is obvious that the provision of CPE in this manner by any carrier is not required by our decision. Such a requirement would be totally inconsistent with the fundamental philosophy of the Second Computer Inquiry proceeding that CPE need not and should not be offered as part of a common carrier public utility service. Thus it is important to distinguish the phasing out of AT&T's participation in the provision of its existing CPE from the separate subsidiary's provision of new CPE in a deregulated competitive environment. The provision of new CPE is not a continuation of a common carrier public utility service. Common carrier obligations do not attach to the offering of such equipment. The Second Computer Inquiry decision imposes no regulatory constraints on how the Bell System may competitively provide this equipment except that it must be offered separately from the public utility operations of AT&T affiliated carriers. The separate subsidiary is free to operate as any new business enterprise in the competitive provision of CPE.

48. The operational and financial problems which AT&T alleges make bifurcation unworkable for the Bell System are attributable in large measure to its corporate marketing strategy which evidently contemplates that the separate subsidiary will provide CPE on a nationwide basis comparable to that currently provided by the BOCs. The fact that the bifurcated transition may not be the most advantageous avenue for AT&T in light of the marketing plan it prefers should not be weighed against the benefits derived from bifurcation.

49. Second, AT&T premises its operational and financial concerns on its interpretation of the bifurcation approach set forth in our *Reconsideration Order*. For example, AT&T is concerned about the tansfer of a significant amount of embedded CPE from the BOCs to the separate subsidiary resulting from the recycling of existing equipment. We have now made clear that the status quo is being maintained as to all existing CPE, including a carrier's service, installation and maintenance operations for such equipment. Accordingly, because we do not require that the separate subsidiary shoulder any responsibility for the provision, installation or maintenance of embedded CPE, the operational problems associated with the separate subsidiary keeping track of embedded CPE or installing and maintaining it do not exist.

50. Finally, bifurcation may raise some valid operational concerns for AT&T. While we believe that some of AT&T's more significant concerns about bifurcation are attributable to the belief that a large amount of existing equipment will be transferred to the separate subsidiary, we shall consider what relief, if any, is still warranted for transitional purposes given the instant clarifications and modifications to the bifurcation plan. We shall focus on customer contacts associated with the ordering, acquisition and billing of CPE, the installation and maintenance of new CPE, and other operating support systems which AT&T seeks to share with the separate subsidiary.

51. The appropriateness of any relief provided should be considered within the framework of our structural separation requirements. We have prescribed in this proceeding the manner in which AT&T's affiliated carriers may participate in the provision of deregulated CPE. Section 64.702 sets forth the broad parameters of structural separation. The separate corporation must have, among other things, its own books of account, and its own operating, marketing, installation and maintenance personnel for the provision of such equipment. Moreover, affiliated carriers are precluded from engaging in the sale or promotion of deregulated equipment. In addition, Bell System carriers may not provide the separate corporation any customer proprietary information, i.e., that information which an affiliate acquires by virtue of AT&T's common carrier activities unless it is available to competitive vendors under the same terms and conditions. 77 FCC 2d at 481.

a. Shared Personnel, Marketing and Billing

52. Considering these separation requirements in light of the bifurcation plan we have set forth, we find that there is no need for the separate subsidiary to share personnel with affiliate carriers for the provision of its CPE. This means that carrier affiliates should not be involved in interfacing with the public as to customer ordering, acquisition, marketing or billing functions associated with the separate subsidiary's provision of new CPE. The provision of new CPE will be an operation distinct from that of the utility service. If AT&T seeks to market new CPE through the separate subsidiary, the subsidiary is responsible for the billing and general accounting associated with whatever consumer transactions it enters into just as any other competitive vendor. These requirements apply to all new CPE, both business and residential, even during the transition.

b. Installation and Maintenance

53. AT&T contends that bifurcation raises operational difficulties because of the need for both the carrier's and the unregulated subsidiary's involvement in the installation and maintenance of CPE. Moreover, it submits that, whatever its problems for residential CPE, these problems are magnified many times over

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CPE as that acquired by the separate subsidiary after January 1, 1983 should permit an easy solution to the problem. New sets coming off the assembly line (or purchased from another supplier) could, for example, be hot-stamped to identify it as unregulated CPE. Embedded CPE returned to the BOCs would not have to be separated into "new" and "embedded" and so marked for identification.

[20] See the discussion at para. 92, *infra*, where we make clear that Western Electric, AT&T's manufacturing arm, may market new CPE to equipment vendors, including commercial outlets, in addition to retailing its equipment directly to consumers through the separate corporate entity.

for customers with business communications systems. We do not dispute AT&T's contentions that the installation and maintenance of business systems, such as PBX and key telephone systems, involve a degree of complexity that does not exist for single-party residential service. In fact, based on how business is now actually conducted in the marketplace, there is little similarity between the installation and maintenance problems associated with residential and business equipment. For this reason we shall address residential and business needs separately.[21]

54. Bifurcation does not necessitate duplication of installation and maintenance personnel for residential CPE. Over the years the Commission has embarked on a conscious policy of promoting competition in the terminal equipment market. Our efforts in this regard culminated in a registration program which allows consumers to connect their own equipment to the network if that equipment conforms to certain technical standards and is properly registered with the Commission under Part 68 of our Rules. This has allowed consumers to exercise their rights in the selection and use of terminal equipment that best suits their needs. Moreover, it has opened up various segments of the equipment market to new entrants.[22]

55. Under this registration program residential telephone subscribers attach their terminal equipment to the communications network through a "plug and jack" arrangement. The telephone "jack" can be analogized to the electrical "socket" to which various household appliances are connected. While the actual "socket" configuration is different, CPE is plugged into the jack just as various household applicances are plugged into an electrical socket. Part 68 specifically provides for carrier installation of telephone jacks, and no determination in this docket has altered a carrier's duties or responsibilities concerning the installation of these jacks. If a subscriber's telephone is not currently connected through a plug and jack arrangement and he wants a jack installed, the subscriber is able to have the carrier install such jacks as part of the common carrier's utility service. The same is true if a subscriber desires additional jacks installed.[23]

56. With respect to the installation of residential CPE, therefore, there is little need for the separate subsidiary to have a large installation force. For several years now consumers have been purchasing CPE from commercial retail outlets and attaching the equipment to the network in this fashion. Our bifurcation plan recognizes this. No facts have been presented to us on further reconsideration to warrant relief from our structural separation requirements to permit any joint undertaking between the separate subsidiary and affiliated carriers for the customer acquisition, installation of maintenance or new residential CPE.[24]

57. Our registration program also established common interfaces for various business systems. Yet, the operational problems here are different from those in the residential arena. Business systems such as PBX and key telephone systems require more complex installation and maintenance. Depending on the system involved, some additional wiring on the customer's premises beyond the common interface must also be installed, such as, for example, when additional extension phones are added to a PBX system. Today this additional wiring may be installed by either the telephone company or the equipment vendor. As a practical matter, if the separate subsidiary is to stay competitive with other vendors of business systems, it will offer various installation and support services. Recognizing this, the question arises as to whether any transitional relief from our structural separation requirements is warranted for installation and maintenance of CPE for business subscribers.

58. In our *Reconsideration Order* we envisioned a scenario whereby separate maintenance personnel would not be required for both regulated and non-regulated CPE, i.e., one installation and maintenance force could provide service for all CPE after the bifurcation date. We indicated that we would look into the deregulation of maintenance for embedded CPE in the follow-on implementation proceeding. Upon further reflection we conclude that a separate proceeding looking into the deregulation of maintenance for this equipment is not required for two reasons. First, as we have noted, AT&T's operational concerns over duplication of its resources and the potential for significant customer confusion are not applicable to residential service. Second, insofar as the business environment is concerned, AT&T can endeavor to have a single installation and maintenance force by, for example, pursuing the deregulation of maintenance for embedded CPE at the state level, or keeping maintenance of embedded equipment tariffed but contracting out the actual work to the subsidiary. The Bell System in many instances has adopted a two tier pricing scheme which separates the fixed equipment charges from the variable expenses associated with maintaining a given business system. Thus, there are alternative mechanisms available to it for ameliorating its concerns that do not necessitate initial action by this Commission. This demarcation would appear to facilitate AT&T's ability to pursue these options.

59. In providing new CPE for business systems as of the bifurcation date, the separate subsidiary is currently required to have separate installation and maintenance to support not only newly manufactured equipment, but also to handle modifications to existing systems when new equipment is added. We conclude that a more practical and reasonable approach would be to temporarily waive our structural separation requirements to permit, but not require, affiliated carriers to perform installation and maintenance services for business systems pursuant to contract on a transitional basis. We believe that this transition period should

[21] Our discussion of business service is inclusive of the limited instances where PBX and key telephone systems, normally employed in business service, are used for residential service. Similarly, since multiple party service, both residential and business, is currently not included in the registration program, it will be treated together with business systems for purposes of this discussion.

[22] Under the Commission's Part 68 Registration Program terminal equipment that complies with a series of electrical standards can be directly connected to the nation's telephone network. *See* Part 68 of the Rules, 47 CFR Part 68. So far, some 3500 models of terminal equipment have been registered by over 400 manufacturers. Approximately 952 versions of telephone sets are currently registered by about 132 non-Bell manufacturers. There have been approximately 163 types of PBXs (private branch exchanges) and 107 KTSs (key telephone systems) registered by about 37 non-Bell manufacturers. Western Electric, Bell's manufacturing affiliate, has registered 23 PBX/KTS devices and 84 models of telephone sets.

[23] In *Deregulation of Customer-Premises Inside Wiring*, C.C. Docket No. 79-105, 86 FCC 2d 885 (1981), we are examining the extent to which inside wiring should be provided on a nonregulated basis. We note, however, that conversion of existing terminal blocks to standard single line jacks presents fewer problems than are involved in C.C. Docket No. 79-105. Indeed, New York Telephone Company, with approximately 10% of this nation's telephones, under sanction of the N.Y. State P.S.C., is currently providing to its customers "snap-on"-wired block conversion covers for terminal blocks, to permit its customers themselves to install single-line jacks to existing wiring and blocks.

[24] AT&T itself acknowledges that there would be little initial demand for repair of new CPE. Moreover, servicing of residential CPE under deregulation would not necessarily have to differ from servicing of other consumer products insofar as the equipment provider establishes its own repair policies and warranties that attach to its products. While the Bell System may choose to go forward with a decision to have the separate subsidiary provide installation and maintenance for all its CPE on an ubiquitous basis, such action is not necessitated by any Commission decision or policy.

extend for no more than eighteen months beyond the bifurcation date. After this transition period the separate subsidiary must perform its own installation and maintenance for the CPE it provides. This will foster a more orderly transition for affected carriers and customers.

60. During the transition period any installation and maintenance performed for the separate subsidiary by affiliated carriers must be done on a compensatory basis. Affiliated carriers must allocate all direct and indirect costs attributable to the provision of these services on a fully distributed basis and must establish special accounts to record all services performed for the separate subsidiary. Within 75 days from the release of this Order, AT&T is to apprise the Chief, Common Carrier Bureau, in writing as to how such costs are allocated and the accounting systems employed. The Chief, Common Carrier Bureau is directed to respond within 75 days thereof about the adequacy of AT&T's compliance with these requirements and whether any modifications to its plan are necessary to effectuate reasonable accountability.

c. Shared Support Systems

61. In Appendix B of its petition for further reconsideration, AT&T lists various operations involving shared use of operating support systems and personnel for the provision of CPE by the separate subsidiary. Here, again, it is important to distinguish whether the need for sharing results from AT&T's corporate strategy for competing in unregulated CPE markets, or from our bifurcation plan. See paras. 47–49, *supra*. We believe that an effort should be made to analyze AT&T's concerns and in so doing clarify the separation that should exist between AT&T's regulated utility services and the unregulated activities of the separate corporate entity.

62. Several of the sharing operations which AT&T discusses relate to order processing and customer billing. We have already indicated that the subsidiary may not market or otherwise set up its operation such that consumers will interact with personnel of other AT&T affiliated carriers for the provision of CPE. Accordingly, these functions should be separate. AT&T also indicates a desire to have various offices of the unregulated subsidiary act as a payment agency for total telephone bills. In this regard it would have the separate subsidiary allocate to affiliated carriers the portion of the bills applicable to their utility services. It suggests that this would continue until split billing systems are on line. We have no objection to the unregulated subsidiary acting as a payment agency for telephone bills under arrangements comparable to those which telephone companies now have with other commercial institutions acting as payment agencies, such as banks. On the other hand, we have indicated that the subsidiary and affiliated carriers should not engage in joint billing. This includes joint billing arrangements based on cost allocation schemes because of the potential for substantial cross subsidization.[35]

63. Another area where AT&T indicates a need for sharing is in the use of computer systems to control inventory or to support "various property and cost/distribution accounting needs." It states that "examples of these systems are payroll, accounts, depreciation, investment records and journal ledgers." AT&T contends that until the separate subsidiary can develop its own systems, the systems of affiliated carriers must be used to produce accounting data for the subsidiary.

64. The extent to which such sharing might be necessary is significantly decreased under the bifurcation plan we have set forth because there is no need for the separate subsidiary to keep track of existing CPE. In addition, other alternatives exist to the separate subsidiary's sharing existing computer systems with affiliated carriers. The separate subsidiary, for example, could contract with vendors in the marketplace to install a computerized business management system for inventory control, ordering and billing purposes if it does not have this in-house capability. In any event we need not address at this time the limits of permissible sharing of computer systems because the transition scheme we have set forth would lessen the need for the various joint sharing operations as described by AT&T. Moreover, AT&T has indicated that it would separately request authorization for any such joint sharing. (See Petition at 12, N.*). We need only mention at this time that, should AT&T propose to have the separate subsidiary share computer systems or computer capacity of affiliated carriers, appropriate safeguards must be established which preclude the subsidiary from accessing a carrier's customer proprietary information contained in such computer systems.

4. AT&T's Financial Concerns

65. As to the financial problems associated with bifurcation, AT&T asserts that the separate subsidiary will incur hundreds of millions of dollars in additional costs avoidable under its "flash-cut" proposal.[36] AT&T states that these costs arise from the required duplication of customer contact personnel and facilities, as well as additional record keeping. AT&T also asserts that bifurcation creates a mismatch between the subsidiary's revenues and costs, equating embedded CPE with revenue production and new CPE with cost incurrence. These costs include expenses for research, development, marketing, installation and maintenance services associated with existing and future products the subsidiary will offer. AT&T asserts that bifurcation would deny the subsidiary, for at least five years, revenues from its installed base adequate to enable it to continue the ubiquitous distribution and maintenance operations of the BOCs.

66. The concerns AT&T has raised are no different from those confronted by any other new entrant seeking to compete in the marketplace. The separation of CPE provision from its common carrier utility service through structural separation makes AT&T participation in the provision of nonregulated CPE a new, separate, corporate enterprise. Needless to say, the manner in which AT&T participates in this market as a new business is a corporate decision. The options available to it range from Western Electric marketing its equipment indirectly through various non-Bell commercial outlets as is currently done by some manufacturers, or directly to consumers on a retail basis through a separate affiliated corporation. The magnitude of the cost to be incurred under a given approach depends on the marketing choices made and ancillary services provided. Obviously, the costs associated with providing CPE on a ubiquitous basis is an essential factor for AT&T to consider in deciding to pursue a given course of action. In a similar vein, the extent to which AT&T provides installation or maintenance services for all new CPE, or only certain types of equipment, is likewise a business decision which AT&T is free to make. Because no requirements have been imposed on the separate

[35] AT&T estimates that total gross cross-billing among the separate subsidiary and affiliated carriers under its suggested sharing approach would be "of the order of magnitude of $2 billion for the detariffing of all CPE approach or pure bifurcation." Petition at B–2. Of course, since we are not allowing all the sharing requested by AT&T, this figure can be expected to be lower than that calculated by AT&T.

[36] See fn. 10, above.

subsidiary in this regard, the manner in which AT&T elects to have its separate corporation provide new CPE will determine the extent to which costs are incurred, not any Commission-prescribed mode of operations.

67. AT&T's concerns over a revenue/cost mismatch are predicated upon the subsidiary being structured for ubiquitous service, because substantial amounts of embedded CPE would ultimately be transferred to it under the ubiquitous service assumption and the subsidiary would be required, as a result, to maintain this equipment. We have made clear, however, that this is not the case. Thus, the subsidiary does not need a revenue base to support non-revenue producing CPE as might be the case if inventory were deregulated. Finally, any potential revenue/cost mismatch attributable to expenses for research, development, marketing, installation and maintenance services associated with the subsidiary's products is no different from that confronting any other new business seeking to compete in the marketplace. It is rare that a corporation would be able to immediately recoup all of its startup costs. Any revenue/cost mismatch is generally considered in determining the extent to which a new venture is capitalized. We fully expect that the manner and extent to which the separate corporation is capitalized will reflect the costs associated with any leadtime necessary to overcome any such revenue/cost mismatch. In this manner the unregulated separate corporation will properly itself bear the costs attributable to its provision of new CPE.

5. Customer Confusion

68. AT&T asserts that bifurcation will result in customer confusion and dissatisfaction. While we readily recognize that bifurcation can create certain dislocations, it appears to be the most reasonable and least disruptive mechanism for implementing the deregulation of CPE taking into consideration all the relevant factors.[27] Moreover, in making a clean separation between equipment which is regulated as of the bifurcation date, and new equipment offered after that date, we have left unaffected the vast majority of consumers. In addition, we have not altered the carriers' operations with respect to its embedded CPE. Obviously, some consumers will have to acquire their CPE in the marketplace due to the depletion of embedded equipment through loss of retirement. Moreover, CPE manufactured to meet new demand must also be provided in an unregulated environment.[28] While we do not foresee any significant disruptions occurring, a safeguard does exist in that carriers have the ability to allocate their existing equipment inventory in a reasonable fashion to further minimize operational or consumer dislocations. Within this framework we do not perceive any undue consumer dislocations resulting from the deregulation of new CPE.

6. Bifurcation Date for Deregulation

69. The current date for deregulating new CPE is March 1, 1982. We believe this date should be extended for several reasons. First, a substantial length of time has elapsed since the filing of the petitions for further reconsideration or clarification. In this period uncertainty has existed on the part of regulators and carriers alike as to the exact nature of our bifurcation plan and the extent to which some portion of existing equipment would be deregulated. Additional time is needed to allow carriers to make the appropriate transition. Second, additional time should be afforded to allow the state regulatory commissions to adjust to an environment in which local carriers will be providing new CPE separate from their utility service. Third, the determinations made today may affect AT&T's capitalization plans for its separate subsidiary. AT&T currently is required to file capitalization plans for the separate subsidiary a least 120 days prior to the formation of the subsidiary in order to allow time for public comment. *See* 84 FCC 2d at 86. An extension of the March 1, 1982, date is warranted because of this time constraint and our present belief that 120 days is insufficient time to examine adequately a capitalization plan. We are hereby requiring that AT&T file such a plan at least 180 days prior to the formation of the subsidiary. For these reasons, we believe that the bifurcation date for the deregulation of new CPE should be extended from March 1, 1982, to January 1, 1983.

70. March 1, 1982 was also the date for the deregulation of carrier-provided enhanced services. For purposes of uniformity we are extending this date for the deregulation of enhanced services also. January 1, 1983 now is the outer limit for compliance with determinations made in this proceeding. However, carriers and regulators may take appropriate action to implement at an earlier date. AT&T, for example, is free to establish its separate subsidiary and offer new CPE and enhanced services before this date subject to its compliance with the necessary requirements for the formation of the separate subsidiary.

7. Summary

71. In sum, we find that AT&T's petition must be denied for the following reasons. First, AT&T's flash-cut proposal would unduly delay the attainment of public benefits derived from *Computer II*, and would create uncertainty about the date on which the detariffing of CPE would begin, thereby frustrating the need of states, competitors and consumers to plan for a deregulated CPE environment. Second, it is premised on an expansive exercise of federal preemption over the transfer of its existing equipment to the separate subsidiary which is not necessary for the execution of federal policy at this time. Third, grant of AT&T's Petition would preclude states from deregulating embedded CPE in a manner that complements federal policy, i.e., deregulating through sale of embedded CPE. Fourth, mandating without further examination the transfer of all of AT&T's existing equipment to the separate subsidiary creates a risk that AT&T's market dominance in the regulated equipment environment will be transferred to the unregulated competitive marketplace and adversely affect competition. Fifth, AT&T's petition is premised on impermissible entanglements by the separate subsidiary with its common carrier activities which are not necessary for the separate subsidiary's provision of new CPE on a non-regulated basis. Accordingly, we find that AT&T has not met its burden of persuading the Commission that AT&T cannot implement the decisions in this proceeding as prescribed.

II. Application of Structural Separation to Other Carriers

A. Background

72. In the *Final Decision* we reviewed the need to continue subjecting various carriers to structural separation requirements for their offering of unregulated services.[29] We concluded

[27] Here, we might make a general observation that, in our opinion, AT&T doesn't give consumers enough credit. For example, if the separate subsidiary burns its label or symbol into its equipment, customers will have little difficulty in determining which company is responsible for repair of defective units.

[28] In 1980 Western Electric's newly manufactured telephone sets totalled approximately 13.8 million units. Of this, approximately 5.7 million units were manufactured to replace those that were junked and approximately 4.3 million units represented telephone sets that were lost. Thus, approximately 3.8 million units were manufactured to meet growth.

[29] Our former rules required that, except for carriers or holding companies with annual revenues

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that the need for such separation exist only as to AT&T and GTE in their offering of CPE and enhanced services. 77 FCC 2d at 473–74. We then prescribed the rules defining the degree of separation required between their common carrier operations and their CPE or enhanced services offerings. *Id.* at 474–86, 498–99.

73. On reconsideration we determined that carriers affiliated with GTE should not be subject to the structural separation requirements imposed upon them in the *Final Decision*. 84 FCC 2d at 72. We concluded that the benefits of "maintaining the separate subsidiary requirements for carriers other than AT&T [do] not outweigh other public considerations." *Id.* at 75. For the most part we affirmed the separation requirements imposed upon AT&T and its affiliates by the *Final Decision*. Our principal modifications to the separation conditions arose in two areas: software research and development and marketing of network equipment by the separate subsidiary.

74. Two parties have requested that we reconsider further the approach we have adopted with respect to our separation policy. Wisconsin Telecommunication Contractors Association (WTCA) urges that we expand the scope of our structural separation requirements in order to include within its ambit carriers other than AT&T affiliates.[30] IDCMA seeks an increase in the degree of separation between the operations of an AT&T separate subsidiary and those of its affiliates and requests clarification of certain passages in the *Reconsideration Order*. We now address the concerns of both petitioners.

B. Pleadings

75. WTCA requests that the Commission reconsider the limited applicability of the structural separation requirements and order each independent telephone company to show cause why the structural separation requirements should not apply to their retail sales of CPE. WTCA would have us impose structural separation for retail sales of CPE upon all telephone carriers failing to meet this burden. To support its petition for reconsideration WTCA relies upon two orders (involving Rochester Telephone Co. and Mid-Plains Telephone Co.) issued by state commissions subsequent to adpotion of our *Reconsideration Order*.[31] WTCA contends that these orders illustrate the shortcomings of this Commission's failure to address relevant competition issues in this proceeding. It asserts that it is the Commission's "preoccupation with the entry of large competitors such as Exxon, IBM and Xerox" that caused the removal of GTE from the structural separation requirements. (Petition at 4). WTCA points to the lack of evidence establishing that interconnect vendors can survive the impact of GTE and other independent telephone companies participating in unregulated markets without structural separation. Moreover, it asserts that we have failed to satisfy our obligation to protect general ratepayers from the burden of subsidizing such carriers' unregulated CPE activities.

76. Of the six parties addressing the WTCA petition in their comments, only AITC endorsed the proposal.[32] While sympathetic to the concern for meaningful structural separation requirements expressed by WTCA, CBEMA believes that the need for finality to this proceeding outweighs any improvements that we could make within this proceeding to the set of existing separation requirements (Response at 10).

77. Both GTE and United urge dismissal of the petition as repetitious under § 1.429(i) of our Rules and Regulations.[33] USITA asserts that the petition not only ignores the cost-benefit analysis underlying our decision to limit the applicability of structural separation to only AT&T, but also ignores that CPE interconnect vendors in Wisconsin have succeeded in the existing competitive market for CPE without any structural separation requirement being imposed upon participating telephone companies (Response at 2–3). According to RTC, the petition is without merit because without adding anything to the record it addresses issues already fully considered and resolved on reconsideration (Opposition at 6).

C. Discussion

78. Once again we are asked to reconsider our determination regarding what carriers should be subject to the structural separation requirements. WTCA seeks reconsideration not only of our determination to exclude GTE from the separate subsidiary requirement for CPE but also of our determination not to apply this requirement to other independent telephone companies.

79. In our *Reconsideration Order* arguments were advanced that the independent telephone companies should be subject to the separate subsidiary requirement for CPE. We listed the factors relevant to our determination in this area and concluded that consumers would best be served if the separate subsidiary mechanism were imposed only where essential to assure the objectives of the Communications Act. *Reconsideration* at para. 65. In so doing we determined that the separate subsidiary requirement should be limited to AT&T at this time.

80. We imposed structural separation where a substantial threat of injury to the communications ratepayer exists and where other regulatory tools would not suffice. *Final Decision* at para. 228. We found that the separation requirement should be applied only to those telephone companies having sufficient market power to engage in effective anticompetitive activity on a national scale and which possess sufficient resources to enter the competitive market through a separate subsidiary. *Id.* at para. 222. Consideration was also given to the potential for cross-subsidy and anticompetitive behavior raised by the vertically integrated structure of the Bell System. *Final Decision* at paras. 201–207. In this light we viewed the costs and benefits of imposing separation requirements on telephone companies as a function of both firm and market size. *Reconsideration* at para. 70. Therein we stated:

> There is no dispute in the record as to the relative size of AT&T compared to the independent telephone companies. We believe this disparity in size leads to the result that the benefits of structural separation for AT&T are greater than the costs, while this calculus is reversed for the independent telephone companies.

Reconsideration, at para. 70.

81. In focusing on AT&T we were well aware that an argument could be made for subjecting other telephone companies to a separate subsidiary

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under one million dollars, carriers could offer unregulated data processing services only through a separate corporate entity having separate officers, operating personnel, computer facilities and books of account. 47 CFR 64.702(c) (1978).

[30] WTCA would have us "require all telephone companies to engage in retail sales of CPE only through the device of a separate subsidiary, except where single-line systems are involved, or where single and multiline sales take place in a market which could not support competition." (Petition at 5–6).

[31] Cases 27411, 27681, Rochester Telephone Company, decided by the New York Public Service Commission in Opinion No. 80–38, issued December 1, 1980. Investigation on Motion of the Commission of Mid-Plains Telephone, Inc., Lease or Sale Proposals for Terminal Equipment, Wisc. P.S.C. No. 3650–TI–1, issued November 25, 1980.

[32] Comments of the Alarm Industry Telecommunications Committee of the National Burglar and Fire Alarm Association in Support of Petitions for Reconsideration Submitted by IDCMA and WTCA (AITC Comments) at 2.

[33] GTE Opposition at 13, United Opposition at n. * *, p. 1.

requirement for unregulated CPE. On balance, however, we concluded that the case for that action had not been made, and that it would be best to stay our regulatory hand to see if competitive abuses did develop. GTE's exclusion from the structural separation requirements was specifically addressed in our *Reconsideration Order*. *See* 84 FCC 2d at 72–74. WTCA has raised no new facts warranting a contrary determination as to GTE or other independent telephone companies. Accordingly, we affirm our prior determinations.

82. WTCA's arguments relating to state determinations in the *Rochester* and *Mid-Plains* cases do not warrant a contrary finding. Nor do they show any failure of this Commission to address "relevant competition issues" in this proceeding. (Petition at 3). WTCA asserts that because various state commissions have acted, pursuant to their own statutes, to ensure that the state ratepayer is not subsidizing a carrier's venture in unregulated markets, it is incumbent upon this Commission to consider extending the separate subsidiary requirement.

83. We see no reason to draw this conclusion. Under *Computer I*, our structural separation rules were so all encompassing that the states did not perceive any need for additional regulations. In our Computer II decision, however, we determined that subjecting a broad spectrum of carriers to this regulatory scheme was not, on balance, necessary to fulfill our obligations under the Communications Act and we announced our intention to minimize the federal regulatory burden. What constitutes protection for the federal ratepayer may or may not provide adequate protection for state ratepayers. Some states may wish to impose additional safeguards to protect their citizens.[34]

84. Our analysis of the costs and benefits of requiring a separate subsidiary for smaller telephone systems and companies focused on their participation in nationwide markets. 84 FCC 2d at 74. None of these smaller carriers appeared to have significant national market power. *Id.* We questioned whether the requirement of separation, which was "perfectly reasonable and appropriate" when applied to Bell, might be arbitrary and capricious if applied to these smaller companies. See *Home Box Office, Inc.* v. *FCC* 567 F. 2d. 9, 36 (D.C. Cir. 1977). Moreover, because of their size, we questioned the ability of the non-Bell companies to maintain separate operations. 84 FCC 2d at 74–75. For those reasons, we concluded that carriers other than AT&T would not be required to establish separate subsidiaries for the provision of enhanced services and CPE, but we reserved the option to impose such a requirement at some future time if circumstances warrant. 77 FCC 2d at 470.

85. A guiding principle of our decision is that carrier participation in the provision of enhanced services or detariffed CPE can not be allowed to detrimentally affect the communications ratepayer through cross subsidization or other anticompetitive conduct. If a state regulatory authority, focusing on the local activities of a carrier, perceives some potential for abuse, it may take action so long as it does not conflict with our own policies. The *Rochester* and *Mid-Plains* cases are illustrative. In *Rochester*, the New York Public Service Commission (NYPSC) found that the formula adopted by Rochester Telephone Company (RTC) to determine charges for services it provided its unregulated telecommunications subsidiary, Rotelcom, failed to show whether such charges were compensatory and reflected arm's length bargaining. The NYPSC also found that the accounting for transactions between RTC and its subsidiary was inadequate to determine whether joint and common costs had been reasonably allocated between regulated and unregulated activities. In *Mid-Plains*, the Wisconsin Public Service Commission (WPSC) acted on proposals of Mid-Plains Telephone for the unregulated sale and lease of terminal equipment. WPSC granted Mid-Plains' request but imposed separate accounting procedures upon the unregulated business activities of the carrier.

86. These two cases represent, in part, efforts by appropriate state authorities to meet their perceived statutory obligations in a manner that does not conflict with the regulatory determinations and policies of this Commission, and which in certain respects complement the policy thrust of this Commission. Our decision does not foreclose state authorities from establishing protections for the benefit of state ratepayers. Where this Commission has not required separation, regulatory tools such as accounting requirements and structural separation are available to the states in meeting their legitimate regulatory interests in insuring that an intrastate carrier's participation in unregulated activities is not at the expense of the communications ratepayer. The fact that a state may take such action does not affect the reasonableness of our decision. It is our intention, however, to remain aware of state activities in this regard. We will promptly examine allegations or complaints of conflicts between state regulations and our national policies and, if necessary, preempt inconsistent regulations through appropriate proceedings.

III. Sufficiency of AT&T Structural Separation Conditions

87. In its petition for further reconsideration, IDCMA requests that we increase the structural separation conditions imposed upon AT&T with respect to its offering of CPE. It seeks to have us require the separation of all manufacturing as well as research and development functions related to the provision of customer-premises equipment. (Petition at 24). It asserts that such action is necessary to prevent AT&T from engaging in cross-subsidization of its competitive ventures with revenue from regulated services, from misusing inside information and from committing other anticompetitive abuses. (Petition at 17–18, 24). IDCMA also requests that we remove ambiguous and inconsistent language in paragraph 91 of the *Reconsideration Order* in order to explicitly prohibit AT&T from marketing any CPE through Western Electric, its Long Lines Department, or any of the other Bell Operating Companies (Petition at 10). It specifically refers to the statement that "[t]he subsidiary may purchase any equipment its *parent sells* to the general trade so long as any software, or firmware, contained therein is not customized, but is generic." (emphasis added). It contends that this may be

[34] This is not to say that our decision had no impact on state regulatory options. In this proceeding we have to date preempted the states in two respects. First, we have determined that the provision of enhanced services is not a common carrier public utility offering and that efficient utilization and full exploitation of the interstate telecommunications network would best be achieved if these services are free from public utility-type regulation. 77 FCC 2d at 428–29. We also determined that utility regulation of CPE is contrary to the national public interest because of its effect upon communications ratepayers and the competitive development of CPE markets. 84 FCC 2d at 99. States, therefore, may not impose common carrier tariff regulation on a carrier's provision of enhanced services. Nor may states require carriers to tariff "new" CPE after the bifurcation date, *i.e.*, January 1, 1983. Second, we have prescribed a separate subsidiary structure under which carriers affiliated with AT&T must provide detariffied CPE and enhanced services. Attention focused on AT&T because of the market power it possesses on a national basis. 77 FCC 2d at 467. The states thus may not exempt AT&T operating companies from the separations requirement for intrastate regulatory purposes.

construed "to permit the unseparated parent" to sell CPE directly and therefore would undermine the policy behind the requirement that CPE be marketed only through a separate subsidiary. (Petition at 9). Moreover, it argues that language in the same paragraph referring to "installation and maintenance performed by the *parent or its unseparated affiliates*" (emphasis added) could be misconstrued to permit these same entities to directly perform installation and maintenance contrary to determinations made in the *Final Decision*. Finally, IDCMA would have us foreclose the separate subsidiary from selling equipment to carriers within the Bell System because of the potential for basic service ratepayers to bear the costs of inflated transmission equipment resulting from intracorporate transfers. (Petition at 22).

88. Four parties responded to the IDCMA request for additional separation. Datapoint asserts that separation of related manufacturing and research and development functions for CPE is required. AITC also supports the IDCMA petition but would strengthen structural separation conditions to prohibit sharing of administrative costs, financial aid, personnel, bulk purchases and any other costs which we have not already expressly required be separated. CBEMA, while sympathetic to the concerns IDCMA expressed, believes that any consideration of additional structural safeguards should occur in a forum other than further reconsideration in this proceeding. (Response at 10).

89. AT&T disagrees that the language is ambiguous, noting that paragraph 91 focuses on the manufacturing affiliate. It also contends that the *Final Decision* did not purport to affect the provision of CPE by its manufacturing entity. AT&T urges dismissal of the IDCMA request as repetitious under Commission Rule 1.429(i) and contends that the greater degree of separation proposed by IDCMA would severely handicap the Bell System without bringing any countervailing benefits to competition.

90. In paragraph 91 we set forth the requirement that the separate subsidiary must perform its own software development, except for that software or firmware which is considered generic to equipment which the separate subsidiary obtains from an affiliated manufacturing entity. Therein we stated that "the subsidiary may purchase any equipment its parent sells to the general trade so long as any software or firmware, contained therein is not customized, but is generic." Use of the term "parent" may have not have been entirely accurate (despite the ownership interest AT&T has in Western Electric) because AT&T has not indicated where within the Bell System structure the separate subsidiary may lie. However, it is clear from the language of the paragraph that the focus is on the separate subsidiary's relationship with its AT&T manufacturing affiliate. It is also clear that the separate subsidiary is able to purchase equipment containing generic software from an affiliated manufacturer if the equipment is also made available to the general trade under the same terms and conditions.

91. IDCMA suggests that we make clear that the BOCs, AT&T Long Lines and Western Electric may not market CPE directly. In this regard, IDCMA seeks to place Western Electric on the same footing as affiliated carriers. In this proceeding we have focused on the manner and extent to which carriers of the Bell System may participate in the provision of unregulated CPE and enhanced services. The BOCs and AT&T Long Lines have traditionally provided CPE to the end user. Because we have determined that the provision of carrier provided CPE is no longer to be treated as part of a public utility service, we have addressed the manner in which these regulated carriers may participate in the provision of CPE on an unregulated basis. The revised § 64.702 of our Rules, 47 CFR 64.702, makes clear that these carriers may participate in unregulated CPE markets only through a separate subsidiary in accordance with our separation requirements. Thus, the Bell Operating Companies and Long Lines may not sell or lease, install or maintain unregulated CPE.

92. We have not, however, proscribed the provision of CPE by Western Electric. To argue that we have limited Western Electric's traditional manner of conducting business is erroneous. Unlike the BOCs and Long Lines, Western Electric has not traditionally dealt with end users, but has engaged in the sale of CPE on an unregulated basis. For example, either Western Electric or Teletype Corporation, its wholly owned subsidiary, have traditionally sold CPE or CPE components to foreign buyers, non-Bell equipment manufacturers or non-Bell suppliers of CPE and the Federal government. That activity has not been precluded. However if Western Electric elects to sell to end users it must do so through the separate subsidiary created in response to these orders. IDCMA raises similar concerns with respect to installation and maintenance of CPE. It perceives an inconsistency between our determinations in the *Final Decision* and *Reconsideration Order*. In the *Final Decision* we stated:

> Moreover we are not foreclosing the subsidiary from obtaining support services for sophisticated equipment purchased from any affiliated manufacturing entity on a compensatory basis. For example, the subsidiary could contract with the manufacturer for the installation, maintenance or repair of equipment, or the manufacturer could train personnel of the subsidiary to perform these functions. Aside from this, however, we are precluding entities or organizations affiliated with the parent from performing any function related to the training, operation, installation, marketing and maintenance services associated with the subsidairy's offerings.

77 FCC 2d at 477. We did not intend to alter this on reconsideration. On reconsideration we stated:

> Moreover, we believe it is reasonable to expect the manufacturer, at its option, to be responsible for the installation and maintenance of its own equipment. Thus we will not prohibit such an arrangement unless we discover evidence that the burden of misallocated installation and maintenance costs is being borne by the ratepayer. However, installation and maintenance performed by the parent or its unseparated affiliates may extend only to the hardware and software actually provided.

84 FCC 2d at 81. The phrase in the last sentence "parent or its unseparated affiliates" was not intended to alter the proscription in the *Final Decision* against affiliated carriers of the Bell System performing installation and maintenance functions for the separate subsidiary. In essence, we sought to make clear that we are not foreclosing the separate subsidiary from calling upon the expertise of an affiliated manufacturer when the separate subsidiary is marketing that affiliate's equipment. Any support services obtained from an affiliated manufacturing entity, however, must be on a compensatory basis. Section 64.702(c)(2) of our Rules precludes the BOCs and AT&T Long Lines from providing installation and maintenance services for unregulated CPE.

93. IDCMA would have us extend the separate installation and maintenance requirement to Western Electric because: (1) The possibility of cross subsidization arises if Western provides such services for nonregulated CPE and network transmission equipment of the BOCs; (2) it would create the potential for discrimination against users of independent manufacturers' equipment with respect to the timing and quality of repair services for network transmission problems; (3) unwarranted advantages would accrue to Western Electric employees by virtue of AT&T's

ownership of the transmission network; and (4) Western's employees would have "preferential access" to information related to AT&T's transmission network prior to public dissemination. (Petition at 14, 16).

94. The first three of IDCMA's arguments appear leveled against the way in which the Bell System has traditionally operated Western Electric. Whatever merit these arguments may have, they are somewhat peripheral to the determinations we have made in this proceeding. As we have already indicated, Western Electric currently provides CPE on a non-regulated basis along with various installation and maintenance functions. While IDCMA's concerns may warrant consideration as part of comprehensive proceeding looking into Western Electric's regulated and unregulated activities, total separation of installation and maintenance for equipment which Western Electric manufactures is not required for purposes of this proceeding. The chief thrust of this proceeding has been to separate the non-utility activities of affiliated carriers from their regulated common carrier operations.

95. IDCMA's fourth argument is that Western Electric employees have preferential access to information related to AT&T's transmission network. However, we are not persuaded at this time that we should impose the additional burden of separate installation and maintenance. In § 64.702(d)(2) we required that information affecting the manner in which CPE is attached to the interstate network be available to other equipment vendors on a non-discriminatory basis with reasonable advance notification. Thus, we have already required the same degree of notification to the public as is given the separate subsidiary and this should solve much of IDCMA's problem in this area. Moreover, it is unrealistic to presume that separate installation and maintenance will restrict the flow of information between affiliates when employees are capable of being transferred between various affiliates of the Bell System. With such transfers flows information within the knowledge and expertise of the transferred employee. To a large extent the marketplace will provide the best check against potential abuses. Should abuses arise, the Commission can take appropriate action at that time.

96. IDCMA also focuses on permissible activity of the separate subsidiary. In the *Final Decision* we barred the separate subsidiary from marketing any transmission or other network equipment. 77 FCC 2d at 483. On reconsideration, we relaxed the ban to prohibit only the sale by the separate subsidiary to its affiliates of network equipment which it does not manufacture. 84 FCC 2d at 84. IDCMA urges us to retain the prohibition against the marketing of any network equipment by a separate subsidiary which markets both CPE and enhanced services because of the potential for cross subsidization and predatory pricing if the basic service ratepayer is forced to bear inflated costs of transmission equipment. (Petition at 21–22).

97. The prohibition governing the marketing of newwork facilities by the separate subsidiary was narrowed on reconsideration to guard against the potential adverse inpact upon ratepayers resulting from intracorporate transfers in which the separate subsidiary acted solely as a conduit in transfers of network equipment between Western Electric and affiliated AT&T carriers. While we discussed intracorporate transfer pricing in general, our intent was to foreclose transfers through the separate subsidiary where no legitimate business interest is served and the potential for abuse is great. We perceived this to be the situation where the separate subsidiary does not manufacture the equipment. This would not be the case were the separate subsidiary to develop and manufacture its own equipment and seek to provide such equipment in the marketplace. The separate subsidiary would have a legitimate business interest in seeking the broadest possible market for its own equipment. Aside from the most obvious case which we have identified, we need not resolve for purposes of this proceeding the myriad issues arising in the context of transfer practices and pricing policies among corporate affiliates of the Bell System. Accordingly, we affirm our determination in the *Reconsideration Order* and deny IDCMA's request to broaden the transfer restriction.

98. Finally, IDCMA continues to urge the separation from Western Electric of its research, development and manufacturing activities related to enhanced services and CPE. In addition, subsequent to the adoption of our *Reconsideration Order*, NTIA filed a Petition for Notice of Inquiry and Proposed Rulemaking (RM–3829) urging that, in a separate proceeding, we require AT&T to establish separate subsidiaries to perform all manufacturing and applied research and development functions related to its provision of enhanced services and CPE. In the *Final Decision* we stated:

> We are allowing sharing of research and development by affiliated entities at this time, but we intend to examine into the license contract arrangements and other issues generic to the use of monopoly revenues to support competitive research and development. At the conclusion of this process we are free to modify the approach we have set forth here, if the facts so warrant. 77 FCC 2d at 481.

99. An investigation into AT&T's license contract arrangements is currently being conducted.[35] Depending on the conclusions reached and determinations made in that proceeding, we have the option to pursue NTIA's petition at that time. We believe that an appropriate record should be developed in considering any proposal to compel Western Electric to separate its research and development and manufacturing activities. Moreover, the initiation of any such proceeding should await the outcome of our license contract investigation in CC Docket No. 80–742.

IV. Conclusion

100. Our *Computer II* decision sets forth a structure which will allow the public in the future to obtain customer premises equipment (CPE) separately from their basic telephone utility service. This fosters a more competitive environment for terminal equipment, reduces distortive cross subsidies caused by the jurisdictional separations process, and will benefit the consumer by making available lower-cost, more innovative terminal equipment.

101. The determination reached in this order is an important initial step toward a phased-in transition to this deregulated CPE environment. By utilizing a bifurcated approach, we have left the way in which carriers provide, install, maintain, refurbish and recycle their "embedded" equipment essentially intact pending further proceedings. At the same time we have provided for a more immediate deregulation of "new" equipment in a way which allows consumers to begin to receive the benefits of our *Computer II* decision, without any undue dislocations to them or to the common carriers providing the equipment. Thus, public benefits are not delayed while we address the difficult issues associated with the deregulation of embedded CPE that have a direct effect upon the ratepaying customer.

102. We have purposefully adopted a cautious transition plan to allow ample opportunity for us to thoroughly examine AT&T's capitalization,

[35] See License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems, CC Docket No. 80–742, 84 FCC 2d 259 (1981).

valuation and equipment transfer plans, and insure that communications users are protected from any harm that might be caused by improper cross subsidization or anticompetitive behavior. We have a responsibility to ensure that transactions between the subsidiary and affiliated entities are fully compensatory as well as to ensure that appropriate cost allocations are made when various administrative services and other joint activities are shared. A phased-in deregulation of CPE will enable us to gain experience in monitoring the structural separation requirements and necessary accounts as the separate subsidiary evolves. This on-going review of structural separation will provide a basis for determining whether greater or lesser separation is required in various areas. Moreover, it is essential that this Commission stand ready to police compliance with the various separation conditions imposed on AT&T, and to respond to and investigate complaints of anticompetitive conduct.

103. The effective implementation of Computer II will undoubtedly strain the resources of this Commission. We are committed, however, to ensuring that the interest of consumers are protected at each phase of the implementation. Resources are currently being allocated to monitor and enforce the requirements we have imposed on AT&T to ensure that its separate subsidiary competes on a full and fair basis.

104. Certain actions have yet to be taken. As a preliminary measure this Commission must approve the capitalization plan for the separate subsidiary. This process will provide us and the public with an opportunity to ensure that the initial capitalization of the subsidiary does not, directly or indirectly, adversely affect the communications ratepayer.[36] In addition, approval will be required of the costing methodology and separate accounts associated with shared activities between the separate subsidiary and affiliated entities. In order for us to engage in effective monitoring, we are requiring AT&T to submit within 75 days of the release of this Order a detailed description of any administrative services which it will share with the subsidiary, along with an explanation as to how the costs of any shared services are to be allocated between regulated and unregulated activities.

105. Because our bifurcation plan leaves all existing equipment, including inventory, within the control of AT&T's regulated entities, rather than deregulating it, we see no need to delay implementing the deregulation of new CPE.[37] This approach resolves the difficult problems which AT&T believes could disadvantage consumers under a bifurcated approach. The BOC's will be able to continue their present relationship with existing customers. By ensuring a supply of returned CPE to the BOCs those entities will have a capacity, albeit not an unlimited one, to fill orders for new or modified services. We expect AT&T to continue its orientation toward service and to concentrate its efforts to ensure the continued provision of CPE to consumers, such as party line subscribers, whose needs may not be fully met by the FSS or competitors during the transition period. We recognize that some new customers desiring CPE under tariff may not be able to obtain it. After the transition process is complete, however, no CPE will be provided under tariff. Therefore, this potential unavailability of tariffed CPE to consumers is a normal part of the transition to an unregulated marketplace environment. Moreover, the concerns expressed in the 1981 GAO Report concerning potential cross subsidization and market dominance with respect to the deregulation and transfer of embedded CPE have been substantially ameliorated under the bifurcation plan we have set forth. Under the structure we have established, AT&T's provision of new CPE is separate and distinct from its common carrier utility services and its provision of embedded CPE. Needless to say, due consideration must be given to the concerns expressed by the GAO in its Report as we proceed with the deregulation of embedded CPE. The deregulation of AT&T's embedded CPE will be addressed in the implementation proceeding which will explore the various regulatory and competitive considerations associated with the manner in which state and federally tariffed CPE is eventually deregulated. We intend to initiate the implementation proceeding within 60 days of the release of this Order.

106. We have also recognized that it may be necessary for us to examine in more detail whether separation is required for research and development activities related to the provision of AT&T's enhanced services and CPE. We have already indicated that we intend first to inquire into AT&T license contract arrangements and, based on the record established in that proceeding, determine whether structural separation in this area is required.[38]

107. In large measure, therefore, our regulation in this area is an organic process. It will continue to evolve as we gain experience. We are mindful of the delicate balance which must be struck in allowing AT&T to compete in unregulated markets while not allowing it to do so in an anticompetitive manner. Controversies will arise as to whether in a given situation we have struck an appropriate balance. This is inevitable. But at the same time we are keenly aware that our effectiveness in implementing this decision will determine the competitive quality of the resulting enhanced services and CPE environment. We seek the assistance of state regulators, users, competitors and carriers alike in assuring the evolution of full and fair competition.

V. Ordering Clauses

108. Accordingly, it is ordered pursuant to Sections 4(i), 4(j), 201–205, 403 and 404 of the Communications Act of 1934, As Amended, that the Reconsideration Order adopted in this proceeding is modified to the extent set forth in this order.

109. It is further ordered that the Petitions for Further Reconsideration and/or Clarification are granted to the extent set forth in this order, and are otherwise denied.

110. It is further ordered that the date for bifurcating new and embedded CPE is extended from March 1, 1982 to January 1, 1983.

111. It is further ordered that AT&T shall comply with the filing requirements set forth in this order.

112. It is further ordered that the Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Petitions

American Telephone and Telegraph Company (AT&T)
GTE Service Corporation (GTE)
Independent Data Communications Manufacturers Association (IDCMA)
United Telephone Systems, Inc. (United)
Wisconsin Telephone Contractors Association (WTCA)

[36] This review will include ascertaining whether the credit or bond rating of AT&T's regulated affiliates might be adversely affected by any financial losses of the separate subsidiary.

[37] In a report to Congress entitled "Legislative and Regulatory Actions Needed to Deal with a Changing Domestic Telecommunications Industry", CED-81-16, dated September 24, 1981, the Comptroller General appears to suggest that we delay implementing Computer II until various preliminary matters are resolved. See pp. 134–136. (Hereinafter cited as the "1981 GAO Report").

[38] See fn. 35 above.

Comments

Alarm Industry Telecommunications Committee of the National Burglar and First Alarm Association (AITC)
Computer and Business Equipment Manufacturers Association (CBEMA)
Independent Data Communication Manufacturers Association (IDCMA)
National Telecommunications and Information Administration (NTIA)
Attorney General of the State of New York
Southern Pacific Communications Company (SPCC)
United States Independent Telephone Association (USITA)

Oppositions

Action Communications Systems, Inc. (Action) AT&T
People of the State of California and the Public Utilities Commission of the State of California (California PUC)
Central Telephone and Utilities Corporation (Centel)
Datapoint Corporation (Datapoint)
GTE Service Corporation and GTE Telenet Incorporated (GTE)
National Association of Regulatory Utility Commissioners (NARUC)
Rural Telephone Coalition (RTC)
Society of Telecommunications Consultants (STC)
Southern Pacific Communications Company (SPCC)
United Telephone Systems, Inc. (United)

Reply Comments

AT&T
IDCMA
North American Telephone Association (NATA)

Separate Statement of Commissioner Abbott Washburn

Re: Further Reconsideration of Decisions in the Second Computer Inquiry (Docket No. 20828)

October 7, 1981.

Our decision today to move forward with the deregulation of CPE on a bifurcation basis is, in a real sense, an act of faith. We know the goal we want to get to, but we don't know the turns in the road nor the stops enroute. The judgment not to delay the first step—the launching of "Baby Belle" on January 1, 1983—was the correct one. The Commission will have considered AT&T's capitalization plan in advance of that date. The new separated subsidiary will then be able to market new CPE on an unregulated basis, in competition with other suppliers.

The bifurcation transition period will last as long as it takes to resolve the questions of CPE evaluation and possible transfer from the BOCs to Baby Belle. This will be a difficult and complicated process with many problems and imponderables. It is important that a tight schedule be established so that the bifurcation period can be kept as short as possible, thereby minimizing dislocation to ratepayers. The Commission must allocate sufficient resources to the effort. It is also essential that the State Regulatory Commissions, AT&T, the FCC and all others involved approach this transitional period with a positive attitude to make it work in the interests of the public. We must also be flexible enough to learn and make adjustments as we go.

Statement of Commissioner Joseph R. Fogarty

Concurring in Part; Dissenting in Part, In Re: Computer Inquiry II—On Further Reconsideration

Throughout the course of this *Second Computer Inquiry*, I have concurred in the Commission's basic theory that deregulation is both desirable and necessary to foster competition in the telecommunications marketplace and to promote benefits to the American consumer of new services and equipment.[1] In concurring I have expressed serious reservations, however,[2] for the Commission has never adequately assessed the critical cost/benefit trade-offs inherent in the particular deregulatory structures and procedures it has adopted. Indeed, while the Commission has been quick to concoct and apply a general economic theory of competition and deregulation, it has shown a marked reluctance to grapple with the serious consequences of its theory in the real world, and to insure that the interest of the consumer—the ultimate and paramount "public interest"—will be truly served by the implementation of this theory. This reluctance is all the more disturbing when it is remembered that we are restructuring, perhaps dismantling, not our ailing airline, steel or automobile industries, but the most dynamic and efficient sector of our economy, as well as the critical central nerve system of our nation's social, commercial, and political body. Pursuing the physiological metaphor only a bit farther, I question what is the diagnosis of disease in this vigorous and highly productive system that warrants such drastic and precipitous cures as this Commission prescribes.

With this growing fear that the Commission's rhetoric is outstripping sound transitional analysis, I dissent from the adoption of a "bifurcated" approach to the deregulation of customer premises equipment (CPE). Whatever the theoretical allure of bifurcation, its "real-world" consequences are likely to be disastrous. If and when bifurcation is implemented, the costs and dislocations imposed on the consumer will far outweigh the supposed benefits claimed for this unwieldy scheme.

I also dissent from the Commission majority's refusal to acknowledge that the structure for the competitive provision of CPE and enhanced services, and the "cost/benefit" analysis on which that structure is based, necessarily pre-empts, both in law and in policy, inconsistent state regulation and particularly state imposition of separate subsidiary requirements on telephone companies beyond that ordered for American Telephone and Telegraph Company (AT&T) by this federal authority.

[1] *Computer Inquiry II—Final Decision*, Statement of Commissioner Joseph R. Fogarty, Dissenting in Part, 77 FCC 2d 505 (1980)—*On Reconsideration*, Statement of Commissioner Joseph R. Fogarty, Concurring in Part, 84 FCC 2d 112 (1980).

[2] *Id.*, 77 FCC 2d 505-517, 84 FCC 2d 113-118.

I. Bifurcation vs. Flash-Cut

The bifurcation approach would split AT&T's provision and maintenance of embedded residential CPE from new residential CPE, based on the theory that any deregulation during transition is better than no deregulation, regardless of the cost to the consumer due to service and supply dislocations. This theory is pernicious in effect, if not also in intent, and I emphatically dissent from its application at this critical stage of *Computer II*.

Under the bifurcation scheme AT&T will be permitted to continue to provide embedded residential CPE through the Bell Operating Companies (BOCs), but will be required to provide new residential CPE through a fully separated subsidiary (FSS) after January 1, 1983. This scheme will require the FSS to duplicate completely the distribution, inventory, repair, and maintenance functions (as well as the required personnel, equipment, and operating systems) of the BOCs if residential customers are to continue to receive the same quality and degree of service they have come to expect and rely upon. This duplication will cost hundreds of millions of dollars, and it is not a one-time-only cost because AT&T will also be required at some point to merge the BOCs' CPE operations into the FSS at extra expense.

Most of this cost and confusion will be avoided with respect to the provision of business CPE, embedded and new, because the Commission's order finds that the practical and reasonable approach there is to permit joint installation and maintenance of both embedded and new business CPE on a transitional basis beyond January 1, 1983. I think it is unfortunate that the Commission's sensitivity and pragmatism stop short of the residential customer—the common telephone user. In fact, under bifurcation it is far better to be a business than a residential customer.

Clearly, bifurcation will adversely impact on the common residential user. Despite the Order's argument that this Commission has never given AT&T any guarantee that its "ubiquitous" provision of residential CPE would be allowed to continue, the reality is that AT&T now provides over eighty percent of this nation's telephones, and that AT&T has no significant nationwide competition in the residential CPE market. After January 1, 1983 no new CPE inventory will be acquired by the BOCs. Whether inventory and service shortages will hit residential customers in year one, year two, or year three of a bifurcated transition may not be certain, but these shortages will hit and they will hurt. AT&T installs approximately 35 million telephones each year and also junks or loses a total of about 10 million telephones annually. In order to meet these installation requirements and to replace the telephones which are junked or lost, AT&T refurbishes 31 million telephones and manufactures 14 million new telephones each year. Beyond January of 1983, the bifurcation implementation date, the BOCs will still have to provide most of the annual 35 million installations. However, the inventory available for these installations will be quickly depleted as the BOCs are denied access to newly manufactured residential

telephones and must still sustain the annual impact of 10 million telephones junked or lost. Sooner or later—and probably sooner—residential CPE consumers will be caught in a bifurcated transition without service or equipment from the BOCs and many of these consumers will be left without adequate alternative sources of supply and service.

In responding to this disquieting prospect, it is entirely unrealistic for the Commission to argue that residential users left in the lurch can always turn to either the AT&T FSS or Bell competitors. Given the imposing start-up costs and the inefficiencies resulting from splitting one integrated operation into two smaller ones, each performing practically the same tasks,[3] it is extremely unlikely that the AT&T FSS will be able to fill the residential CPE void, especially during the critical early years of a bifurcated transition. It is also incredibly naive to assume that non-Bell CPE competitors will have the production and distribution capabilities to pick up the slack, even in combination with the sales which may be reasonably anticipated from the FSS.[4]

It should be clear that the risks of serious and widespread residential CPE dislocations are too great to ignore. When these risks are weighed against the short-term benefits of introducing a small extra degree of "procompetitiveness" into the CPE market (i.e., deregulated FSS sales of new residential CPE), the case for bifurcation is reduced to one big roll of the dice with the residential CPE consumer putting up all the stakes. Gambling with the public interest is not one of this Commission's proper pastimes. This "Big Casino" approach to CPE deregulation is all the more disconcerting when it is recalled that those residential users who wish to buy their own telephones are free to do so now, and that there is already significant competition in the business CPE market where no immediate dislocations will be experienced in transition. Bifurcation offers few new benefits at exorbitant cost and perilous risk.

In light of these realities, the wiser and more prudent course of action is a "flash-cut" approach to the CPE deregulation transition. Under a flash-cut transition, AT&T would not be required to separate its CPE operations until the final deregulation date, thereby avoiding the functional duplication and consequent extra costs of bifurcation, as well as the serious risks of inventory and service shortages. Flash-cut would also allow for essential coordination between CPE deregulation, CPE valuation, and FSS capitalization, and would provide much-needed certainty for consumers, telephone companies, and competitors alike. The Commission's decision against adopting a flash-cut approach and in favor of bifurcation sacrifices these salient advantages of fairness, coordination, and certainty for the ephemeral and speculative "benefits" of hurrying new residential CPE competition. The necessity for this sacrifice is incomprehensible.

The issues of embedded CPE valuation and the capitalization of the AT&T FSS are only momentarily avoided, not resolved, by bifurcation. The valuation issue is, in my judgment, the most complex and critical matter before this Commission in its *Computer II* implementation because true competition—that is, *full and fair* competition—and true deregulation are entirely dependent on its prompt and proper resolution. At the same time, I think it equally clear that it is impossible for this Commission, with its current resources, to institute and expedite to satisfactory completion a CPE valuation proceeding. To meet this difficult and pressing challenge, I have recommended a plan to coordinate an overall asset valuation effort. Resolution of the valuation issue must involve a wide range of parties with widely divergent interests. There will be conflicting positions and arguments on the principles and methodology to be applied and on the future forecasts necessary to apply those principles. The Commission needs an action plan that will provide a rational basis for a valuation decision. I think the only practicable approach is for the Commission to engage a major professional accounting firm, with appropriate support from appraisal firms, economic consultants, and telecommunications analysts, to assist in determining asset valuation. The firm chosen would work under the auspices and direction of this Commission and in coordination with an advisory board composed of the National Association of Regulatory Utility Commissioners or state representatives and representatives of AT&T and the Independent Telephone Companies.[5] The accounting firm, operating under a tight 12-month schedule, would provide a report to the Commission recommending appropriate principles and methodologies, forecasts, and resulting asset valuations.[6] After reviewing the report, the Commission would adopt and notice for expedited public comment a tentative valuation decision, and thereafter issue a final decision based on the entire record developed. Upon issuance of the Commission's final valuation decision, the States—who would have fully participated in the valuation proceeding—would be in a position to issue quickly whatever additional orders would be necessary at their level to complete the valuation and asset transfer process. Flash-cut would then occur and the CPE market would be fully and finally deregulated.

If this plan is adopted and followed, I believe valuation and deregulation could be accomplished in approximately two years. Two more years of new as well as embedded CPE regulation would be a small price to pay for the certainty and efficiency of a flash-cut with coordinated asset valuation and transfer.[7] This approach would have the added advantage of providing real incentives for AT&T's full cooperation in expediting the valuation effort since until valuation and flash-cut were accomplished, Bell would not receive the assets and final go-ahead which are critical to its establishment of a viable FSS.[8]

II. State Pre-Emption

I also dissent from this further reconsideration on the issue of state preemption. The Order adopted by the majority permits state regulatory commissions to impose additional accounting and structural separation requirements on independent telephone companies which are not subject to the FCC-imposed resale requirement. On this point, the order is incorrect in both law and policy.

Contrary to the Order's contention, the Commission never focussed on nationwide markets to the exclusion of local markets in analyzing the costs and benefits of requiring a separate subsidiary for smaller telephone systems and companies.

In the *Final Decision* in this *Computer II* proceeding, one of the primary potential abuses with which the Commission was concerned was "denial of access to the 'bottleneck,' e.g., local exchange and toll transmission facilities." 77 FCC 2d at 466–467. Consequently, we focussed very closely on the question of the control of local facilities and the ability of a carrier to use local monopoly revenues to engage in activities harmful to the local ratepayer. The Commission, in fact, specifically stated:

"The importance of the control of local facilities, as well as their location and number, cannot be overstates [sic]. As we evolve into more of an information society, the access/bottleneck nature of the telephone local loop will take on greater significance." 77 FCC 2d at 468.

After full consideration, we concluded that control of local facilities, in and of itself, did not present a significant potential for anticompetitive activity. 77 FCC 2d at 467. We found that an independent telephone company, especially a rural one, serving a

[3] Except for the installation of inside wiring which will remain the province of the BOCs.

[4] This air of unreality permeates the Commission's decision in favor of bifurcation and finds its most preposterous vent in the analogy that the telephone is to the telecommunications network as a toaster or hairdryer is to the electric line. The telephone is the American's vital link to society and to emergency services like police, fire and ambulance. We can survive without a toaster or a hairdryer indefinitely, but doing without a telephone for even a day may be literally a deadly proposition. The Order's cavalier analogy only underscores its capricious attitude toward the welfare of the user—the ultimate public interest.

[5] Here, I note that the argument advanced against a flash-cut approach to CPE deregulation—that it would preclude full State participation in a valuation proceeding—is plainly erroneous. Whether the Commission proceeds by bifurcation or by flash-cut, full State participation in valuation is required. In fact, the matter of State participation has nothing to do with the bifurcation versus flash-cut issue.

[6] AT&T and the Independents would be required to furnish the accounting firm with the necessary basic data. In the event that a proprietary privilege was asserted as to particular data, the Commission would determine whether a covering protective order would be appropriate.

[7] It should be noted that the approach I have recommended still permits the growth of CPE to be capped during the transition period. The capping of CPE prior to final deregulation is an alternative before the Federal-State Joint Board in CC Docket 80–286. Such action would meet the serious concerns of the Independent Telephone Companies regarding the financial consequences of allowing continuing CPE ratebase growth followed by total, one-time removal of CPE from the ratebase.

[8] See AT&T Petition for Further Reconsideration, A–11 to A–14.

relatively small proportion of the nation's homes and businesses, was unlikely to engage in anticompetitive activities in the provision of either CPE or enhanced services. Such anticompetitive activities, we found, would probably require market penetration on a national scale. 77 FCC 2d at 468. We indicated that local ratepayers served by the independents were at much less risk than those served by AT&T. *Id.* In reaching this conclusion, we examined the potential for harm to ratepayers in both the national and local markets, and compared the power of AT&T over national and local distribution plant to that of a smaller company such as Continental and to rural companies generally. We stated:

Thus, what must be recognized is that while market power in the provision of telephone service may be appropriately measured within both local and national geographic markets, the provision of enhanced services and CPE has been largely undertaken, and increasingly so, on a national basis. These services, in essence, are and will continue to be directed at residential and business users spread over broad geographical markets. A carrier such as AT&T, with a nationwide network of transmission systems and local distribution plant in major metropolitan areas, could obviously harm a competitor through its control over these facilities in an anticompetitive manner. . . . On the other hand, a carrier like Continental, with most of its resources concentrated in rural distribution plant, would not be able to deny competitive access to any significant portion of the potential customers for enhanced services. The diminished likelihood of success in such attempts also serves to diminish the incentive to try. 77 FCC 2d at 467.

The Commission's Order further stated:

[W]e note that only AT&T and GTE appear to have significant abilities and incentives to engage in anticompetitive conduct, since it is in these areas [larger markets] where they control the local facilities. In contrast, the rural telephone companies would be hard pressed to attempt to bankrupt competitors in their local areas where such competitors may flourish in the major metropolitan areas, or throughout the nation generally. Again, we believe that the unlikely prospects of their success will in turn diminish their incentives to attempt predation, *leaving the local ratepayer at much less risk than those captive to AT&T and GTE local services.*" (emphasis added) 77 FCC 2d 468.[9]

The Commission therefore concluded that the costs of separation to the independent telephone companies far outweigh any benefits to the public and that the public interest required that a restrictive approach be taken with respect to the application of the resale structure. 77 FCC 2d at 470. In its *First Reconsideration Order*, the Commission further determined that carriers affiliated with GTE should not be subjected to the structural separation requirement prescribed by the *Final Decision*. 84 FCC 2d at 72. Thus, federal policy now holds that structural separation is justified *only* for AT&T.

At no point in either the *Final Decision* or the *Reconsideration Order* did the Commission attempt to draw a distinction between federal and state ratepayers for the purpose of our deregulatory structure. We realized that to do so would be impossible. To make such a distinction now guts our entire deregulatory policy, especially with regard to the issue of our authority to require states to deteriff CPE. CPE, is, for the most part, tariffed locally—not federally—and is used 97% of the time for intrastate calls.[10] If, based on the potential impact on our national policy, the Commission does not have either the authority or the record to preempt the states from imposing structural requirements in addition to those imposed by the Commission because of our failure to analyze local impacts, then how can we require the detariffing of local rates for the use of CPE in the first instance based on that same national policy?

This is an issue which the parties have raised. In its Petition for Reconsideration, USITA, questioning the Commission's authority to deregulate CPE, suggested the existence of a fundamental distinction between an action involving terminal equipment used for both local and interstate service and an action which may effectively preclude state regulation of rates charged for the use of that equipment in local service. USITA argued that while the equipment may indeed be indivisible, the rates for its use (and theoretically all regulation regarding its use) are clearly separable and have been since the beginning of regulation.

For the Commission now to draw a regulatory distinction between federal and state ratepayers only gives credibility and strength to USITA's arguments. If the protections necessary for state and federal ratepayers are different, then the "state commissions remain unfettered in their discretion to set rates for all local services and facilities provided by the telephone companies." *North Carolina Utilities Commission* v. *FCC*, 552 FCC 2d 1036, 1047 (4th Cir. 1977). It makes no sense to contend, as this Order does, that while the Commission has the authority to prohibit and is prohibiting further state regulation of the local provision of CPE by common carriers, the Commission does not have the authority to pre-empt state regulation of the structure for the local provision of CPE. Such a construction is intellectually dishonest and legally suspect. I believe the Commission avoided this glaring inconsistency in the *Final Decision* when it found that the potential for independent telephone companies to harm local ratepayers is not significant enough to justify the imposition of additional restrictions which would impair the attainment of our federal policy objectives by discouraging the provision by independent companies of CPE and enhanced services on an unregulated basis.

The distinction drawn in this *Order* between federal and state authority also makes no sense from a policy perspective. Nor did the Commission intend such a distinction in the adoption of the *Final Decision*. As a result of this *Order*, we now face the prospect of fifty states determining how, when and if common carriers may provide enhanced services and continue to provide CPE. This is a prescription for disaster. It invites the states—many of which already oppose our *Final Decision*—to thwart or impair our deregulatory scheme by engaging in dilatory practices and by imposing unreasonable restrictions on local telephone companies. This invitation will not go unnoticed. On July 17, 1981, the Alabama Public Service Commission, in a direct attack on the *Final Decision*, issued a General Order holding that "[t]he marketing of terminal equipment by communications common carriers will continue to be the subject of rate regulation by this Commission, even after March 1, 1982" and that [t]his Commission will not be bound by any unilateral decisions of the FCC which have a detrimental effect on the universal availability of telephone service at fair and reasonable prices within the jurisdictional boundaries of the State of Alabama for intrastate telephone service." Additionally, the Alabama PSC instructed its staff, special counsel and consultants to "take the necessary actions" to ensure implementation of its Order. In justifying its decision the Alabama Commission stated:

"The law of the state and our longstanding regulatory policies do not permit the Commission to meekly accede to an ill-advised policy of regulatory abdication advocated by a federal agency.

In the view of this Commission, the Communications Act of 1934 specifically reserves to the states the authority to prescribe rates for equipment used primarily for intrastate communications. 47 U.S.C. §§ 152(b), 221(b). Even if it did not, the attempt of a federal agency to displace our authority to protect citizens, while providing no assurance that federal regulations will protect them, runs afoul of constitutional limitations protecting state sovereignty." *National League of Cities* v. *Usery*, 426 U.S. 833, 96 S. Ct. 2465 (1976)."

On June 30, 1981—several days prior to the Alabama Order—the Louisiana Public Service Commission passed a similar order. On September 1, 1981, the Nebraska Public Service Commission, after considering the Commission's Order in Docket 79-105, 85 FCC 2d 818 (1981), on the related issue of the expensing of inside wiring, held that:

"Rates and charges for service connections are not within the jurisdiction of the FCC but are exclusively within the jurisdiction of the states. This Commission is fully capable of determining appropriate rate levels for service connections in the State of Nebraska and finds that the FCC ruling is another of its attempts to usurp state jurisdiction."

The opposition of the states has become evident in other forums as well. At a recent meeting of the Federal-State Joint Board convened in Docket 80-286, New York Public Service Commissioner Edward P. Larkin, President of the National Association of Regulatory Utility Commissioners (NARUC),

[9] As is made clear here, the Commission was very concerned about the impact of our policies on the local ratepayer as a "local ratepayer"—not as a "national ratepayer."

[10] *See Unsolicited Telephone Calls*, CC Docket No. 78-100, — FCC 2d — at para. 23 (1980).

warned that some states "may disassociate themselves from this process entirely." [11]

State battle flags have been raised; regulatory civil war has begun. What appears to me to be a sop to the states—the majority's reluctance to pre-empt inconsistent state structural regulation—will only be seen as a sign of federal gutlessness. *Computer II* is thus put in total jeopardy for want of Commission consistency and resolution.

III. Conclusion

I have actively supported the basic pro-competitive structure and policies that are at the heart of the Commission's *Computer Inquiry II* decisions. However, candor now compels me to admit that the implementation of the structure and policies of *Computer II* has strayed so far off the course of certainty and pragmatic accommodation of reality as to require either this Commission or a reviewing court to stay the effectiveness of our decisions. Under judicial and Commission precedent,[12] a stay is ordered according to a four-factor analysis: (1) Whether a party has made a strong showing that it is likely to prevail on the merits of an appealable issue; (2) whether irreparable injury will be sustained absent a stay; (3) whether a stay will harm other parties; and (4) where lies the public interest. In adopting bifurcation, the Commission has imposed added costs of duplication and undue risks of inventory and service shortfalls on the residential CPE consumer. Bifurcation also threatens AT&T with competitive disadvantage by refusing to insure that CPE deregulation and separation will be fully and fairly coordinated with CPE and other asset valuation and transfer to the FSS.[13] The legitimate interests of other parties in CPE deregulation would not be harmed by a stay to insure a more orderly, deliberate, and rational transition. Certain parties have raised serious questions as to this Commission's basic authority to order complete deregulation of CPE in the first instance [14] which should be finally resolved in the interest of regulatory, industry, and consumer certainty. Under these circumstances, I believe a stay order properly lies against further implementation of the Commission's decision.

I think a stay would also provide this Commission with a much-needed opportunity to reflect carefully for the first time on what we have done and where we are going. Again, I must say that I am troubled by the pattern of consumer and public interest impacts that is emerging as a result of our *Computer II* decisions, impacts we neither foresaw nor planned for in our efforts to deregulate and to promote competition as rapidly as possible. As a direct result of our final decision to deregulate all CPE, rather than maintain regulation of basic media conversion devices as proposed in the *Tentative Decision*, and our actions on corollary issues of CPE depreciation, we are facing the real spectre of local telephone rates doubling or even tripling in the immediate future. Is there such public interest value in insuring—or, more accurately, forcing—the exercise of the consumer's existing right to buy his or her own basic home telephone as to justify the stark prospect of a 200 or 300 percent rise in local residential rates? Certainly, complete CPE deregulation will benefit the business equipment user. However, will real benefits of competition flow to the residential user as we originally hypothesized? Is it enough to say, as we stated in the *Final Decision*, that "[w]hile some segments of the CPE market [i.e., the business segment] may be more competitive than others, we have been given no evidence that, given certain modifications in the markets, any segment is less competitive than another"? [15] On the other hand, do we have any evidence that the non-business CPE market segments will ever be truly competitive? If competition does come in any significant degree to the residential CPE market, will it be domestic competition or foreign competition; have we established an industry structure and set of incentives (and, more critically, disincentives) which give foreign competition a decided edge? [16] Whether or not the residential CPE market becomes fully competitive, will the benefits to be gained be worth the dislocation of bifurcation and the local rate increases that are necessary after this decision? These issues are well-worth reconsidering, if only to assure ourselves—and, more importantly, the public—that we know what we are doing. At this point, we are veering off our intended course, and while I cannot abandon ship, I think the public interest deserves to be assured that firm hands and good eyes are at the helm. "Dam the torpedoes! Go ahead!" may be daring naval strategy, but as the regulatory philosophy of this Commission, it could wreak devastating havoc on our telephone system to the ultimate detriment of the American consumer.

Statement of Commissioner Anne P. Jones

Dissenting in Part, In Re: Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry)—Docket 20828

October 22, 1981.

In the Commission's *Final Decision* in this proceeding, as modified on initial *Reconsideration*, we required only AT&T to form a separate subsidiary in order to offer enhanced services and customer-premises equipment. Today, however, acting without any record at all, the majority precipitously decided that we did not preempt the states from imposing structural separation requirements on other carriers who may choose to participate in these non-common-carrier activities.

I must dissent from this finding because I believe that the Commission has never focused on the issue of preempting or not preempting state action which would impose structural separation requirements on non-Bell carriers. This issue raises basic policy questions which have not been addressed.

Many of the larger non-Bell carriers operate in a number of different states. If these states were to impose diverse separation requirements on one of these larger Independents, these diverse requirements might be more burdensome than a uniform, federal requirement such as that imposed upon Bell. Clearly that would not be desirable.

On the other hand, it is possible that there are particular local situations involving Independent carriers in which a state Commission might reasonably decide to impose some conditions of structural separation in order to protect state ratepayers.

Since I believe that we do not know enough about the implications of this important matter, I urge the Commission to address this issue and develop a record in an expeditious fashion.

Statement of Commissioner Henry M. Rivera

Concurring in Part; Dissenting in Part

October 22, 1981.

While I am in general agreement with the Commission's decision, I am also in agreement with Commissioner Fogarty's dissent in two respects.

First, contrary to the majority's interpretation, see para. 83 and n. 34, a record does exist in this proceeding to support the view that the Commission has preempted the states from imposing structural requirements in addition to those prescribed by this Commission. This Commission at 77 F.C.C. 2d 470 stated: ". . . we conclude that it would better serve the public interest to take a restrictive approach at this juncture in applying the resale structure. . . ." And at 77 F.C.C. 2d 469, this Commission stated:

"Weighing the competitive changes which have occurred in the communications sector since the *First Computer Inquiry*, we do not believe that broad application of the resale structure is necessary to satisfy the regulatory objectives set forth there. Moreover, we have been able to monitor the development of new and innovative services, and conclude that the potential for these services to reach a greater segment of society would be substantially increased if we exercised restraint in the exercise of our discretion in applying the resale structure. Weighing these factors, and recognizing the risks involved, *we find that the separation*

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[11] Telecommunications Reports, Oct. 26, 1981 at 3.

[12] *Virginia Petroleum Jobbers Association* v. *FPC*, 259 F. 2d 921 (D.C. Cir. 1958); *Eastern Airlines, Inc.* v. *CAB*, 261 F. 2d 830 (2d Cir. 1958); *Associated Securities Corporation* v. *SEC*, 283 F. 2d 770 (10th Cir. 1960); *Fee Schedule*, 52 FCC 2d 224 (1975); *Communications Satellite Corporation*, 57 FCC 2d 571 (1976); *International Record Carriers Communications*, 61 FCC 2d 183 (1976); *Frequency Assignments*, 66 FCC 2d 248 (1977).

[13] The Independent Telephone Companies may have been put at similar competitive risk by the Joint Board's contemporaneous decision not to tie the phase-out of CPE from the separation process to action on accelerated CPE depreciation and capital recovery. *See* Statement of Commissioner Joseph R. Fogarty, Concurring in Part and Dissenting in Part, CC Docket No. 80-286—FCC 2d— (Released October 15, 1981).

[14] *See, e.g.*, NARUC and USITA Petitions for Reconsideration of *Computer Inquiry II*.

[15] 77 FCC 2d 384, 440 (1980).

[16] Our recent order authorizing AT&T to construct and operate a lightguide cable in the Northeastern United States may have already resulted in giving foreign competition just such an edge. *See*, "AT&T May Award Fiber-Optics Cable Job to Japan Firm," *The Wall Street Journal*, October 19, 1981, at 20.

requirement should be applied only to those telephone companies having sufficient market power to engage in effective anticompetitive activity on a national scale and which possess sufficient resources to enter the competitive market through a separate subsidiary." (Emphasis added)

Second, the policy of this Commission is that structural separation was justified only for AT&T. This Commission at 84 FCC 2d 75 expressly stated:

"For purposes of this proceeding, however, we have concluded that maintaining the separate subsidiary requirement for carriers other than AT&T does not outweigh other public interest consideration."

Therefore, I too dissent from that part of the Reconsideration Order adopted by the majority insofar as it implies that states may impose structural requirements upon telecommunications common carriers, other than those affiliated with AT&T (Paragraph 83 and footnote 34, *Memorandum Opinion and Order on Further Reconsideration.* Adopted: October 7, 1981, Released: October 30, 1981).

[FR Doc. 81-34136 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 79-167; RM-3235]

Private Land Mobile Radio Service; Providing for Geographic Frequencies in the Petroleum, Forest Products, Special Industrial and Manufacturer's Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission adopted rules permitting the Forest Products Radio Service, the Special Industrial Radio Service, and the Petroleum Radio Service to share certain frequencies in areas of the United States where there would be little likelihood of conflict or interference. This document makes necessary corrections because of the omission of four frequencies which were not involved in the sharing arrangement.

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

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Private Radio Bureau (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Third Errata

Released: November 27, 1981.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

In the Appendix to the Report and Order in Docket 79-167, FCC 80-194 adopted April 9, 1980 (45 FR 29297, May 2, 1980), four 154 MHz frequencies were inadvertently omitted from the list of frequencies available in the Manufacturers Radio Service. The frequency list at 45 FR 29299 is corrected to read in part as follows:

§ 90.79 Manufacturers radio service.

* * * * *

(c) *Frequencies available.* * * *

Frequency or band	Class of station(s)	Limitations
*	*	*
Megahertz:		
153.050	Base or mobile	5,21,22
153.065	do	5
153.080	do	5
153.095	do	5
153.110	do	5
153.125	do	5,21,22
153.140	do	5
153.155	do	5
153.170	do	5
153.185	do	5
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5
153.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5
153.320	do	5
153.335	do	5,21
153.350	do	5,21
153.365	do	5,21
153.380	do	5,21
153.395	do	5,21
154.45625	Fixed or mobile	6,9,10,19
154.46375	do	6,7,9,10,20
154.47125	do	6,7,9,10
154.47875	do	6,9,10,19
158.280	Base or mobile	5
158.295	do	5
158.310	do	5
158.325	do	5,21,22
158.415	do	5,21,22
158.430	do	5

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-35398 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Twenty-eighth Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: December 2, 1981.

AGENCY: Interstate Commerce Commission.

ACTION: Twenty-eighth Revised Service Order No. 1473.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

DATES: *Effective:* 12:01 a.m., December 4 1981, and continuing in effect until 11:59 p.m., December 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION: Pursuant to section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 19.B., the authority for the Iowa Northern Railroad Company to operate between Shell Rock, Iowa, and Manly, Iowa, a distance of approximately 53 miles. This is an extension of the previously granted authority to operate between Shell Rock and Nora Springs, Iowa. That Appendix is further modified by deleting at Item 4.A., the authority for the Toledo, Peoria and Western Railroad Company at Keokuk, Iowa, as requested.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order 1473.

(a) *Various Railroads Authorized to Use Tracks and/or Facilities of the*

Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertient authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., December 4, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. Bernard Gaillard not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska

4. *Toledo, Peoria and Western Railroad Company (TPW):* [1]

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0)

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6)

E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364)

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7)

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9)

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2)

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9)

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7)

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2)

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and

[1] Changed.

to serve all industry formerly served by the RI at Cedar Rapids

O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6)

P. Sibley, Iowa

Q. Worthington, Minnesota

R. Altoona To Pella, Iowa

S. Carlisle to Indianola, Iowa

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40)

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland

B. Washington, Iowa

C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport to Iowa City, Iowa.

E. at Davenport, Iowa.

7. *Davenport, Rock Island and North Western Railway Company (DRI):*

A. Moline, Illinois

B. Rock Island, Illinois, including 26th Street yard

C. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex

D. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island Arsenal

8. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

9. *Little Rock & Western Railway Company (LRWN):* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

10. *Missouri Pacific Railroad Company (MP):* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

11. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

12. *Southern Railway Company (SOU):*

A. At Memphis, Tennessee.

13. *Cadillac and Lake City Railroad (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

C. from Limon, Colorado (milepost 532) to but not including Caruso, Kansas (milepost 429.3), with over-head rights from Caruso to Colby, Kansas, in order to effect interchange with the Union Pacific.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado.

14. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

15. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

16. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 8, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

17. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma

18. *The Brandon Corporation (BRAN):*

A. from Belleville, Kansas (milepost 226.1) to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

19. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Waterloo, Iowa (milepost 150.76).

B. from Shell Rock, Iowa (milepost 172.1), to Manly, Iowa (milepost 225.1).[1]

C. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

20. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to Dexter, Iowa (milepost 393.0) a distance of approximately 97.15 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

21. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

22. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

Fishermen's Contingency Funds; Adjudication of Claims

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Interim final rule.

SUMMARY: These regulations amend 50 CFR Part 296 to streamline claims procedures and expedite the adjudication of claims filed under Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.). In 1979, the National Oceanic and Atmospheric Administration (NOAA) implemented the Title IV Program by regulation. These regulations published in final on January 24, 1980, have resulted in a lengthy, cumbersome, and generally inefficient claims processing procedure which has precluded prompt adjudication of claims. To decrease the time needed to adjudicate claims, the original rules are being amended. Comments will be received for 60 days on these amendments; however, the Agency will operate under these amended procedural rules during the interim period.

DATES: Effective December 8, 1981. Comments are due on or before February 8, 1982.

ADDRESS: Send comments to National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Page Building 2, Room 309, Washington, D.C. 20235, Telephone Number: (202) 634-7496.

SUPPLEMENTARY: Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 provides for the establishment of a fund to pay claims to fishermen who have incurred gear loss or damage as a result of oil and gas activity on the Federal Outer Continental Shelf (OCS). The program, administered by the Department of Commerce, requires the establishment of area accounts from which claims are paid. These accounts are funded by assessments on the holders of OCS oil and gas leases in each area account and cannot exceed $100,000 per account.

The rules as implemented January 24 and July 2, 1980, require a complicated processing mechanism before the adjudication of a claim by an Administrative Law Judge (ALJ). The amendments implemented in this publication substantially reduce the processing to allow for rapid adjudication of claims. The notice to lease holders by the Department of the Interior, the notice to the National Ocean Survey of the location reported for the obstruction causing the damage, and the notice published in the **Federal Register** to give persons the opportunity to submit evidence remain. However, response periods for the notices are designed to run concurrently to shorten processing time. The National Marine Fisheries Service (NMFS) has substantially reduced the internal review of claims. The NMFS review of claims, which will not include a recommendation to the ALJ, will consist only of an assessment of whether the claim is timely filed and eligible on its face. The NOAA Office of General Counsel will no longer review claims but will participate in hearings if a novel issue of fact or law is present. If NMFS determines that a claim was improperly filed or is incomplete, it will forward the claim, without any of the notification mentioned above, to the ALJ for a determination of whether it was properly filed or is incomplete. If the claim is determined properly filed and complete, the ALJ will notify NMFS. The notices will then be made and the claim adjudicated by the ALJ.

All definitions that are duplicative of the statutory definitions have been deleted from the regulations as have others when their plain meaning is sufficient to provide a common understanding within context.

All of the requirements of the form of the claim have been dropped from the regulations. Applicants are encouraged to use the OMB-approved Government form to make a claim, but failure to use the form does not preclude recovery. It is anticipated that ALJ's will allow claimants an opportunity to provide additional information. To provide for the fair adjudication of a claim, interested parties will be provided adequate notice of the adjudication of claims and will still be allowed to participate in hearings.

The basic thrust of these amendments is to expedite determinations and payment of claims by decreasing the administrative burden on the Agency in processing claims.

Having reviewed this interim rulemaking in accordance with the specifications of Executive Order 12291, "Federal Regulation," and the Departmental guidelines implementing that order, the Agency has determined that it is not "major" because it has no significant effect on the economy, costs or prices, and no impact on competition, employment, investment, or productivity. Accordingly, no regulatory impact analysis is required.

Since this interim rulemaking relates to a benefit, it is exempt from the rulemaking provisions of the Administrative Procedure Act and, as a result of that exemption, the agency is not required to prepare a regulatory flexibility analysis under the Regulatory Flexibility Act. However, a 60-day period for public comment is being allowed.

This rulemaking does not require the collection of any information in addition to that collected under the final rules published January 24 and July 2, 1980. This information collection will be undertaken within the Department of Commerce's FY 82 Information Collection Budget. Hence, it does not increase the Federal paperwork burden for individuals, small businesses, or other persons under the Paperwork Reduction Act of 1980.

The Assistant Administrator for Fisheries, National Marine Fisheries Service, has determined that this interim rulemaking will not have a significant economic impact on a substantial number of small entities. The Assistant Administrator has also determined that this interim rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

Dated: December 3, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Accordingly, 50 CFR Part 296 is revised in its entirety.

PART 296—FISHERMEN'S CONTINGENCY FUND

Sec.

Authority: Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.).

§ 296.1 Purpose.

These regulations implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 ("Title IV").

§ 296.2 Definitions.

"Area affected by OCS oil and gas exploration, development, or production activities" means all area within any 3-mile radius of a casualty which:

(1) Includes any portion of a lease block, pipeline, easement, right of way, or other OCS oil and gas exploration, development, or production activity; or

(2) Is otherwise associated with OCS oil and gas activities (such as expired lease areas, relinquished rights-of-way and easements, and areas used extensively by surface vessels supporting OCS oil and gas activities) as determined by the administrative law judge. Areas landward of the Outer Continental Shelf are included under this definition when such areas meet the criteria of this definition.

"Commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel.

"Chief, Financial Services Division, NMFS" or "Chief, FSD" means the Chief of the Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

"Financially responsible party" means a financially solvent person who is responsible for damage to or loss of a commercial fishing vessel or fishing gear

by materials, equipment, tools, containers, or other items associated with OCS oil and gas exploration, development, or production activities.

"Commercial fishing vessel" means any vessel, boat, ship, or other craft which is (a) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (b) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

"OCS" means Outer Continental Shelf.

"Person" means an individual, partnership, corporation, association, public or private organization, Government, or other entity.

§ 296.3 Fishermen's Contingency Fund Area Accounts.

(a) The following area accounts are established within the Fishermen's Contingency Fund; amounts in each account may not exceed $100,000:

(1) *North Atlantic Area Account.* The account is for the area of the OCS in the Atlantic Ocean which is bounded by the U.S.-Canadian boundary on the north, 39° N. latitude on the south, and 71° W. longitude on the west.

(2) *Mid-South Atlantic Area Account.* This account is for those areas of the OCS in the Atlantic Ocean which are:

(i) Both north of 39° N. latitude and west of 71° W. longitude;

(ii) South of 39° N. latitude and east of 80°15' W. longitude (off the southern coast of Florida); or

(iii) Adjacent to any U.S. territory, commonwealth, or possession in the Atlantic Ocean or the Caribbean Sea to which the Outer Continental Shelf Lands Act applies.

(3) *Pacific Area Account.* This account is for the area of the OCS adjacent to Washington, Oregon, California, Hawaii, or any U.S. territory, commonwealth, or possession in the Pacific Ocean to which the Outer Continental Shelf Lands Act applies.

(4) *Alaska Area Accounts.* This account is for the area of the OCS adjacent to Alaska.

(5) *Freeport Area Account.* This account is for the area of the OCS in the Gulf of Mexico which is identical to the United States Geological Survey Freeport District.

(6) *Lake Charles Area Account.* This account is for the area of the OCS in the Gulf of Mexico which is identical to the United States Geological Survey Lake Charles District.

(7) *Lafayette Area Account.* This account is for the area of the OCS in the Gulf of Mexico which is identical to the United States Geological Survey Lafayette District.

(8) *Houma Area Account.* This account is for the area of the OCS in the Gulf of Mexico which is identical to the United States Geological Survey Houma District.

(9) *Metairie Area Account.* This account is for the area of the OCS in the Gulf of Mexico which is identical to the United States Geological Survey Metairie District.

(b) *Exclusion.* The geographic area for each area account described in paragraph (a) of this section does not include submerged lands recognized by the United States as being under the jurisdiction of any state under the Submerged Lands Act (43 U.S.C. section 1301 *et seq.*).

(c) *Payments into the Fund.*—(1) *Initial assessments.* Each lease issued or maintained under the Outer Continental Shelf Lands Act for any tract in any geographical area for which there is an area account, each easement or right-of-way for the construction of a pipeline in such area, and each exploration permit in such area in effect at any time on or after January 24, 1980, shall be assessed in accordance with paragraph (c)(3) of this section so that not more than $100,000 will be collected in each area account.

(2) *Assessments to maintain accounts.* An area account is depleted if the total amount in the area account is less than $50,000. If an area account is depleted, the Chief may notify the Secretary of the Interior that an assessment is needed to maintain the area account. Each lease, permit, easement, and right-of-way which is both in the geographical area for which there is a depleted area account and in effect on the date an assessment is effective, shall be assessed such amount as is necessary to increase the total amount in the area account to not more than $100,000.

(3) *Calculation of amount.* The amount to be paid by each holder of a lease, exploration permit, easement, and right-of-way in any geographical area for which there is an area account shall be determined as described below, and calculated by the Secretary of the Interior:

(i) Each exploration permit in effect on the date an assessment is effective is assessed $50.00.

(ii) Leases, easements, and rights-of-way are assessed equally on a per-unit basis based on the number of leases and pipeline segments in effect on the date an assessment is effective.

(iii) New permits, leases, rights-of-way, and easements that come into existence after an assessment is made escape assessment until the next assessment, at which time all permits, leases, rights-of-way, and easements in effect are assessed.

(iv) Pipeline rights-of-way and easements in the Gulf of Mexico are credited to the area account in which the pipeline segment originates.

(v) Pipeline easements to be assessed do not include flow or gathering lines within the confines of a single lease or group of contiguous leases under unitized operation or a single operator.

(4) *To whom, by whom, and when payable.* Each assessment under this section shall be paid to the Secretary of the Interior by the holder no later than 30 days after the Secretary of the Interior sends notice of the assessment under paragraph (c)(3) of this section.

§ 296.4 Claims eligible for compensation.

(a) *Claimants.* To be eligible for compensation under this Part, the damage or loss must be suffered by a commercial fisherman.

(b) *Damage or loss of fishing gear.* Except as provided in paragraph (c) of this section, any actual or consequential damage (including loss of profits) due to damage to or loss of fishing gear caused by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in a geographical area for which an area account has been established under § 296.3 is eligible for compensation under this part. Damage or loss may be eligible for compensation even if it did not occur in the waters above the OCS, if the item causing the damage or loss was associated with OCS oil and gas exploration, development, or production activities.

(c) *Exceptions.* As specified by the title IV statute, damage or loss is not eligible for compensation under this part:

(1) If the damage or loss with respect to which the claim is filed was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party and such party has admitted responsibility;

(2) To the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(3) If the damage or loss with respect to which the claim is filed was sustained before September 18, 1978;

(4) In the case of a claim for damage to, or loss of, fishing gear, in an amount

in excess of the replacement value of the fishing gear with respect to which the claim is filed;

(5) In the case of a claim for loss of profits (i) for any period in excess of 6 months, and (ii) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period;

(6) For any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance;

(7) If the claim is not filed within 60 days after the date the claimant discovers the damage or loss with respect to which the claim is filed; and

(8) If the damage or loss was caused by a natural obstruction or an obstruction unrelated to OCS oil and gas exploration, development, or production activities.

§ 296.5 Instructions for filing claims.

(a) *Five-day report required to gain presumption of causation.* In order to gain a presumption of causation of damage by OCS-related activities, a report must be made to the nearest NMFS Regional Office within 5 days after the date on which such damages are discovered. Satisfaction of the 5-day requirement is determined by the date of postmark if the report is mailed; by the date of receipt of a call, if the report is telephoned or radiotelephoned; or by the date of appearance, if the report is made in person at the nearest NMFS Regional Office. NMFS addresses and telephone numbers to use for making a 5-day report are listed below.

Chief, Financial Services Branch, Northwest Region, National Marine Fisheries Service, Post Office Building, Box 1109, Gloucester, Massachusetts 01930, (617) 281–3600

Chief, Fisheries Development Analysis Branch, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702, (813) 893–3271

Chief, Fisheries Development Division, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548–2575

Chief, Financial Services Branch, Northwest Region, National Marine Fisheries Service, 7600 Sandpoint Way, N.E., Seattle, Washington 98115, (206) 527–6122

Chief, Fisheries Development, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586–7224

(b) *Contents of five day report.* Each report must contain the following information:

(1) The claimant's name and address;

(2) The name and identifying number of the commercial fishing vessel involved;

(3) The location of the obstruction which caused the damage or loss;

(4) A statement concerning the activities of the vessel involved at the time the damage or loss occurred;

(5) A description of the nature of the damage or loss;

(6) The date such damage or loss was discovered;

(7) A description of the obstruction, if known; and

(8) A statement concerning whether or not a surface marker or lighted buoy was attached to or near the obstruction.

(c) *Who must file, when and where to file claims.* All claimants (including those who filed 5-day reports to gain the presumption of causation) must file a claim no later than 60 days after the date the claimant discovers the damage or loss with respect to which the claim is made. The claim should be filed on NOAA Form 88–164 (available from NMFS), but use of a different form of claim is not precluded. Claimants are encouraged to provide as much information as possible, as more complete information will expedite processing of the claims. For the purpose of this paragraph (c), the term "filed" means delivered in person, or mailed (as determined by the date of postmark), to the Chief, FSD. The claim must be filed with the Chief, Financial Service Division, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

(d) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage arising from the same incident (for example, when several members of the crew lost income due to loss of fishing time), the claims of all such fishermen should be aggregated into one claim and the claim should be submitted on their behalf by the owner or operator of the commercial fishing vessel or vessels involved.

§ 296.6 NMFS processing of claims.

(a) *Public notice of claims.* (1) Upon receipt of a timely-filed claim which is not clearly ineligible because of the statutory exemptions from eligibility, the Chief, FSD, will promptly:

(i) Transmit a copy of the claim to the Secretary of the Interior;

(ii) Transmit the reported location of any obstruction which was not recovered and retained to the National Ocean Survey, which will inform the Defense Mapping Agency Hydrographic/Topographic Center; and

(iii) Publish a 30-day notice of the claim in the **Federal Register.**

(2) After receiving an abstract of the claim, the Secretary of the Interior will promptly send written notice of the claim to all persons known to have engaged in activities associated with OCS oil and gas exploration, development, or production in the vicinity where the damage or loss occurred.

(b) *Responses to notice of claim.* (1) Each person notified by the Secretary of the Interior under paragraph (a)(2) of this section shall, within fifteen (15) days after the Secretary of the Interior sends the notice, notify the Chief, FSD, and the Secretary of the Interior whether that person admits or denies responsibility for the damages claimed.

(2) If any person admits responsibility under paragraph (b)(1) of this section or otherwise, the Chief, FSD, will so inform the claimant, and will not take any further action on the claim. If the person admitting responsibility later denies, or withdraws the admission of, responsibility, the Chief, FSD, will resume processing of the claim.

(c) *Referral of a claim to the ALJ.* (1) Upon expiration of the 30-day period following publication of the **Federal Register** notice under paragraph (a)(1)(iii) of this section, claims will be referred to the administrative law judge (ALJ). If the claim was not timely filed, or if it was clearly ineligible because of the statutory exemptions from eligibility, the claim will be referred to the ALJ for expedited denial without having first given public notice of the claim otherwise required by paragraphs (a)(1)(iii) and (a)(2) of this section.

§ 296.7 Burden of proof and presumption of causation.

The claimant has the burden to establish, by a preponderance of the evidence, all facts necessary to demonstrate eligibility for, and the amount of, compensation under this Part. Preponderance of the evidence means such evidence as makes appear more likely, or probable, than not that a fact of causation stated in connection with a claim filed under this Part is true. If the claimant has gained the presumption of causation by the filing of a 5-day report under § 296.5, such claimant is relieved of the burden of proving that the loss or damage was caused by OCS related activities, unless other evidence available to the ALJ is sufficient to rebut the presumption.

§ 296.8 Amount of awards.

(a) *Fishing gear.* If the fishing gear with respect to which the claim is filed can be repaired to a condition substantially similar to its condition immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation

is its repair cost. If the fishing gear is not lost but cannot be repaired to a condition substantially similar to its condition immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation is the damaged gear's replacement cost minus its salvage value. If the fishing gear is lost, the amount of compensation is the lost gear's replacement cost. For the purposes of this § 296.8, the term "replacement cost" means the cost of supplying new fishing gear of the same or substantially similar size, type, grade and material of construction, without reference to the age or condition of the gear damaged or lost.

(b) *Consequential damages.*—(1) *Expenses.* The amount of an award under this Part will include compensation for any reasonable expenses, as determined by the ALJ, actually incurred by the claimant to ascertain the cause and extent of the damage or loss caused to fishing gear and to obtain a decision in the claimant's favor.

(2) *Loss of profits.* (i) The amount of an award under this Part will include compensation, as determined by the ALJ, for any loss of profits due to damage to, or loss of, fishing gear with respect to which the claim is filed.

(ii) A claim for loss of profits due to loss of time spent in disengaging fishing gear from any item described in § 296.4(b) of this part may be eligible for compensation under this part even if the fishing gear involved was not damaged or lost. Compensation for this type of lost profits ordinarily will not exceed what would have been the replacement cost, less salvage value, of the fishing gear disengaged, unless the claimant can show that efforts to disengage the gear were of reasonable duration and that abandonment of the gear would have resulted in a greater economic loss.

(iii) No award may be made under this Part for loss of profits for any period in excess of 6 months from the date when the damage or loss of the fishing gear was discovered.

(iv) In determining the amount awarded under this paragraph (b) (2), the ALJ may consider any evidence concerning:

(A) Profits from the corresponding quarter of the previous year;

(B) Profits from trips immediately before and after the loss or damage which is the subject of the claim;

(C) Such other evidence as the claimant may submit; and

(D) Such other evidence as the ALJ may deem appropriate.

(v) The measure of compensation for loss of profit ordinarily is the net profit lost. If the ALJ determines that a different measure of compensation for loss of profit is appropriate because the facts of the claim are sufficiently extraordinary, and states the reasons for the determination, the ALJ may apply the measure of compensation which the ALJ deems to be most appropriate.

(3) *Fuel.* An award under this Part will include compensation for fuel consumed as a result of the damage or loss of fishing gear compensable under this Part (for example, if a fishing vessel must return to port in order to repair or replace trawl doors damaged or lost due to an obstruction).

(4) *Other.* An award under this Part may include compensation for any other consequential damage resulting from the damage or loss of fishing gear, but may not include compensation for personal injury.

§ 296.9 Payment of award for claim.

(a) The chief, FSD, will pay the amount of the award certified in the decision of the ALJ. The payment will be disbursed from the area account or accounts specified in the decision of the ALJ. No payment will be made under this section until the claimant has signed a subrogation agreement under § 296.10 of this Part.

§ 296.10 Subrogation.

(a) *Agreement.* Before receiving payment under this Part, a claimant shall sign a subrogation agreement which:

(1) Assigns to the Fund all rights the claimant has, and might have, to proceed against any person for damages with respect to any part of the damage or loss for which the award is being made; and

(2) Provides that the claimant will assist the Fund in any reasonable way to pursue collection of the subrogated rights.

(b) *Collection of subrogated rights.* In those instances in which it appears that a reasonable chance of successful collection exists, the National Marine Fisheries Service will refer the subrogated rights to the Department of Justice for collection.

§ 296.11 Computation of time.

Saturdays, Sundays and Federal Government holidays shall be included in computing the time period allowed for filing any document or paper under this Part (including the 5-day report and claim referred to in § 296.5) but when such time period expires on such a day, such time period shall be extended to include the next following Federal Government working day.

[FR Doc. 81-35095 Filed 12-7-81; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 611

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The NOAA issues a final rule implementing an amendment to the preliminary fishery management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific. The amendment requires closure during the fall and winter of certain areas in the eastern Bering Sea to groundfish trawling by vessels of a foreign nation which have caught a specified number of chinook salmon incidental to such trawling. This action responds to recent increases in the number of chinook salmon incidentally caught by foreign groundfish trawlers in the eastern Bering Sea.

This action is intended (1) to reduce the incidental catch and unnecessary mortality of chinook salmon, a prohibited species in the foreign fishery, and (2) to facilitate the enforcement of existing regulations designed to protect prohibited species.

EFFECTIVE DATE: December 1, 1982.

ADDRESSES: Copies of the amendment may be obtained from Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION:

Background

The foreign groundfish fisheries in the fishery conservation zone (FCZ) of the eastern Bering Sea are managed under authority of the preliminary fishery management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (PMP). The PMP was published in the **Federal Register** (42 FR 9298) on February 15, 1977, and implemented on March 1, 1977, under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The rules implementing the PMP and subsequent amendments generally require that foreign groundfish trawl vessels minimize the incidental harvest of certain species and that they return

any such species that are incidentally caught to the sea immediately (50 CFR 611.13). Among the "prohibited" species are chinook salmon (by definition (bb) of 50 CFR 611.2 and by exclusion from § 611.93), which are of special subsistence and commercial importance to residents of villages located on the coast of the Bering Sea and along the Kuskokwim and Yukon Rivers in western Alaska.

This amendment limits the annual prohibited species catch (PSC) of chinook salmon in the eastern Bering Sea foreign groundfish trawl fishery to 65,000 fish in response to the apparent increase of the number of chinook salmon intercepted in this fishery during 1979 and 1980. When, in the course of a fishing year, the trawl vessels of a foreign nation intercept incidentally an amount of the chinook salmon PSC that is proportional to that nation's share of the eastern Bering Sea groundfish total allowable level of foreign fishing (TALFF), further trawling by vessels of that nation in Bering Sea and Aleutian Islands (BSA) statistical area II and between 55° and 57° N. latitude and 165° and 170° W. longitude in BSA statistical area I will be prohibited during the remainder of the periods January 1–March 31 and October 1–December 31 of that fishing year. The chinook salmon PSC may be adjusted by amending the PMP if environmental, biological, or other factors so warrant.

The limitations included in this amendment will be implemented December 1, 1981. During the 1981 fishing year trawl vessels of foreign nations have caught incidentally certain numbers of chinook salmon while trawling for groundfish. Rather than holding each nation accountable for chinook salmon that were caught prior to the effective date of the amendment, a chinook salmon PSC is established for December 1981. The December PSC is weighted in relation to the average number of chinook salmon caught incidentally in December during 1978–1980. Each foreign nation will be limited to the portion of the December PSC that is proportional to its share of the final 1981 groundfish TALFF and will be accountable for chinook salmon catches during the last month of the fishing year. If a nation catches its part of the December PSC, further trawling by vessels of that nation will be prohibited in the BSA areas described above for the remainder of the fishing year.

The North Pacific Fishery Management Council (NPFMC) has made a similar amendment (Amendment 1–a) to its fishery management plan for the Bering Sea and Aleutian Islands Groundfish Fishery (FMP), which is expected to be implemented early in 1982 and which will supersede the PMP. Amendment 1–a published for public comment on October 29, 1981, at 46 FR 53475 will likely be implemented in late January 1982, and will establish the annual chinook salmon PSC for 1982 at 55,250 fish. Upon implementation of Amendment 1–a each nation's catch of chinook salmon beginning January 1, 1982, will be counted against its share of the 1982 chinook salmon PSC.

This amendment to the PMP also makes a technical change in the regulations to conform with the Magnuson Act definition of "Secretary," which includes the designee of the Secretary.

The justification of this amendment was discussed thoroughly in the preamble to proposed rules which were published September 16, 1981 (46 FR 45968), and which invited comments until October 16, 1981. One comment was received and is responded to below. After considering the comment, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has decided to give final approval to the amendment.

Public Comment

The NPFMC commented by letter on the proposed rule; a summary and NOAA's response appear below.

Comment: The NPFMC recommends that a nation's share of the chinook salmon PSC be in the same proportion to the total chinook salmon PSC as its groundfish allocation is to the total groundfish TALFF plus reserves. Including groundfish reserves in the determination of a nation's part of the chinook salmon PSC establishes consistency between this amendment to the PMP and the NPFMC's amendment to the FMP, and will provide for an operational reseve of the chinook salmon PSC that may be assigned among foreign nations in accordance with the release of groundfish reserves. This will allow for an orderly fishery and encourage foreign nations not to exceed their PSC limits and to catch their allocations.

Response: The recommendation made by the NPFMC has been incorporated into this amendment in order to maintain consistency between the PMP and the FMP and to provide for an "operational reserve" of the chinook salmon PSC. This "operational reserve" will be released as groundfish reserves are released to TALFF.

Classification

The Assistant Administrator has determined that this amendment to the PMP is necessary and appropriate for the conservation and management of fisheries resources, and is consistent with the Magnuson Act and with other applicable law. An environmental impact statement on the original PMP was prepared under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and is on file with the Environmental Protection Agency (EPA). A supplement to the environmental impact statement is not required under NEPA because the Assistant Administrator has determined that the action will not have a significant impact on the quality of the human environment. An environmental assessment has been prepared on this action and is on file with the EPA.

On the basis of criteria set forth in Executive Order 12291 (E.O. 12291), the Administrator, NOAA, has determined that this amendment does not constitute a "major rule" requiring the preparation of a regulatory impact analysis. The Administrator has also certified that this rule will not have a significant impact on a substantial number of small entities, and thus does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 603 and 604). It will beneficially affect Alaskan users of chinook salmon while avoiding disruption of foreign groundfish fisheries.

This rule does not contain a collection of information requirement, and does not involve any agency in conducting or sponsoring the collection of information under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

The foreign groundfish trawl fisheries have already intercepted incidentally certain numbers of chinook salmon during the 1981 fishing year; moreover, catches of chinook salmon in the foreign trawl fishery tend to be high during December. Therefore, the Assistant Administrator finds good cause not to delay for 30 days the effective date of these final regulations under 5 U.S.C. 553(d).

Dated: December 2, 1981.

E. Craig Felber,

Chief, Management Service Staff.

PART 611—FOREIGN FISHING

50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1821 and 1855.

2. For the reasons set out in the preamble, § 611.93 is amended by adding paragraphs (b)(4)(ii)(D) and (b)(4)(ii)(E).

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(D) During any fishing year after December 31, 1981, that portion of fishing area I lying between 55° and 57° N. latitude and 165° and 170° W. longitude and all of fishing area II may be closed for the remainder of the periods January 1 through March 31 and October 1 through December 31 to trawl vessels of any nation. This closure will occur when vessels of that nation intercept that nation's part of the prohibited species catch (PSC) of chinook salmon. A nation's part of the PSC for chinook salmon at any time during a fishing year is determined by multiplying 65,000, the total PSC for chinook salmon, by the ratio of that nation's current allocation of groundfish to the total current TALFF plus current reserves for groundfish.

National part of PSC =

$$65{,}000 \times \frac{\text{National Allocation of TALFF}}{\text{Total Groundfish TALFF and Reserve}}$$

Fishing areas I and II are described at § 611.9, Appendix II, figure 2.

(E) During the period December 1 through December 31, 1981, that portion of fishing area I lying between 55° and 57° N. latitude and 165° and 170° W. longitude and all of fishing area II may be closed for the remainder of December to trawl vessels of any nation. This closure will occur when vessels of that nation intercept that nation's part of the prohibited species catch (PSC) of chinook salmon. A nation's part of the PSC for chinook salmon at any time during December is determined by multiplying 18,200, the total PSC for chinook salmon, by the ratio of that nation's current allocation of groundfish to the total current TALFF plus current reserves for groundfish.

National part of PSC =

$$18{,}200 \times \frac{\text{National Allocation of TALFF}}{\text{Total Groundfish TALFF and Reserve}}$$

Fishing areas I and II are described at Section 611.9, Appendix II, figure 2.

* * * * *

§ 611.93 [Nomenclature Change]

3. Section 611.93 is amended by removing the words "Regional Director" and inserting in their place the word "Secretary" in the following paragraphs: (b)(3)(i), (b)(3)(ii), (b)(3)(iii)(A), (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(iii)(D)(2), (b)(3)(iii)(E), (b)(3)(iii)(F).

[FR Doc. 81-35071 Filed 12-3-81; 2:55 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 235
Tuesday, December 8, 1981

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Replacement of Provisions of Regulatory Guide 8.15, Incorporated by Reference in § 20.103

Correction

In FR Doc. 81-32143 appearing on page 55271, in the issue of Monday, November 9, 1981, make the following correction.

On page 55272, Appendix A, in the column, "Protection factors: Particulates, gases and vapors", the third entry from the bottom of the page reading "^{k} 2,000" should read "^{k} 10,000".

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 543, 544, 545, 552, and 577

[No. 81-724]

Revision of Application Requirements

November 25, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board propose to revise certain application requirements for Federally chartered savings and loan associations and mutual savings banks. The proposed changes would revise requirements relating to (1) adoption or change of corporate title and (2) home and branch office relocations within 1,000 feet of existing sites.

DATE: Comments must be received by: February 4, 1982.

ADDRESS: Please send comments to the Public Information Officer, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT:

K. Diane Boyle (202-377-6720), Office of Industry Development, or Michael D. Schley (202-377-6444), Office of General Counsel, at the above address.

SUPPLEMENTARY INFORMATION:

Adoption or Change of Corporate Title

Section 543.1 of the Board's Regulations for the Federal Savings and Loan System (12 CFR 543.1) currently sets forth requirements regarding the corporate title of a Federal association. The Board proposes to make simplifying amendments to the corporate title standards set forth in paragraph (a), which currently provides:

(a) A Federal association's title shall include the words "Federal Savings and Loan Association" preceded by suitable descriptive words, and may be followed by words indicating location, including a State or regional name immediately preceded by the name of the locality of the association's home office. State or regional names may be used elsewhere in the title if the applicant clearly demonstrates, and the Board finds, that such use is justified. A Federal association shall not adopt or change to a title which will result in unfair competition or public confusion, or be deceptive, scandalous, or otherwise unsuitable.

The proposed changes are as follows:

1. *Indication of Federal charter.* The Board believes that inclusion of the entire phrase "Federal Savings and Loan Association" in a Federal association's corporate title is not necessary to prevent confusion or deception of the public. National banks commonly indicate their federal charter merely by adding the initials "N.A." to their name; this practice has not proved misleading or confusing to the public. Federal associations commonly shorten their names to forms such as "*XYZ* Federal" for purposes of advertising, and the Board has consistently permitted this advertising practice on the ground that it clearly indicates that an association is Federally chartered. In light of these considerations and the present nature of the business of savings and loan associations, the Board proposes to permit a Federal association to choose any title wording that indicates that the association is a Federal savings and loan association.

2. *Descriptive terms.* The regulation currently authorizes the use of (a) "suitable descriptive words," (b) a state or regional name immediately preceded by the locality of the home office, and (c) a state or regional name elsewhere in the title with Board approval. The first requirement may be too vague to impose any meaningful limitation. To the extent the latter two provisions speak to unfair competition considerations, as discussed below, the Board believes that such matters may best be resolved under laws regarding trade-name infringement and unfair competitive practices. To the extent these provisions address problems of public confusion or deception, they unnecessarily duplicate the prohibition in the following sentence against confusing or misleading corporate titles. Consequently, the Board proposed to simplify its corporate title requirements by removing these three provisions from the regulation.

3. *General standards.* The regulation currently prohibits corporate titles that "will result in unfair competition or public confusion, or be deceptive, scandalous, or otherwise unsuitable." The Board has reviewed these standards, and believes the regulation should be revised to prohibit only deceptive and confusing corporate titles. Adequate remedies and forums for unfair competition disputes are provided under state laws, and the Board believes such controversies are resolved more efficiently through private adversarial actions than through administrative enforcement proceedings. Therefore, as a matter of Federal law, the Board has determined in the exercise of its plenary authority over Federal savings and loan associations to propose that state laws govern disputes that may arise in this area. In addition, the Board believes the terms "scandalous" and "otherwise unsuitable" may be too vague to be enforceable, and thus proposes to eliminate these requirements.

The Board also proposes to eliminate the application and approval requirements for a change of corporate title. Paragraph (b) of § 543.1 currently requires any association desiring to change its title to apply for approval pursuant to the branch office application procedures set forth in § 545.14. The Board believes that a title change is a matter that should lie within the business discretion of an association. Under the proposed rule, a Federal association may change its title after giving 30 days' notice to the Supervisory Agent. The title change would be

accomplished by means of a preapproved charter amendment. However, if, within the 30-day period, the Supervisory Agent objects to the proposed new title as confusing or deceptive, the association would be required to apply for Board approval before effecting the title change. The proposed rule would greatly streamline the corporate title change procedure by eliminating the need for an application in most instances.

Home or Branch Office Relocation

Section 545.15 of the Board's Regulations for the Federal Savings and Loan System (12 CFR 545.15) provides that a Federal association may not change the permanent location of its home office or any approved branch office without first obtaining Board approval in accordance with the branch office application procedures. The Board proposes to exempt from this application and approval requirement any relocation that is within 1,000 feet of and in the same market area as the former office site. A staff study conducted earlier this year revealed that of 205 office relocation applications processed during the 18-month period beginning on January 1, 1980, and ending on June 30, 1981, 121 (or 59%) of those applications were for relocations within 1,000 feet of the former office. None of the 121 short-distance relocations were protected. These statistics suggest that such short-distance relocations have few or no competitive implications. Accordingly, the Board proposes to require only 30 days' written notice to the Supervisory Agent of such short-distance relocations. A relocation may be effected unless the Supervisory Agent determines that the relocation is not within 1,000 feet or the same market area, and so notifies the association during the 30-day period. If the Supervisory Agent makes a timely objection, the association would be required to obtain Board approval through the ordinary application process.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board is providing the following initial regulatory flexibility analysis.

1. *Reasons, objectives, and legal basis underlying this proposed rule.* These factors are discussed elsewhere in the supplementary information.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to savings and loan associations and mutual savings banks that are Federally chartered ("Federal associations").

3. *Impact of the proposed rule on small Federal associations.* The proposed rule will not have an adverse impact on small Federal associations. The proposed changes are deregulatory in nature, and thus are expected to have a beneficial impact on large and small associations alike.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap, or conflict with the proposed rule.

5. *Alternatives to the proposed rule.* The proposed rule would relieve existing restrictions on the regulated industry; thus, there are no tiering alternatives that would have less impact on small entities.

Accordingly, the Board proposes to amend Parts 543, 544, 545 and 552, Subchapter C, and Part 577, Subchapter E, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

1. Revise § 543.1 to read as follows:

§ 543.1 Corporate title.

(a) *General.* A Federal association's title shall in some manner indicate that it is a Federal association. A Federal association shall not adopt a title that will result in confusion or deception of the public.

(b) *Title change.* Prior to changing its corporate title, a Federal association must file with the Supervisory Agent a written notice indicating the intended change. If, within 30 days of receipt of the notice, the Supervisory Agent does not notify the association of his objection on grounds set forth in paragraph (a) of this section, the association may change its title by amending its charter in accordance with § 544.2(g) or § 552.4(c) (or, in the case of a Federal mutual savings bank, § 577.1–2) of this chapter and the amendment provisions of its charter. If a timely objection is made, the association may change its title only with Board approval, after filing with the Board an application containing a factual statement justifying the proposed change.

PART 544—CHARTER AND BYLAWS

2. Add a new paragraph (g) to § 544.2, to read as follows:

§ 544.2 Amendment of charter.

* * * * *

(g) *Title change.* The Board hereby preapproves the amendment of section 1 of the charter to effect a change of the corporate title of a Federal mutual association that has complied with § 543.1(b) of this Subchapter.

PART 545—OPERATIONS

3. Add a new paragraph (d) to § 545.15, to read as follows:

§ 545.15 Change of office location and redesignation of offices.

* * * * *

(d) *Short-distance relocations.* Notwithstanding paragraph (a) of this section, an association may change the permanent location of a home or branch office to a site within 1,000 feet of and in the same market area as the former location without applying for Board approval. An association shall notify the Supervisory Agent in writing at least 30 days before such an office relocation, and may proceed with the relocation unless, within 30 days of receipt of the notice, the Supervisory Agent notifies the association that the relocation does not satisfy the criteria in the first sentence of this paragraph, in which case the association must file an application and obtain Board approval in accordance with paragraphs (b) and (c) of this section. The Supervisory Agent's determination of whether the proposed relocation is within 1,000 feet of and in the same market area as the former location shall be final.

PART 552—STOCK ASSOCIATIONS

4. Amend § 552.4 by adding a new paragraph (c) to read as follows:

§ 552.4 Optional charter provisions.

* * * * *

(c) A Charter S association that has complied with § 543.1(b) of this Subchapter may amend Charter S by substituting a new corporate title in Section 1.

PART 577—CHARTER AND BYLAWS

5. Add a new § 577.1–2, to read as follows:

§ 577.1–2 Preapproved charter amendment.

This section constitutes approval by the Board of the amendment of section 1 of the charter to effect a change of the corporate title of a Federal mutual savings bank that has complied with § 543.1(b) of this chapter.

(12 U.S.C. 1464; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 81-35135 Filed 12-7-81; 8:45 am]
BILLING CODE 6720-01

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 190

Bankruptcy

Correction

In FR Doc. 81-33937, published at page 57535, on Tuesday, November 24, 1981, make the following corrections:

(1) On page 57538, in the first column, in the sixth complete paragraph, *"Background"*, in the ninth line "not no" should be corrected to read "not so".

(2) On page 57540, in the first column, in the second paragraph, in the twentieth line "190-05" should be corrected to read "190.05".

(3) On page 57544, in the first column, in the second paragraph of footnote 54, in the eleventh line "That is" should be corrected to read "That if".

(4) On page 57547, in the second column, in the first paragraph, in the fourth line from the bottom, "not bankruptcy" should be corrected to read "no bankruptcy".

(5) Also on page 57547, in the third column, in the second full paragraph, in the second to last line "certain property" should be corrected to read "certain other property".

(6) On page 57549, in the third column, in the first indented paragraph, in the eleventh line "$190.06" should be corrected to read "§ 190.06".

(7) On page 57551, in the first column, in the ninth line "190.03" should be corrected to read "190.07".

(8) On page 57554, in the second column, in the second table, in the third line, under column "Segregated and allocated", "1,000" should be corrected to read "1,500".

(9) On page 57556, in the second column in the fourteenth line "90.10" should be corrected to read "190.10".

(10) On page 57561, in the third column, in § 190.05(b)(1)(iii), in the second line, "be liquidated by the trustee, to be" should be corrected to read "be liquidated by the trustee, to be".

(11) On page 57563, in the third column, in § 190.07(b)(1)(A)(*ii*), in the fourth line, "or by" should be corrected to read "or for".

(12) On page 57566, in the second column, in § 190.08(a)(1)(ii)(D), in the second line "(a)(i)" should be corrected to read "(a)(1)(i)(A)".

(13) Also on page 57566, in the second column, in § 190.08(a)(1)(ii)(J), in the seventh line "(a)(v) and (a)(2)(i) through (a)(2)(viii) of" should be corrected to read "(a)(1)(i)(E) and (a)(1)(ii)(A) through "(a)(1)(ii)(H) of".
BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 135

[Docket No. 79P-0441]

Frozen Desserts; Proposal to Establish Standards of Identity for Goat's Milk Ice Cream, Goat's Milk Frozen Custard, and Goat's Milk Ice Milk

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to establish standards of identity for goat's milk ice cream, goat's milk frozen custard, and goat's milk ice milk by cross-reference to the standards of identity for ice cream and frozen custard and for ice milk. This action would provide for the manufacture of ice cream, frozen custard, and ice milk from goat's milk which may be used by consumers as alternatives to products made from cow's milk.

DATES: Comments by February 5, 1982. Proposed compliance for all affected products initially introduced or initially delivered for introduction into interstate commerce: July 1, 1983.

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: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Cove Mountain Goat Dairy, Rt. 2, Box 255A, Wytheville, VA 24382, has petitioned FDA to amend the standard of identity for ice cream and frozen custard (21 CFR 135.110) to permit the use of goat's milk. The petitioner requested that the definition of "milk" found in § 135.110(b), which now reads "The term 'milk' as used in this section means cow's milk", be changed to read "The term 'milk' as used in this section means cow's milk or goat's milk".

As grounds to support this amendment, the petitioner maintains that it is discriminatory to restrict use of the name "ice cream" to a product made from cow's milk only, particularly when the goat's milk products meet or surpass all the requirements for ice cream and frozen custard (§ 135.110) and that the use of the term "milk" to include both cow's milk and goat's milk has precedent in the "Grade A Pasteurized Milk Ordinance—1978 Recommendations of the U.S. Public Health Service/Food and Drug Administration" (PMO), which has been adopted as law or regulation by many States. The petitioner further asserts that ice cream made from goat's milk offers an acceptable alternative to consumers who cannot tolerate cow's milk.

FDA is aware of a growing interest in providing for the use of goat's milk in the production of ice cream, as well as other frozen dessert products. FDA does not agree that expanding the meaning of "milk", as used in § 135.110(b), to include goat's as well as cow's milk is the best way to provide for the product "goat's milk ice cream". This change would permit the use of goat's milk counterparts of each of the cow's milk-derived ingredients listed in § 135.110(b), and it would provide a much broader list of goat's milk-derived ingredients than the petitioner either requested or supported with data. Also, the nomenclature and labeling provisions in § 135.110 (e) and (f), respectively, do not include provisions for either the naming of a product made with goat's milk or the declaration of the goat's milk ingredients in a label statement of ingredients.

For these reasons, FDA is proposing, on its own initiative, to establish a standard of identity for goat's milk ice cream that is cross-referenced to § 135.110. The agency is also proposing a standard of identity for goat's milk ice milk, cross-referenced to the standard for ice milk (21 CFR 135.120), to increase the number of frozen dessert products available to consumers. These proposed cross-referenced standards delineate the types of goat's milk ingredients that may be used, as well as the nomenclature and ingredient labeling requirements.

FDA advises that the term "milk" in the PMO is used in the generic sense to avoid the frequent repetition of the names of the specific milks that would otherwise occur because the same sanitation standards apply to the production and processing of Grade A goat's milk and Grade A cow's milk. However, the specific name of the milk must appear on the label, e.g., "goat's milk".

FDA proposes that all affected products initially introduced or initially

delivered for introduction into interstate commerce on or after July 1, 1983, shall comply with the regulations.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354 (5 U.S.C. 601)), FDA has considered the effect this regulation would have on small businesses. The petitioner in this action is the owner of a small business hampered in the sale of its products by a standard of identity that prevents its product from being marketed under a commonly recognized name. This proposed action provides the petitioner, as well as an unknown number of similar businesses, options in the manufacture and marketing of their products. These options are expected to produce economic benefits of an undetermined magnitude. The agency concludes that the proposed action is not restrictive, because the effect of this regulation is to permit additional flexibility in manufacturing to both large and small businesses. The agency certifies that the publication of this proposal will not have a significant economic impact on a substantial number of small entities.

PART 135—FROZEN DESSERTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), it is proposed that Part 135 be amended as follows:

1. By adding new § 135.115, to read as follows:

§ 135.115 Goat's milk ice cream.

(a) *Description.* Goat's milk ice cream is the food prepared in the same manner prescribed in § 135.110 for ice cream, and complies with all the provisions of § 135.110, except that the only optional dairy ingredients that may be used are those in paragraph (b) of this section; caseinates may not be used; and paragraphs (e)(1) and (f) of § 135.110 shall not apply.

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are liquid, concentrated, or dry goat's skim milk; goat's milk; and goat's cream.

(c) *Nomenclature.* The name of the food is "goat's milk ice cream" or, alternatively, "ice cream made with goat's milk", except that when the egg yolk solids content of the food is in excess of that specified for ice cream in paragraph (a) of § 135.110, the name of the food is "goat's milk frozen custard" or, alternatively, "frozen custard made with goat's milk", or "goat's milk french ice cream", or, alternatively, "french ice cream made with goat's milk", or "goat's milk french custard ice cream", or, alternatively, "french custard ice cream made with goat's milk".

(d) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

2. By adding new § 135.125, to read as follows:

§ 135.125 Goat's milk ice milk.

(a) *Description.* Goat's milk ice milk is the food prepared in the same manner prescribed in § 135.115 for goat's milk ice cream, except that paragraph (c) shall not apply, and which complies with all the requirements of § 135.120(a) (1), (2), (4), (5), (6), and (7) for ice milk.

(b) *Nomenclature.* The name of the food is "goat's milk ice milk" or, alternatively, "ice milk made with goat's milk".

Interested persons may, on or before February 5, 1982, submit to the Dockets Management Branch (HFA–305) (address above), written comments regarding this proposal. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 27, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-34937 Filed 12-7-81; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Withdrawal of Proposal To Place Tiletamine and Zolazepam Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Withdrawal of proposed rule.

SUMMARY: This notice withdraws the proposal to control the substances tiletamine and zolazepam under Schedule I of the Controlled Substances Act and reaffirms the proposal to control, under Schedule III, preparations containing equal amounts of those substances.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: On July 9, 1981, the Administrator of the Drug Enforcement Administration published a Notice of Proposed Rulemaking in which he proposed to control tiletamine and zolazepam under Schedule I of the Controlled Substances Act (21 U.S.C. 801, *et seq.*) and further proposed to control preparations containing equal amounts of the base equivalents of those substances under Schedule III of the Act. The notice was published at 46 FR 35529. The proposed actions were to be finalized if and when the Food and Drug Administration approved the New Animal Drug Application (NADA) for Telazol, a preparation containing equal amounts of the base equivalents of tiletamine HCl and zolazepam HCl. Interested parties were given until September 9, 1981 to submit written comments or objections with regard to these proposals.

Comments concerning the proposed actions were received from the American Association of Zoo Veterinarians and from counsel for the Warner-Lambert Company, the manufacturer of Telazol. The American Association of Zoo Veterinarians did not object to the placement of the combination drug product in Schedule III, but did object to the placement of the individual components into Schedule I. The Association felt that the Schedule I treatment of the individual ingredients would discourage or prevent the manufacture of the combination product. Warner-Lambert, the holder of the NADA for Telazol, also objected to the placement of tiletamine and zolazepam into Schedule I. The manufacturer asserted that neither of the substances met the criteria for Schedule I and further argued that the two ingredients were immediate precursors of Telazol which, as such, could not be placed into a schedule higher than that in which Telazol was placed. Warner-Lambert indicated that the placement of tiletamine and zolazepam into Schedule I would place such undue hardship upon the company as to render the

manufacture of Telazol uneconomical. Finally, the manufacturer argued that Telazol should be controlled under Schedule IV rather than Schedule III. Warner-Lambert has requested a hearing with respect to these issues.

The Acting Administrator has considered this matter at some length. The placement of preparations containing equal amounts of tiletamine and zolazepam into Schedule III is consistent with the scientific and medical evaluation of the Acting Assistant Secretary for Health and with the independent evaluation of the Acting Administrator in accordance with the provisions of 21 U.S.C. 811 (b) and (c). The regulatory requirements for the manufacture, distribution, dispensing and administration of Schedule III and IV substances are, for all intents and purposes, indentical. The regulatory burden associated with the manufacture of Schedule III substances is no greater than that for substances in Schedule IV. Furthermore, no data has been presented to cast doubt upon the original determination that Telazol best fits in Schedule III. Accordingly, the Acting Administrator reaffirms the proposed placement of preparations containing equal amounts of the base equivalents of tiletamine and zolazepam into Schedule III. This control action will be finalized when the FDA approves the NADA for the marketing of Telazol.

The Acting Administrator believes that the issues raised with respect to the proposed Schedule I treatment of the ingredients, tiletamine and zolazepam, merit further consideration. However, deliberation over these issues should not impede the marketing of a substance for which there appears to be a need in veterinary medicine. Accordingly, the Acting Administrator withdraws the proposal to place tiletamine and zolazepam into Schedule I.

In the opinion of the Acting Administrator, the request for a hearing in this matter was directed at the proposed scheduling of the substances, tiletamine and zolazepam, into Schedule I and not at the proposed placement of the combination product into Schedule III. Any necessity for a hearing should be obviated by the withdrawal of the proposal to control tiletamine and zolazepam in Schedule I. Accordingly, the request for a hearing is denied at this time. In the event that the manufacturer still desires a hearing with respect to the control of Telazol, the Acting Administrator will consider a written request made on or before January 7, 1982.

Dated: December 1, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-35124 Filed 12-7-81; 8:45 am]

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INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development

22 CFR Part 203

Registration of Agencies for Voluntary Foreign Aid

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule.

SUMMARY: The Agency for International Development is amending this regulation to clarify the purpose of registration and emphasize that applicants must be private and voluntary in character.

DATE: Comments must be submitted on or before January 7, 1982.

ADDRESS: Comments should be submitted to: Robert S. McClusky, Agency for International Development, FVA/PVC/PLD, Room 227, SA-8, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT: Robert S. McClusky, (703) 235-1844.

SUPPLEMENTARY INFORMATION:

1. Section 203.1 Purpose.

This restatement of the purposes of registration establishes that registration provides a mechanism for identifying which organizations are eligible for A.I.D. resources intended for private and voluntary organizations (PVOs), e.g., matching, institutional/development support or operational program grants, or the subventions of Pub. L. 480 commodities, excess property or ocean freight reimbursement. This section recognizes that A.I.D. always has had, and continues to have, authority to make grants to other nonprofit, nongovernment organizations without their being registered.

This section also takes note that "it is not the purpose of registration to make or enable to be made any representation to the public concerning the meaning of being registered." This addition emphasizes that registration serves A.I.D. purposes and is not a consumer protection process designed to respond to the need for information on the part of the contributing public.

2. Section 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

One overall change in format has been made which effects this entire section. The registration documentation requirements have been combined with the conditions of registration, i.e., documentation requirements now immediately follow each condition. The previous format separated the conditions from the related documentation requirements.

In the following discussion, each condition will be discussed separately with the exception of condition 3 in which there was no substantive change.

Condition No. 1. This condition has been modified to include information previously contained elsewhere in the regulation as to the types of organizations not eligible to apply for registration. Additionally, the categories of organizations ineligible to apply have been expanded to include churches or organizations whose primary purpose is to engage in religious activities. This addition resolves a confusion flowing from the phrase "other than religious," used elsewhere in the text. This phrase has been open to the interpretation that a church could register provided it conducted other than religious activities.

Condition 2 has been expanded from the previous requirements that the applicant simply be "nongovernmental," to require that an applicant be a "private, nongovernmental organization which receives funds from private, U.S. sources * * *" with the stipulation that "* * * at least 20% of the funding (excluding in-kind contributions) for its overseas program costs (excluding inkind contributions) in the last audit year are from private U.S. sources."

"Funds from private, U.S. sources" is defined as "* * * cash received from private, nongovernmental, U.S.C sources, e.g., support and revenue from private individuals, groups, foundations and/or corporations. In-kind contributions are not included. Funds received directly or indirectly from the U.S. Government (or state or local governments), the United Nations or any other public international organization, or foreign governments or institutions are not included."

This addition recognizes A.I.D.'s decision that, in practical terms, "private" refers mainly to the balance between private and public financial resources, and that a tightening up in the application of the test of privateness is desirable to reemphasize our interest in mobilizing private sector resources, and protecting the independence of PVOs.

"Overseas program costs" are defined as the "* * * costs of all voluntary

foreign aid operations of the organization conducted outside the U.S., and includes that portion of applicable indirect costs incurred in the U.S. (such as administrative costs, but excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations."

We propose that the 20% test be implemented over a three year period. Specifically, as a transition measure, a PVO which, on the effective date of the issuance of the approved Regulation 3, "* * * is registered but which did not in its last audited year ('base year') meet the 20% test, shall have a period of three years in which to come into compliance." In the case of such an organization, "if an independently audited financial statement for the third year following the base year does not meet he 20% test, the PVO's registration would be terminated by A.I.D. in accordance with § 203.7(a)(2). Any 'registered PVO grants' in progress would not be terminated and could be funded through their approved project course, but new ones would not be made."

Condition 4 in a new condition stipulating that an applicant be a voluntary organization, i.e., one which "* * * receives voluntary contributions of money, time or in-kind support from the general public." This condition has been added to place explicit emphasis on the voluntary nature of the mobilization of private resoures.

Condition 5, formerly Condition 4, has been modified with the substitution of emphasis on whether an applicant is "* * * or anticipates becoming, engaged in voluntary charitable or development assistance operations abroad * * *." Formerly the phrase was "* * * has the potential to be engaged * * *". The change leaves the task of determining the "potential" of an organization to execute a specific activity to the A.I.D. program process where potential can be assessed in light of program criteria.

Additionally, this condition has been expanded by the inclusion of the examples of the types of services and fields of activity envisaged by the references to "voluntary charitable or development assistance." These examples were formerly listed under § 203.2.

Condition 6, formerly Condition 5, has been amended to clarify that the audits of financial statements submitted by applicants will be assessed in terms of whether the accounts have been maintained in accordance with the generally accepted accounting principles (GAAP), and to incorporate the requirement for an annual budget as one of the conditions. The endorsement of GAAP places reliance on the accounting principles most broadly accepted in this society. Reference to an annual budget has heretofore been included only in reference to documentation requirements; inclusion if it in this conditon recognizes that an annual budget is an indicator of sound financial planning. The documentation requirements have been modified accordingly.

In keeping with the requirements of Condition 2 and the 20% test, the Condition 6 documentation requirements stipulate that the financial statements disclose the overseas program costs separately.

A paragraph has been added following Condition 6 clarifying that registation is not a substitute for the A.I.D. pre-grant award process. This has been done to avoid any misunderstanding that registration is the only A.I.D. pre-grant award test which must be met by an organization which has never received an A.I.D. grant.

Condition 7, formerly Condition 6,no longer stipulates that the members of the governing body of an applicant must be United States citizens. This reference to nationality has been dropped since it is no longer relevant to whether an applicant is considered a U.S. or foreign organization.

Additionally, emphasis has been placed on control by a body which is "the highest authority of the organization" rather than one which has "effective policy and administrative control." This change is intended to both clarify the intent of the condition and simplify its administration.

Finally, reference to a "compensation statement for the top five headquarters' positions and for overseas country directors" has been included in the condition. This recognizes that the provision of such a statement has in fact already been a condition of registration, though heretofore only included as a documentation requirement.

Condition 8, formerly Condition 7, has been modified to place emphasis on the three most critical elements related to how an organization expends and distributes its funds: (1) are the funds raised and expended for the stated purposes of the organization; (2) are the costs of fund raising and administration reasonable; and (3) are the financial circumstances of the organization disclosed to the public? This change recognizes the inappropriateness of A.I.D.'s attempting to define and monitor compliance with undefined yet "accepted ethical standards" by relying for guidance on standards developed by private entities, no matter how respected or broadly accepted.

Finally, a definition of "total cash" has been added to this condition to clarify the basis upon which A.I.D. will calculate the 20% test of fund raising reasonableness which has been retained as part of the condition. The 20% test of fund raising reasonableness stipulates that if fund raising costs exceed 20% of the total cash and in-kind contribution to the organization, A.I.D. shall consider them unreasonable, unless the organization demonstrates that such costs are reasonable in light of the nature of the organization's operations. In this context, "total cash" is defined as including "* * * U.S. Government financial support, as well as private support; similarly, it is expected that fund raising costs will include costs incurred in raising government funds."

3. Section 203.3.

This proposed revision simplifies the listing of documents required annually to maintain registration, and allows 180 days for their filing, rather than the 90 days period stipulated in the interim regulations. These changes have been made to simplify the process and to recognize the fact that the longer time period is more realistic given the lead times PVOs experience in obtaining completed audits.

4. Section 203.4 Certificates of Registration.

Requirement for publication in the **Federal Register** has been deleted as being inappropriate to an action (registration) which only serves A.I.D.'s internal purposes.

5. Section 203.6 Registration of Foreign PVOs.

This section has been expanded by the addition of the definition of the four categories of foreign private and voluntary organizations, and the delegations of authority to offices within A.I.D. for responsibility to register foreign private and voluntary organizations.

6. Section 203.10 Waiver Authority.

This section has been changed to permit delegation of the waiver authority.

7. Executive Order 12291.

This proposed rule is not a major rule and has been submitted to OMB in accordance with Executive Order 12291.

8. Regulatory Flexibility Act.

The Agency has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

For the reasons set out in the preamble, Part 203 of Chapter II of Title 22 of the Code of Federal Regulations is proposed to be revised as follows.

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Sec.
203.1 Purpose.
203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.
203.3 Annual requirements.
203.4 Certificates of registration.
203.5 Denial of registration and reconsideration.
203.6 Registration of foreign private and voluntary organizations.
203.7 Termination of registration.
203.8 Delegation of authority.
203.9 Access to records.
203.10 Waiver authority.

Authority: Section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381).

§ 203.1 Purpose.

A.I.D. maintains, pursuant to this part, two registries of private and voluntary organizations (PVOs) engaging in or intending to engage in voluntary foreign aid operations—one of U.S., the other of foreign PVOs—for the following purposes:

(a) *Subventions.* (1) The Foreign Assistance Act of 1961, as amended ("FAA") and the Agricultural Trade and Development and Assistance Act of 1954, as amended ("Pub. L. 480"), authorize certain forms of assistance for private and voluntary organizations registered with A.I.D. These forms, referred to as "subventions," are:

(i) The payment of transportation charges on shipments of contributions for development, relief or rehabilitation, under section 123(b) of the FAA, 22 U.S.C. 2151u;

(ii) The sale of services or commodities, e.g., excess property under section 607(a) of the FAA, 22 U.S.C. 2357(a); and

(iii) The furnishing of agricultural commodities for development, relief and other programs under section 202 of Pub. L. 480, 7 U.S.C. 1722.

(2) Registration is required of United States private and voluntary organizations for participation in paragraphs (a)(1)(i) and (ii) of this section, and confers a preference as to paragraphs (a)(1)(iii) of this section. Foreign registered PVOs may not participate in paragraph (a)(1)(i) of this section, and may participate in paragraph (a)(1)(ii) of this section only if no U.S. registered PVO is available. For paragraph (a)(1)(iii) of this section the preference is: First, a U.S. registered PVO; second, if a U.S. registered PVO is not available, then a foreign registered PVO; if neither of these is practicable, then a non-registered PVO.

(b) *Registered PVO grants.* In implementing the authorities in the FAA, A.I.D. has established the policy that certain types of grants shall be made only to registered PVOs (referred to as "registered PVO grants"). Such grants rely heavily on the capacities of the grantee, and the registration process helps identify some facts which have a bearing on such capacities. Registered PVO grants currently include matching grants, institutional development grants, and operational program grants, but A.I.D. may redefine from time to time those forms of grant assistance which comprise registered PVO grants. Registration is not a requirement for A.I.D. contracts and forms of grant assistance, other than registered PVO grants.

(c) It is not the purpose of registration to make or enable to be made any representation to the public concerning the meaning of being registered.

§ 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

An applicant shall be registered with A.I.D. as a U.S. PVO if A.I.D. finds that the applicant has satisfied all the conditions and documentation requirements of registration listed below. An applicant seeking registration shall submit to A.I.D., Washington, D.C. 20523, the documentation listed below accompanied by a letter stating the reasons for seeking registration signed by its chief executive officer and supported by a resolution of its governing body. In addition, the applicant shall submit such other information as A.I.D. may reasonably require to determine if the applicant should be registered.

(a) *Condition and Documentation Requirement No. 1.*—(1) *Condition.* That the applicant is a private nongovernmental organization which is organized under U.S. law and maintains its principal place of business in the United States and is not a university, college, accredited degree-granting institution of education, organization engaged exclusively in research or scientific activities, church, or organization whose primary purpose is to engage in religious activities.

(2) *Documentation Requirement.* Articles of incorporation, bylaws, and relevant documents establishing its legal status.

(b) *Condition and Documentation Requirement, No. 2*—(1) *Condition.* That the applicant receives funds from private U.S. sources, as defined in paragraph (b)(1)(i) of this section, and that at least 20 percent of the funds (excluding in-kind contributions) for its overseas program costs (excluding in-kind contributions), in the last audited year are from private U.S. sources.

(i) "Funds from private U.S. sources" refers to cash received from private, nongovernmental, U.S. sources, e.g., support and revenue from private individuals, groups, foundations and/or corporations. In-kind contributions are not included. Funds received directly or indirectly from the U.S. Government or state or local governments, the United Nations or any other public international organization, or foreign governments or institutions are not included.

(ii) "Overseas program costs" are defined as the costs of all voluntary foreign aid operations of the organization conducted outside the U.S., and includes that portion of applicable indirect costs incurred in the U.S. (such as administrative costs, but excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations.

(iii) In the event the current activities of an applicant are solely domestic and it anticipates becoming engaged in international activities, this formula would apply to income received for domestic activities.

(iv) A PVO, which on (the effective date of this part) is registered but which did not in its last audited year ("base year") meet the above 20 percent test, shall have a period of three years in which to come into compliance. If an independently audited financial statement for the third year following the base year does not meet the 20 percent test, the PVO's registration would be terminated by A.I.D. in accordance with § 203.7(a)(2). Any "registered PVO grants" in progress would not be terminated and could be funded through their approved project course, but new ones would not be made.

(2) *Documentation Requirement.* Same as § 203.3(a)(2), plus the audited financial statement (see Condition No. 6 at § 203.3(f) of this part).

(c) *Condition and Documentation Requirement No. 3.*—(1) *Condition.* That the applicant is a nonprofit organization and has a tax exemption under any one of the following provisions of the Internal Revenue Code: Section 501(c)(3); as a social welfare organization under section 501(c)(4); section 501(c)(5); or as a cooperative or credit union under section 501(c)(6).

(2) *Documentation Requirement.* IRS Statement of Tax Exemption, and a copy of IRS Form 990 or 990-PF "Return of Organization Exempt from Income Tax,"

or one comparable to the Internal Revenue Service document.

(d) *Condition and Documentation Requirement No. 4.*—(1) *Condition.* That the applicant is a voluntary organization, i.e., receives voluntary contributions of money, time or inkind support from the general public.

(2) *Documentation Requirement.* Latest annual report (or similar document) and audited financial statement (see Condition No. 6 at § 203.3(f)).

(e) *Condition and Documentation Requirement No. 5.*—(1) *Condition.* That the applicant is, or anticipates becoming, engaged in voluntary charitable or development assistance operations abroad (other than religious), including but not limited to services of relief, rehabilitation, disaster assistance, development assistance, welfare, training, or program support and coordination for such services, in the fields of health, education, population planning, nutrition, agriculture, industry, environment, ecology, refugee services, emigration, resettlement, and development of capacities in indigenous PVOs and institutions to meet basic human needs; and that such organizations are consistent with its articles of incorporation and related documentation included in the application, and with the purposes of the Foreign Assistance Act and Pub. L. 480.

(2) *Documentation Requirement.* Latest annual report (or similar document).

(f) *Condition and Documentation Requirement No. 6.*—(1) *Condition.* That the applicant accounts for its funds in accordance with generally accepted accounting principles ("GAAP"); has financial resources and demonstrated management capability to enable it to perform the services it proposes; and exercises financial planning through the preparation of an annual budget for the year subsequent to that covered in the annual audit.

(i) Further tests of the financial management systems of a PVO are part of the A.I.D. pre-grant award process. In judging the financial management systems of grant applicants the requirements set by the Office of Management and Budget (OMB) Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations," Attachment F, "Standards for Financial Management Systems" will apply, and by reference, OMB Circular A–122 "Cost Principles for Nonprofit Organizations" will also apply. The determination as to whether an applicant can conform to these requirements is made through a pre-grant award review which is the responsibility of the grant officer with information provided by the A.I.D. Inspector General.

(2) *Documentation Requirement.* The most recent audited financial statement including Balance Sheet, Statement of Support, Revenue and Expenditure and Statement of Change in Financial Position prepared in accordance with generally accepted accounting principles ("GAAP") disclosing administrative, program, and fund-raising costs; and separately disclosing overseas program costs. The audit shall be conducted by an independent Certified Public Accountant in accordance with the generally accepted auditing standards ("GAAS") of the "Statement on Auditing Standards" of the American Institute of Certified Public Accountants. A budget for the year subsequent to that covered in the year reported in a format consistent with the audit, including the detailing of anticipated amounts and sources of support and revenue.

(i) New organizations which have been incorporated less than a year must provide an independent CPA's statement that financial statements can be prepared in accordance with GAAP, along with an unaudited financial statement covering the period between incorporation and application for registration. The CPA's statement for new organizations will also indicate whether the organization has installed internal controls to enable the execution of an audit in accordance with the applicable auditing standards at the end of the first year of operations.

(g) *Condition and Documentation Requirement No. 7.*—(1) *Condition.* That the applicant is controlled by an active and responsible governing body which holds regular meetings, which is the highest authority of the organization; whose members serve without compensation for such services; and in which paid officers or staff members do not constitute a majority in any decision; and that the applicant disclose the compensation of the top five headquarters' positions and overseas country directors.

(2) *Documentation Requirement.* A statement indicating that members of the governing body receive no compensation for their services on that body; the names and addresses of members; minutes of meetings or excerpts from minutes which the applicant considers significant or helpful to the registration process; salaries and allowances of the top five principal headquarters' positions determined by salary level; and a list of the salary levels and allowances of country director positions. When provided directly by the applicant, salaries and/or allowances may be valued at actual cost; when provided by the recipient country or local institutions, they may be valued at fair market value.

(h) *Condition and Documentation Requirement No. 8.*—(1) *Condition.* That the applicant expends and distributes its funds and resources in accordance with the stated purposes of the organization, without unreasonable cost for promotion, publicity, fund raising and administration, at home or abroad, and provides public disclosure of its financial circumstances.

(i) In determining whether an applicant obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fund raising, and administration, A.I.D. shall consider fund raising costs as presumptively unreasonable if they exceed 20 percent of the total cash and in-kind contributions to the organization (as reflected in the audited financial statement).

(ii) An applicant for registration or a registered agency whose fund raising costs exceed the 20 percent limitation must demonstrate that such costs are unreasonable in light of the nature of the organization's operations. Upon such a showing, A.I.D. may permit exceptions to the 20 percent limitation on a case-by-case basis.

(iii) "Contributions" as used in this section, include U.S. Government financial support, both cash and in-kind, as well as private support; similarly, it is expected that fund raising costs will include costs incurred in securing government contributions.

(2) *Documentation Requirement.* A certification that audited financial statements are available to the public upon request. Any other documentation or evidence which the applicant wishes to submit addressing the degree to which annual program spending has been consistent with the stated purposes of the organization and annual expenses reasonable in amount.

§ 203.3 Annual requirements.

In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of the fiscal year, the following documents: an independently audited financial statement, a report of income and expenditures (A.I.D. Form 1550–2), an annual report (or similar document), a copy of IRS Form 990 or 990–PF, a budget for the new fiscal year and a statement that all other circumstances

described in the original registration material remain unchanged except as noted. A.I.D. may revise the above list of documents from time to time. In addition, each registrant shall submit such other information as A.I.D. may reasonably require to determine that the organization continues to meet the conditions of registration.

§ 203.4 Certificates of registration.

Certificates of Registration will be issued by A.I.D. to applicants which A.I.D. finds satisfy the conditions and documentation requirements for registration set forth in § 203.2.

§ 203.5 Denial of registration and reconsideration.

(a) *Notification of denial of registration.* If A.I.D. decides to deny an applicant registration, the applicant will be informed in writing of the denial with a specific statement of those conditions and documentation requirements of registration in § 203.3 that the applicant has failed to satisfy.

(b) *Reconsideration.* An applicant may, within 30 days after receipt of a notification of denial or registration, request that A.I.D. reconsider its application for registration and may submit additional information to A.I.D. bearing on its suitability for registration. An applicant requesting reconsideration will be informed in writing of A.I.D.'s decision upon reconsideration. In addition, A.I.D. may, at its own discretion, reconsider a denial of registration at any time.

(c) An applicant may resubmit an application for registration in accordance with § 203.2 at any time.

§ 203.6 Registration of foreign private and voluntary organizations.

(a) For the purpose of this part, foreign PVOs shall consist of the following:

(1) An "indigenous" PVO is a non-U.S. PVO which conducts operations in the country under the laws of which it is organized.

(2) A "regional" PVO is a non-U.S. PVO that is organized under the laws of a country in an A.I.D. geographic region, and conducts operations in more than one country in that region but not in more than one such region.

(3) A "third country" PVO is a non-U.S. PVO which is not organized under the laws of any country in the A.I.D. geographic region or regions in which it conducts its operations.

(4) An "international" PVO is an organization which is not registered as a U.S. PVO, receives funds from two or more countries, has an international governing body, and conducts operations in one or more A.I.D. geographic regions.

(b) Foreign PVOs shall be registered in accordance with guidance for eligibility of non-U.S. private and voluntary organizations for participation in A.I.D.-supported programs approved by the Deputy Administrator of A.I.D., March 15, 1978 and A.I.D. handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or supported from time to time.

§ 203.7 Termination of registration.

(a) Registration shall remain in force until:

(1) Relinquished voluntarily by the registrant upon written notice to A.I.D.; or

(2) Terminated by A.I.D. for failure of the registrant to fulfill and maintain the conditions of registration.

(b) Termination proceedings pursuant to § 203.7(a)(2) above shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for the registrant to file a written statement as to why its registration should not be terminated.

§ 203.8 Delegation of authority.

(a) The authority to register and to terminate registrations is delegated to:

(1) The Assistant Administrator for Food for Peace and Voluntary Assistance, or his/her designee for U.S., international, and third country PVOs.

(2) The Regional Assistant Administrator, or their designees, for regional PVOs within their respective regions; and

(3) The principal A.I.D. officer, or, if there is none, the United States Ambassador, or their designees, for indigenous PVOs.

(b) Notices of registration and terminations of registration issued by the officials in paragraphs (a)(2) and (b)(3) of this section will be forwarded to the Bureau for Food for Peace and Voluntary Assistance within 30 days for inclusion in the registry.

§ 203.9 Access to records.

All records, reports, and other documents which are made available to A.I.D. pursuant to this part shall be made available for public inspection and copying pursuant to and under the procedures established by the public information regulation (22 CFR Part 212) of the Agency for International Development.

§ 203.10 Waiver authority.

The Administrator of the Agency for International Development or his/her designee may waive, withdraw, or amend from time to time, any or all of the provisions of the regulations in this part.

Dated: December 3, 1981.

Julia Chang Bloch,

Assistant Administrator for Food for Peace and Voluntary Assistance.

[FR Doc. 81-35136 Filed 12-7-81; 8:45 am]

BILLING CODE 6116-01-M

PANAMA CANAL COMMISSION

35 CFR Part 103

Panama Canal Transit Booking System

AGENCY: Panama Canal Commission.

ACTION: Proposed rule.

SUMMARY: On January 30, 1981, (46 FR 9942) the Panama Canal Commission published an interim rule concerning the order of passage of vessels through the Panama Canal. The purpose of that rule was to establish the terms under which there was to be conducted a test of a plan for scheduling vessels passing through the Canal. The Commission by this present notice is proposing a new rule that takes into account the agency's experience with the reservation system that was tested under the interim rule.

DATES: Comments must be received by January 7, 1982.

ADDRESSES: Comments may be mailed to the Secretary, Panama Canal Commission, 425 Thirteenth Street NW., Washington, D.C. 20004, or delivered to Room 312, Pennsylvania Bldg., 425 Thirteenth Street NW., Washington, D.C., between 8:00 a.m. and 4:30 p.m.

Comments may also be submitted to the Marine Director, Panama Canal Commission, Balboa, Republic of Panama, or delivered to Room 310, Administration Building, Balboa Heights, between 7:15 a.m. and 4:15 p.m.

Comments may also be mailed to Marine Director, Panama Canal Commission, APO Miami 34011.

FOR FURTHER INFORMATION CONTACT:

Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Bldg., 425 Thirteenth Street NW., Washington, D.C. 20004, (202) 724-0104.

Captain [George T. Hull], Marine Director, Panama Canal Commission (telephone Republic of Panama 52-7917).

SUPPLEMENTARY INFORMATION: This document proposes a change in the rules and practice governing the scheduling of vessels passing through the Panama Canal. The purpose of the proposal is to conduct a test of 120 days duration in order to determine the feasibility of a

reservation system for booking vessels that transit the waterway. The test would begin during the second week of January 1982, or shortly thereafter. The practice under the existing regulation (i.e., prior to the procedure that was followed under the interim rule of January 30, 1981) was to use the time of arrival of a vessel at either terminus of the Canal as the basis for fixing the order in which the vessel would be placed in the daily transit schedule. Deviations from that sequence were due generally to considerations of safety, the capacity of the locks and channel, and the availability of equipment and personnel. The longstanding rule that preference be given to passenger vessels was also applied under the interim rule, as was the policy to grant preference to warships of all nations. It is believed that the proposed plan for scheduling vessel transits based upon reservation may result in a traffic pattern in which there is less variation from day to day in the number of arrivals. Such uniformity, if attained, should increase Canal efficiency by making possible a more nearly continuous flow of vessel traffic. This stems from the fact that transits must be scheduled to take into account vessel size, handling characteristics, and the need for tugboat assistance or special procedures. With respect to the vessel operators, the proposed change in the scheduling system is expected to reduce the waiting time of vessels at the Canal. In the case of those that use the reservation system, it should obviate the need for steaming at higher speed merely to arrive before other ships and, thus, obtain a place in the transit schedule. It seems clear that fuel consumption could be reduced in such cases. The proposed plan includes the assessment of a fee for each reservation, a cancellation charge that would become progressively higher as the reservation date draws nearer and a fee forfeiture penalty for booked vessels that do not transit as scheduled. Under the plan, there would be two periods during which reservations could be made for any given day. The preference for passenger vessels and warships would not be altered.

The Commission has determined that this proposal would not constitute a major rule within the meaning of the Executive Order 12291 (46 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an effect on the economy of $100 million or more per year. In times of heavy demand for transits, it is anticipated that the vessel operator using the reservation system would save more than the booking fee he had paid, since the vessel's daily operating expense could be expected usually to exceed it. Secondly, there would be savings due to lower fuel consumption, as described above. Finally, the agency has concluded that implementation of the reservation system is unlikely to have any significant, adverse effect upon competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete in the domestic or export markets with those that are foreign based.

The Commission has determined that this proposed rule is not subject to the requirements of Chapter 6 of Title 5, U.S. Code, dealing with the analysis of regulatory functions. The basis for the determination is that this proposal relates to a Commission service and the rates to be charged for such service; therefore, it falls within the exception prescribed by 5 U.S.C. 601(2).

For the reasons set out above, Part 103 of Title 35, Code of Federal Regulations is proposed to be amended as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

1. The authority citation for Part 103 is proposed to be revised to read as follows:

Authority: Sec. 1601, Pub. L. 96-70, 93 Stat. 492 (22 U.S.C. 3811); E.O. 12173, 45 FR 69271; E.O. 12215, 45 FR 36043.

2. Section 103.8 is proposed to be revised to read as follows:

§ 103.8 Preference in the transit schedule; order of transiting vessels.

(a) *General.* Except provided in section 103.9, and subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty between the United States and the Republic of Panama concerning the Permanent Neutrality and Operation of the Panama Canal, vessels, arriving for transit of the Canal will be placed in the transit schedule in accordance with the rules in this section

(b) *Definitions.* As used in this section:

"Booked for transit" means that a vessel has been assigned a date on which it will be moved through the Panama Canal.

"Regular transit" means the movement through the Canal of a vessel that has not been booked for transit.

(c) *Transit bookings.* There will be two periods during which bookings may be made for any given date. In the first period, a limited number of bookings (not to exceed eight) will be available between 21 days and 4 days prior to the date of intended transit. In the second period, an additional number of bookings (not to exceed eight), plus any first-period bookings not taken, or which have been canceled, will be available on the third and second days prior to the date of transit. The Canal authorities may reduce the number of bookings available during times of high traffic congestion at the Canal. If there is a loss in Canal capacity, the number of bookings available in both periods may be reduced. The specific order of transit will be determined by the Canal authorities. A vessel may not transit prior to the date for which it has been booked, except when the Canal authorities determine that an early transit would promote efficiency of the Canal and would not result in delay for any regular transits. In the event that a vessel transits prior to the date for which it is booked, the fee will be retained by the Commission.

(d) *Preference.* If, on any day during either period, requests exceed the number of bookings remaining available, preference for the remaining bookings will be given in the following order:

(1) First, vessels carrying primarily perishable cargoes, in the order of frequency of transit during a specified period;

(2) Second, all other vessels in the order of frequency of transit during a specified period.

(e) *Fees.* The fee for booking shall be $0.35 per Panama Canal gross ton. The minimum fee for any vessel is $1,500.

(f) *Penalties.* (1) When a vessel has been booked for transit and does not arrive at a terminus of the Canal by midnight (2400 hours) of the day prior to the intended transit, the booking fee will be forfeited. Such vessel, upon arrival, will be placed in the regular transit schedule. This forfeiture will not occur if late arrival is due to *force majeure* or delay for humanitarian purposes. Similarly, the booking fee will be forefeited if the vessel arrives on time but cannot, or, at the operator's election, does not, transit as scheduled when the agency is ready to proceed. In these latter cases, the Canal authorities shall have discretion to waive the forfeiture

where it is established that the delay was due to external causes that the vessel operator could not reasonably have anticipated.

(2) If a vessel does not transit on the day for which it has been booked due to a decision by the Canal authorities, its operator thereafter, at any time prior to the day that the vessel has subsequently been scheduled to make a delayed transit, may elect to receive a refund of the fee, in which case the vessel will be listed on the regular transit schedule. In the alternative, the operator may elect to have the Commission retain the fee, in which case the vessel will be transited on a preferred basis.

(g) *Cancellation.* A transit that is booked during the first period may be canceled if notice of cancellation is received by the Canal authorities at least 4 days prior to the day of the intended transit. A charge will be assessed for such cancellations, however, in accordance with the following schedule:

Date of cancellation	Cancellation charge (the greater of)
Over 15 days prior to transit	20 percent of booking fee or $500.
15 to 11 days prior to transit	40 percent of booking fee or 750.
10 to 7 days prior to transit	60 percent of booking fee or 1000.
6 to 4 days prior to transit	80 percent of booking fee or 1250.

Cancellation of a second-period booking will be subject to the forfeiture rule stated in paragraph (f) of this section.

(h) *Regular transits.* Vessels which are not booked for transit will be dispatched through the Canal in the order determined by the Canal authorities. Priority of arrival at a terminal port does not give a vessel the right to pass through the Canal ahead of another that may arrive later; however, the time of arrival will be a consideration in fixing the order of passage. Regular transits will equal or exceed one-half of the total number of vessels moved through the Canal on any given day.

(i) *Suspension.* The Canal authorities may suspend or discontinue, in whole or in part, the transit booking system established by this section if they determine that its continuation may adversely affect the safe or efficient operation of the Canal.

Michael Rhode Jr.,

Secretary.

December 4, 1981.

[FR Doc. 81-35196 Filed 12-7-81; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH034MD; A-3-FRL-1957]

Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a revision to the Maryland State Implementation Plan (SIP) which consists of a Plan for the Prevention of Significant Deterioration of Air Quality (PSD). In this notice, EPA is proposing the revision for approval and soliciting comments on the revision.

DATE: All comments submitted on or before January 8, 1982, will be considered.

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

U.S. Environmental Protection Agency, Region III—Air Media and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA. 19106. Attn: Carol D. Peters.

Air Management Administration, State of Maryland, 201 Preston Street, Baltimore, MD 21201. Attn: George P. Ferreri.

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

All comments should be submitted to Mr. James E. Sydnor (3AH13) at the EPA, Region III address listed above, attention Docket No. AH034MD.

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Peters at the address shown above or telephone 215/597-9139.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act Amendments of 1977 established, in the form of Part C of Title I of the Clean Air Act, a set of requirements for the Prevention of Significant Deterioration (PSD) of air quality in "clean air" areas (Sections 160-69, 42 U.S.C. 7470-79). Part C requires that each State Implementation Plan (SIP) contain the new PSD requirements. On June 24, 1981 the State of Maryland submitted a plan in response to the Part C requirements. The State submitted proof that public hearings were held March 23 and 24, 1981 in accordance with the requirements of 40 CFR 51.4.

EPA Evaluation

According to COMAR 10.18.06.14 "a person may not construct, modify, or operate, or cause to be constructed, modified or operated a Prevention of Significant Deterioration (PSD) source which will result in violation of any provision of 40 CFR 52.21, as amended through Vol. 45, No. 154 FR 52735-52741 (August 7, 1980), except that the reviewing authority is the Department instead of the Administrator and the applicable procedures are those set forth in COMAR 10.18.02". In its submission, the State wrote that "[t]he Department has adopted the PSD regulations of Vol. 45 No. 154 FR 52735-52741 (August 7, 1980), by reference". Therefore, EPA concluded that COMAR 10.18.06.14 constitutes an incorporation by reference of 40 CFR 52.21 as amended through August 7, 1980. As explained in the letter from the Governor of Maryland submitting this revision, this regulation amendment allows the State to implement and enforce the PSD regulations for new sources but enforcement of this program by the State will not include those sources already permitted by EPA or those sources currently being reviewed by EPA. The State may take over enforcement of the sources permitted by EPA, if it wishes, using appropriate State procedures.

When EPA regulations are adopted by reference, 40 CFR 52.21 requires that the EPA Administrator retain authority under certain provisions of these regulations. These provisions are either not applicable for State implementation or EPA must retain authority for their implementation. Therefore, for the following sections of 40 CFR 52.21, the term "Administrator" means Administrator of EPA:

1. Definition of Federally Enforceable (40 CFR 52.21(b)(17)),
2. Exclusions from increment consumption (40 CFR 52.21(f)(1)(v), (3), (4)(i)),
3. Redesignation of areas (40 CFR 52.21(g)(1), (2), (3), (4), (5), and (6)),
4. Approval of alternate models (40 CFR 52.21(1)(2)),
5. Disputed permits or redesignation (40 CFR 52.21(t)), and
6. Delegation of Authority (40 CFR 52.21(u)(1) (2)(ii), (3), and (4)).

The term "Administrator" in the definition of "Net Emissions Increase" (40 CFR 52.21(b)(3)(iii)) means either the Administrator of EPA or the Secretary of the Maryland Department of Health and Mental Hygiene; that is, an increase or decrease in actual emissions is not

creditable if the Administrator of EPA or the Secretary of the Maryland Department of Health and Mental Hygiene has relied on these emission changes in issuing a permit under this section. Under 40 CFR 52.21(r)(2), PSD permit extension, the term "Administrator" means the Secretary of the Maryland Department of Health and Mental Hygiene. This definition change which is included as part of this SIP revision gives the Secretary the authority to extend PSD permits regardless of which agency issued the original PSD permit.

It is the tentative decision of the Administrator to approve the proposed revision to the Maryland State Implementation Plan. The public is invited to submit comments to the address stated above, on whether this revision to the Maryland State Implementation Plan should be approved.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirements.

Pursuant to the provisions of 5 U.S.C. section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

(42 U.S.C. 7401–7642)

Dated: August 29, 1981.

Stephen R. Wassersug,

Regional Administrator.

[FR Doc. 81–35127 Filed 12–7–81; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 52

[A–2–FRL 1978–7]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces receipt from the State of New York of a proposed revision to its State Implementation Plan (SIP). If approved by the Environmental Protection Agency (EPA), this revision would allow the General Electric Company to burn fuel oil with a maximum sulfur content of 2.8 percent, by weight, at its Rotterdam Steam Generating Facility located in Schenectady, New York. The use of this higher sulfur content fuel oil could continue for up to three years from the date that final rulemaking is made effective by EPA. Under State regulation fuel oil sulfur content at this facility is currently limited to a maximum of 2.0 percent, by weight.

A public hearing on this proposal was held by the New York State Department of Environmental Conservation on October 21, 1981. The State hearing record closed on November 2, 1981. Concurrently, EPA is proposing to approve New York's request contingent upon final adoption by the State of its proposal in a substantially unchanged form. This concurrent review, which EPA refers to as "parallel processing," is designed to expedite EPA action on SIP revisions.

DATES: Comments must be received on or before January 7, 1982.

ADDRESSES: All comments should be addressed to: Richard T. Dewling, Ph.D., Acting Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch—Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

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

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch—Room 1005, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On October 15, 1981 New York State informed the Environmental Protection Agency (EPA) of its intention to revise its State Implementation Plan (SIP). The proposed SIP revision, is approved by EPA, would allow the General Electric Company to burn fuel oil with a maximum sulfur content of 2.8 percent, by weight, at its Rotterdam Steam Generating Facility located in Schenectady, New York. The use of this high sulfur content fuel oil could continue for up to three years from the date that final rulemaking is made effective by EPA. Under State regulation fuel oil sulfur content at this facility is currently limited to a maximum of 2.0 percent, by weight. The State's proposed SIP revision, known at a "special limitation," is authorized by § 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

The State's submittal consists of a letter indicating the State's intention to approve its proposed "special limintation," a notice of an October 21, 1981 State public hearing, and a technical report prepared by the State in support of its proposal.

EPA has reviewed the technical material submitted by New York and concurs with the State's preliminary determination that no violation of national ambient air quality standards or any applicable Prevention of Significant Deterioration increment will occur as a result of the use of higher sulfur content fuel oil by General Electric.

EPA's review of the material submitted by the State indicates that this revision to the New York SIP will be approvable if it is not substantially changed from its presently proposed form. In the interest of expediting federal review, EPA is proposing approval of this SIP revision now, before final submittal of the revision to EPA by the State. EPA refers to this new procedure as "parallel processing." If the revision currently proposed by the State is substantially altered as a result of the State public review process, EPA will evaluate the approvability of the altered proposal and publish a revised notice of proposed rulemaking in the **Federal Register.** Alternatively, if it is determined based on public comment that substantial revision is not required, EPA will take final rulemaking action on today's proposal.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on or before January 7, 1982, on whether the proposed SIP revision should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed SIP revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a

significant impact on a substantial number of small entities (46 FR 8709; January 27, 1981). The proposed rule, if promulgated, constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it only proposes to approve a regulation that would be applicable under New York State law.

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

Dick Dewling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 81-35128 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 52 and 81

[A-10-FRL 1988-4]

Approval and Promulgation of State Implementation Plan: Oregon Designation for Areas for Air Quality Planning Purposes; Attainment Status Designations; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this Notice is to invite public comment on EPA's proposal to: (1) approve total suspended particulate (TSP) control strategies for Portland and Eugene-Springfield; (2) approve a revision to the ozone control strategy for Salem; (3) approve a revision to the operating rules for the Portland motor vehicle inspection program; and (4) revise the boundary of the Portland secondary TSP nonattainment area. The area-specific control strategies and operating regulations for the motor vehicle inspection program were submitted by the State of Oregon as revisions to the State Implementation Plan (SIP) pursuant to the requirements of Part D of the Clean Air Act (hereinafter referred to as the Act). The revision to the Portland TSP nonattainment area boundary was submitted by the State of Oregon pursuant to section 107(d)(5) in order better to define the area which actually exceeds the secondary National Ambient Air Quality Standard (NAAQS) for TSP.

DATE: Comments will be accepted until January 7, 1982.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A-79-2), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101-3188

State of Oregon, Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101-3188

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101-3188, Telephone (206) 442-1125, (FTS) 399-1125.

SUPPLEMENTAL INFORMATION:

Table of Contents

I. Introduction

The information in this Notice is divided into four sections. The section entitled "Background" outlines the requirements of the Act regarding nonattainment areas and summarizes the current situation in Oregon. The section entitled "Plan Revisions" describes the three pollutant and area-specific nonattainment plans and motor vehicle inspection program proposed for action herein. The section entitled "Portland TSP Redesignation" provides a description of, and rationale for, the proposed revision to the nonattainment area boundary. The section entitled "Proposed Action" summarizes the actions which EPA is today proposing and calls for comments.

II. Background

The 1977 Amendments to the Act required States to submit, and EPA to promulgate, a list of areas which did not meet any primary or secondary NAAQS (section 107(d) of the Act). On March 3, 1978 (43 FR 8962) EPA promulgated the list for Oregon in 40 CFR, Part 81, Section 338. This list designated the Oregon portion of the Portland-Vancouver Air Quality Maintenance Area (AQMA) and the Eugene-Springfield AQMA as not meeting the secondary and primary NAAQS for TSP, respectively. The list also designated the Oregon portion of the Portland-Vancouver AQMA as not meeting the NAAQS for ozone and carbon monoxide and the City of Salem as not meeting the NAQS for ozone. On January 10, 1980 (45 FR 2045) EPA revised the designation for the Eugene-Springfield AQMA to nonattainment for secondary TSP only. Although not subjects of this rulemaking, Salem and the Eugene Springfield AQMA were also designated nonattainment for CO, and the Medford-Ashland AQMA was also designated nonattainment for TSP, carbon monoxide, and ozone.

The 1977 Amendments to the Act also required States to make revisions to their SIPs to provide for attainment and maintenance of the NAAQS in those areas which did not meet the standards (Part D of the Act). These revisions were to be submitted to EPA by January 1, 1979, and approved by EPA by July 1, 1979 (section 129(c) of the 1977 Amendments and Section 110(a)(2)(I) of the Act). The Act, however, allows the Administrator of EPA to extend the period of submission by 18 months for plans to meet secondary NAAQS (section 110(b) of the Act). On March 2, 1979, the Oregon Department of Environmental Quality (DEQ) requested such extensions for both the Portland and Eugene-Springfield secondary TSP nonattainment areas. EPA granted these extensions on July 30, 1979 (44 FR 44497) pursuant to the provisions of 40 CFR, Part 51, Section 31. These extensions allowed the State until July 1, 1980 to submit SIP revisions for the two TSP nonattainment areas.

The requirements for a Part D (nonattainment area) SIP are contained in section 172 of the Act. These requirements are described in a General Preamble published in the April 4, 1979 **Federal Register** (44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). General requirements for all SIPs are contained in 40 CFR Part 51.

On June 20 and 29, 1979, DEQ submitted carbon monoxide control strategies for Portland, Salem, Eugene-Springfield and Medford-Ashland, ozone control strategies for Portland, Salem and Medford-Ashland, new source review regulations, emission limitations for stationary sources of volatile organic compounds (VOC), and an automobile inspection and maintenance program for

Portland. EPA either approved, or conditionally approved, the provisions in these submittals on June 24, 1980 (45 FR 42265).

III. Plan Revisions

This section discusses the development (including technical analyses and public involvement) of each area pollutant-specific strategy, the controls and programs relied upon to attain and maintain the NAAQS, and EPA's proposed action on each strategy.

A. Portland Total Suspended Particuate

The Portland secondary TSP nonattainment area encompasses approximately 1,800 square kilometers and has an approximate population of 851,000. The DEQ air monitoring surveillance network for TSP currently has 14 sites in the nonattainment area. During the baseline period (1976 through 1978), a number of sites recorded violations of the secondary annual and 24-hour TSP standards. The 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$) was exceeded by up to 70 $\mu g/m^3$ and the annual standard of 60 $\mu g/m^3$ was exceeded by up to 11 $\mu g/m^3$. Although TSP air quality has improved since 1970, the levels have been relatively constant since 1974.

In 1975, DEQ initiated a comprehensive study to identify the sources which were responsible for the Portland area TSP concentrations. That study, the Portland Aerosol Characterization Study (PACS), was completed in 1979 and identified the contribution of sources by the unique "chemical fingerprints" of their emissions (the chemical-mass balance technique). The results of the PACS study were used to calibrate an airshed dispersion model which was then used to project the impacts of growth and alternate control strategies. The PACS study indicated that industrial source impacts were less than had been previously thought and that emissions from population-related (or "area") sources such as road dust, vegetative burning, motor vehicle exhaust, and residential heating (wood and oil) were greater than previously recognized.

The PACS study and calibrated model were also used to determine the area which currently exceeded, or would be projected due to growth in emissions to exceed by 1987, the annual and 24-hour secondary TSP standards. These analyses showed that only 20 square kilometers would exceed the annual secondary TSP standard, 80 square kilometers would exceed the 24-hour secondary TSP standard, and 40 additional square kilometers would exceed both annual and 24-hour standards. Since this was only a small portion of the 1,800 square kilometers currently designated as nonattainment, DEQ submitted, along with the control strategy, a revision to the nonattainment area boundary (see section III.D.).

An advisory committee representing a wide range of interests from the community was established in 1978 to advise DEQ on which potential control strategies were most acceptable to the public. Over 30 public meetings were held during the 2-year strategy development period. A public hearing was held on the final strategy on October 21, 1980, and the plan was adopted by the Environmental Quality Commission (EQC) on December 19, 1980. The plan was submitted to EPA on March 24, 1981, as a revision to the Oregon SIP.

The programs to control TSP concentrations focus largely on area sources. However, since control technology has been neither well-defined or verified, demonstration projects will be undertaken to quantify the effectiveness of potential control strategies. The strategies and demonstration projects which DEQ commits to study and evaluate include:

(1) Control strategies for winter sanding;

(2) Control strategies for construction site trackout;

(3) Efforts to reduce vehicle miles traveled;

(4) A ban on open burning;

(5) Programs to reduce emissions from residential wood burning;

(6) Street sweeping programs; and

(7) Programs to identify and control major unpaved areas and dirt trackout sources.

DEQ will seek to adopt, or ask local jurisdictions to adopt, control programs on an expeditious basis for these source categories with the goal of implementing them by the end of 1984. If all the potential control programs are implemented and succeed in obtaining the expected reductions, attainment of the standards should be accomplished sometime between 1984 and 1986.

The SIP submittal contains acceptable timetables and adequate commitments (including resources) by State and local agencies to study and implement the control programs. However, the SIP submittal does not contain any legally adopted statutes, regulations or ordinances to implement or enforce the control strategies and therefore does not constitute a complete submittal. EPA is therefore proposing to approve the Portland TSP control strategy, including the State and local agency timetables for adopting and implementing enforceable control measures necessary to attain the secondary TSP standards sometime between 1984 and 1986. When the State submits the necessary implementation measures, EPA will accept them.

B. Eugene-Springfield Total Suspended Particulate

The Eugene-Springfield secondary TSP nonattainment area encompasses approximately 300 square kilometers and has an approximate population of 185,000. The Lane Regional Air Pollution Authority (LRAPA) currently runs 10 TSP monitors in the nonattainment area. During the baseline period (1978 and 1979), four sites recorded violations of the annual and 24-hour secondary TSP standards. The 24-hour standard of 150 $\mu g/m^3$ was exceeded by up to 22 $\mu g/m^3$ and the annual standard of 60 $\mu g/m^3$ was exceeded by up to 9 $\mu g/m^3$.

The LRAPA performed a comprehensive study to identify the sources responsible for the Eugene-Springfield area TSP concentrations. A detailed baseline year (1978) emission inventory was developed and projections in emissions growth through 1987 were made. The contribution of sources to the concentrations were identified using chemical-mass balance techniques. An airshed dispersion model was calibrated using the chemical-mass balance results and the calibrated model was then used to better define the current areas violating standards, project the impacts of future growth in emissions, and evaluate the effects of alternate control strategies. The study showed that control of industrial sources alone would not be sufficient to attain standards and that a mix of point and area source strategies would be needed. The study also showed that only a few square kilometers currently exceed, or would be projected due to growth in emissions to exceed by 1987, the secondary TSP standards.

An advisory committee representing a wide range of interests from the community was established in 1978 to advise LRAPA on which potential control strategies were most acceptable to the public. A number of public meetings were held during the 2-year strategy development period. A public hearing was held on the final strategy on November 6, 1980, and the plan was adopted by the LRAPA Board of Directors on that date. The plan was approved by the EQC on January 30, 1981, and was submitted to EPA on March 23, 1981, as a revision to the Oregon SIP.

The programs to control TSP concentrations cover both point and area sources and will be implemented in

three phases. Phase I includes those strategies which can be implemented early in the schedule, will result in the greatest benefit, are easy to regulate or accomplish, and will demonstrate attainment in the urban area where most people will benefit. Phase II provides for further plan development by investigating additional strategies which can reduce TSP concentrations in the remaining areas. Phase III involves the analysis, selection and implementation of the strategies needed to result in final attainment.

Phase I consists of: the reduction of unpaved road dust through paving about 10 miles of selected unpaved roads in Eugene and Springfield; the reduction of particulate emissions from cyclones through control or industrial air conveying systems; and the reduction of wood smoke emissions through weatherization programs to reduce the need to use wood or other energy sources for residential space heating. The road paving will be accomplished through ongoing city street improvement programs. LRAPA will adopt rules requiring baghouse control (or equivalent) for dry material handling cyclones. The weatherization program will be implemented by a number of existing and proposed elements, including low or no interest loans from utilities and lending institutions, free home energy audits, State and Federal tax credits, local ordinances requiring home weatherization or energy audits, and programs to induce weatherization of residential rental units.

Phase II is embodied in three work plans, the objectives of which are to: develop additional strategies to achieve standards in areas which are expected to remain nonattainment after implementation of the Phase I strategies; identify ambient concentrations of fine particulates and develop a fine particulate emissions data base for both point and area sources; and improve the results of the existing dispersion model in order to support decisions on strategies and future growth management.

Phase III will involve the analysis, selection and adoption of strategies to be included in a SIP revision. A set of strategies will be developed by LRAPA based on the results of Phase II and presented to an advisory group. The advisory group recommendations will be provided to the implementing entities (LRAPA, cities of Eugene and Springfield, Lane County) which, in turn, will adopt the necessary regulations, statutes or ordinances. This SIP submittal envisions adoption of all control strategies by mid-1986 with attainment of the secondary TSP standards by the end of 1987.

The SIP submittal contains acceptable timetables and adequate commitments (including resources) by local agencies and municipalities to study and implement the control programs. However, the SIP submittal does not contain the legally adopted statutes, regulations or ordinances necessary to implement or enforce the control strategies and therefore does not constitute a complete submittal. EPA is therefore proposing to approve the Eugene-Springfield TSP control strategy, including the local agency timetables for adopting and implementing enforceable control measures necessary to attain the secondary TSP standards by the end of 1987. When the State submits the necessary implementation measures, EPA will accept them.

C. Salem Ozone

As discussed above in Section II Background, DEQ submitted an ozone control strategy for Salem on June 29, 1979, which was approved by EPA on June 24, 1980. Although EPA determined that the control strategy was adequate to attain the standard, EPA indicated that the strategy, as submitted, did not adequately account for the transport of pollutants from the Portland area. Both EPA and the State believe the Salem ozone violations to be caused almost entirely by emissions from Portland. EPA therefore recommended that the SIP control strategy be revised to reflect the impact of Portland's emissions and to rely primarily on the Portland control strategy for attainment in Salem.

Acting on EPA's recommendation, DEQ proceeded to revise the Salem ozone control strategy. A public hearing was held on the changes on August 4, 1980, and the revised strategy was adopted by EQC on September 19, 1980. The revised strategy was submitted to EPA on October 16, 1980, as a revision to the Oregon SIP.

It is EPA's policy that the control strategy for a rural ozone nonattainment area need only consist of reasonably available control technology (RACT) for sources of VOC, lowest achievable emission rate (LAER) for new or modified major stationary sources of VOC, and an approved control strategy for the upwind urban area (Portland) which is responsible for the ozone violations. Since the June 1979 strategy contained all of these provisions and more, the revisions primarily involve changes to the text and deletions of unnecessary technical analyses and reporting provisions. Specifically, the sections covering emission inventory, air quality modeling, reasonable further progress tracking, and annual reporting were deleted. The strategy still requires RACT on all VOC sources, LAER for new or modified major stationary sources, and continues implementation of nine of the fourteen EPA recommended reasonably available control measures for transportation sources. EPA is therefore proposing to approve the revised Salem ozone control strategy.

D. Operating Regulations for the Motor Vehicle Inspection Program

On August 17, 1981, DEQ submitted amendments to the operating rules for the Portland motor vehicle inspection program (Oregon Administrative Rules, Chapter 340, Division 24, Sections 300 through 350) as a revision to the Oregon SIP. These amendments: (1) revise the emission standards (cutpoints) for vehicles tested to allow for reasonable deterioration to older vehicles; (2) establish new standards (cutpoints) for 1981 and newer model year vehicles; (3) revise the fee schedule; and (4) revise the testing procedures by incorporating minor changes in the operation of equipment.

A public hearing was held in Portland and Beaverton on June 15 and 17, 1981 and July 17, 1981. The rules were adopted by the Environmental Quality Commission on July 17, 1981.

EPA is proposing to approve the submitted revisions since the changes to the standards are routine updates and are consistent with established program requirements. Other modifications are administrative changes and will not impact the program's effectiveness.

IV. Portland TSP Redesignation

As discussed in Section II Background, the Oregon portion of the Portland-Vancouver AQMA was designated as nonattainment for the secondary NAAQS for TSP on March 3, 1978. This area encompasses approximately 1,800 square kilometers and includes most of Washington, Clackamas, and Multnomah Counties. As discussed in Section III.A. Portland Total Suspended Particulate, the technical analyses done to develop the TSP control strategy showed that only a small portion of the AQMA was actually exceeding the secondary TSP standards. DEQ, therefore, requested as part of the March 24, 1981 Portland TSP submittal, that EPA revise the boundary of the Portland secondary TSP nonattainment area.

The new nonattainment area encompasses 140 square kilometers and is located primarily along the Willamette River. It consists of

contiguous and noncontiguous square grids, 2 kilometers on a side, reaching from near the confluence of the Willamette and Columbia Rivers on the north, through the Portland urban area, and south to Oregon City. There is also a grid to the west of Portland in Beaverton, and one to the east of Portland in Russellville. A map of the new area and complete legal description are contained in the docket (10A–79–2) and in the Portland TSP control strategy and may be examined at the locations listed in the ADDRESSES section.

The new nonattainment area includes all monitoring sites which have recorded violations of the secondary TSP standards. It also includes areas which are estimated, through dispersion modeling, to currently exceed the standards and areas which are projected to exceed by 1987 the secondary TSP standards. EPA is therefore proposing to revise the boundaries of the current nonattainment area to be consistent with those submitted by DEQ on March 24, 1981. The remainder of the current nonattainment area is proposed to be redesignated as in attainment with the NAAQS for TSP.

V. Proposed Action

In summary, EPA today proposes to: (1) approve the TSP control strategy for Portland which was submitted on March 24, 1981; (2) approve the TSP control strategy for Eugene-Springfield which was submitted on March 23, 1981; (3) approve the revision to the ozone control strategy for Salem which was submitted on October 16, 1980; (4) approve the revisions to the operating rules for the Portland motor vehicle inspection program which were submitted on August 17, 1981; and (5) revise the boundary of the Portland secondary TSP nonattainment area to be consistent with DEQ's request of March 24, 1981.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Act, and attainment status redesignations under Section 107(d) of the Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). Portions of this action constitute either SIP approvals under section 172, or attainment status redesignations under section 107(d) within the terms of the January 27, 1981 certification.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirments of regulatory impacts analysis. This regulation is not judged to be major since it merely approves actions taken by the State and does not establish any new requirements.

Interested parties are invited to comment on all aspects of these proposed revisions to the Oregon SIP and nonattainment area designations. Comments should be submitted, preferably in triplicate, to the address listed in the fornt of this Notice. Public comments postmarked by January 7, 1982, will be considered in any final action EPA takes on this proposal.

(Sec. 107(d), 110, 171(2), 172 and 301(a) of the Clean Air Act (42 U.S.C. 7407(d), 7410(a), 7501(2), 7502 and 7601(a))

Dated: September 29, 1981.

John R. Spencer,

Regional Administrator.

[FR Doc. 81-35134 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[OPP-300055; PH-FRL-1999-6]

Alpha-[P-(1,1,3,3-Tetramethylbutyl)Phenyl]Omega-Hydroxypoly(Oxyethylene); Proposed Exemption From Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that alpha-[*p*-(1,1,3,3-Tetramethylbutyl]phenyl]-*omega*-hydroxypoly(oxyethylene) presently listed in 40 CFR 180.1001 (c) and (e) be broadened to include a lower range of 1–14 moles ethylene oxide. The present lower range of ethylene oxide is 4–14 moles.

DATE: Written comments must be received on or before January 7, 1982.

ADDRESS: Written comments to: Peter Gray, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703–557–7110).

SUPPLEMENTARY INFORMATION: At the request of Rohm and Haas Company, the Administrator proposes to amend 40 CFR 180.1001(c) and 180.1001(e) by revising the entry for alpha-[*p*-(1,1,3,3-Tetramethylbutyl]phenyl]-*omega*-hydroxypoly(oxyethylene).

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient	Name and address of requestor	Basis of approval
alpha-[*p*-(1,1,3,3-tetramethylbutyl)phenyl]-omega-hydroxypoly(oxyethylene)	Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19015.	This minor change is not toxicologically significant.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before January 7, 1982, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "[OPP-300055]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767C), Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, EPA determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposal from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Felxibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e)))

Dated: November 25, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001 (c) table and (e) table be amended and placed in alphabetical order to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
alpha-[p-(1,1,3,3-tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.		Surfactants, related adjuvants of surfactants.
* * * * * * *		

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
alpha-[p-(1,1,3,3-tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 1-4 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1-14 or 30-70.		Surfactants, related adjuvants of surfactants.
* * * * * * *		

[FR Doc. 81-35056 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-32

DEPARTMENT OF THE INTERIOR

Office of The Secretary

43 CFR Subtitle A

Prohibition of Flood Insurance for Undeveloped Coastal Barriers

Correction

In FR Doc. 81-34355, appearing at pages 58346-58347 in the issue for Tuesday, December 1, 1981, make the following changes:

1. On page 58346, middle column, in the 21st line of the "SUMMARY" statement, change "before October 1, 1983", to "after October 1, 1983".

2. On page 58347, 1st column, the 11th and 12th lines should read: "provided under this title on or after October 1, 1983, for any new".

BILLING CODE 1505-01-M

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43 CFR Subtitle A

Prohibition of Flood Insurance for Undeveloped Coastal Barriers

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule; amendment.

SUMMARY: This document amends FR Doc. 81-34355, a Notice of Intent on the prohibition of flood insurance for undeveloped coastal barriers that appeared beginning at page 58346 in the **Federal Register** of Tuesday, December 1, 1981, (46 FR 58346). The references to the initial release of the draft definitional framework for public review and comment are amended by changing the date "December 8, 1981" to "January 15, 1982" where it appears under the sections entitled: Summary, Dates, and Supplementary Information. This action is necessary to permit additional Departmental review and intergovernmental coordination.

ADDRESSES: Mr. Ric Davidge, Chairman, Coastal Barriers Task Force, and Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Ric Davidge (202) 343-5347.

SUPPLEMENTARY INFORMATION: The Notice of Intent printed in the **Federal Register** on December 1, 1981, announced a schedule under which the Secretary of the Interior would meet his responsibilities under the Omnibus Budget Reconciliation Act of 1981, Part IV, which amended the National Flood Insurance Act of 1968. This amendment discontinues the issuance of federal flood insurance coverage for new construction or substantial improvements or structures located on undeveloped coastal barriers as designated by the Secretary of the Interior after October 1, 1983.

The Notice of Intent stated that a draft definitional framework being developed by the Department of the Interior would be available for initial public review and comment on or about December 8, 1981. This draft document will be a definitional statement derived from the language of the Act to assure scientifically consistent and principled delineation of undeveloped coastal barriers in specific situations.

It now appears unlikely that this date, December 8, 1981, can be met due to the need for further Departmental intergovernmental coordination. It is now expected that formal public release of the draft definitions document will coincide with the release of the draft maps on or about January 15, 1982. The Notice of Intent as published on December 1, 1981, should be revised accordingly.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-35006 Filed 12-7-81; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 81-768]

Amendment To Allow Selection From Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an error made in quoting the deadline dates for filing comments and reply comments in this proceeding regarding the use of random selection or lotteries as opposed to comparative hearings.

DATES: Comments are now due on or before December 30, 1981 and replies on or before January 14, 1982.

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

FOR FURTHER INFORMATION CONTACT: Randy Thomas, Office of the General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION: In the matter of amendment of part 1 of the Commission's rules to allow the selection from among mutually exclusive competing applications using random selection or lotteries instead of comparative hearings; Correction.

Released: December 2, 1981.

On November 5, 1981, the Commission adopted a Notice of Proposed Rulemaking in the above-captioned proceeding (FCC 81-524) published on November 30, 1981 46 FR 58110. Inadvertently, the comment/reply dates were stated as being December 14, 1981 and December 29, 1981 respectively. This document corrects those dates to read respectively: December 30, 1981 and January 14, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-35125 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 22, 81, and 83

[Gen Docket No. 81-656]

Redefinition of Classes of Coast Stations and Clarification of Rules; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: This action extends the time for filing comments and reply comments in this proceeding regarding redefinition of classes of coast stations and clarification of rules, until December 9, 1981, and December 24, 1981, respectively. The extension of time was requested by Mobile Marine Radio, Inc., the licensee of Public Coast Station WLO located at Mobile, Alabama. The extension of time is intended to ensure that the Commission has the benefit of a full evaluation by interested industry entities.

DATES: Comments must be received on or before December 9, 1981 and reply comments must be received on or before December 24, 1981.

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

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 22, 81 and 83 to redefine classes of coast stations and clarification of rules which appear to restrict the free use of communications by users. See also 46 FR 49624, October 7, 1981.

Adopted: November 13, 1981.
Released: November 19, 1981.

1. Mobile Marine Radio, Inc. (hereinafter MMR) the licensee of Public Coast Station WLO located at Mobile, Alabama, has requested that the time for filing comments in the above-captioned proceeding be extended for a period of thirty days.

2. MMR notes that, among other things, the rules proposed in this proceeding would result in the reclassification of the 4 MHz radio-telephone service it presently renders. MMR states that since it concurs in AT&T's Tariff 263 a rate increase will result unless it files its own tariff covering this service. Because of the broad impact of filing its own tariff, MMR feels that it must review its interconnection agreements with South Central Bell Telephone Company as well as other tariff issues.

3. Additionally, MMR states that it is currently engaged in a major plant relocation due to the need to vacate its facilities at the Alabama State Docks, and that legal counsel is presently involved in meeting other procedural schedules concerning matters before the Commission and the Court of Appeals. MMR argues that an extension of thirty days is necessary so that it can fully evaluate the issues raised in the proposed rules.

4. We find that good cause has been shown and that the public interest will be served by extending the comment period as requested by MMR.

5. Accordingly, under the authority contained in § 0.331 of the Commission's rules, 47 CFR 0.331, the request for extension of the time for filing comments in GEN Docket No. 81-656 submitted by Mobile Marine Radio, Inc. IS GRANTED. Comments in this proceeding may be filed on or before December 9, 1981, and reply comments may be filed on or before December 24, 1981.

Federal Communications Commission.
James C. McKinney,
Chief, Private Radio Bureau.

[FR Doc. 81-35075 Filed 12-7-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-616; RM-3836]

FM Broadcast Stations in West Liberty and Flemingsburg, Kentucky; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving a proposed FM channel reassignment from Flemingsburg to West Liberty, Kentucky. Counsel for petitioner states that the additional time is needed to formulate a proper response.

DATE: Reply comments must be filed on or before December 8, 1981.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: November 27, 1981.
Released: December 2, 1981.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (West Liberty and Flemingsburg, Kentucky); Order extending time for filing reply comments.

1. On August 25, 1981, the Commission adopted a notice of proposed rule making, 46 FR 45170, published September 10, 1981, in the above-referenced proceeding. Comments were filed, and reply comments were due November 23, 1981.

2. We now have before us for consideration a motion for extension of time for filing reply comments to and including December 8, 1981, filed by counsel for Langley Franklin ("petitioner"), noting that the request is late pursuant to the requirements of § 1.46(b) of the rules. Counsel states that due to his current involvement in several on-going agency proceedings, as well as two appellate cases, for which the briefing schedules are imminent, and the disruption created by the recent relocation of his firm's offices, that additional time is needed to formulate a proper response to the comments filed herein by Fleming County Broadcasting, Inc.

3. We are of the view that, under the circumstances mentioned, additional time is warranted to afford petitioner a moderate period in which to formulate his reply comments. Therefore, we will waive the requirements of § 1.46(b), since the Commission believes it would be in the public interest to have this material available to it in arriving at a decision herein. Since it appears that no other party to this proceeding would be prejudiced, we will grant the instant request.

4. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 81-616 (RM-3836), is extended to and including December 8, 1981.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.
Martin Blumenthal,
Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-35161 Filed 12-7-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-784; RM-3956]

FM Broadcast Station Russellville, Alabama; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 249A to Russellville, Alabama, in response to a petition filed by Michael R. Freeland. The assignment could provide Russellville with a first local FM service.

DATES: Comments must be filed on or before January 4, 1982, and reply comments must be filed on or before January 19, 1982.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: November 6, 1981.

By the Acting Chief, Policy and Rules Division.

1. A petition for rule making [1] was filed by Michael R. Freeland ("petitioner") requesting the assignment of FM Channel 249A to Russellville, Alabama, as that community's first FM allocation. Petitioner states that he will apply for the channel, if assigned. No oppositions to the proposal were received. The channel can be assigned to Russellville with a site restriction, as noted *infra*.

2. Russellville (population 7,814),[2] the seat of Franklin County (population 23,933), is located approximately 136 kilometers (85 miles) northwest of Birmingham, Alabama. It is presently

[1] *Public Notice* of the petition was given on August 7, 1981, Report No. 1303.
[2] Population figures are extracted from the 1970 U.S. Census.

served by daytime-only AM Stations WKAX and WWWR.

3. Petitioner reports that Franklin County had retail sales in 1979 in excess of $75 million. He states that the mainstay or Russellville's economic base is attributable to such industries as an aluminum processing plant, and manufacturers of furniture and garments. Also, according to petitioner, Russellville has its own government unit, a library, and police department. Further, he asserts that the community is comprised of several historical sites, and is equipped with numerous outdoor recreational facilities. Petitioner claims that the proposed station would provide the community with its first local nighttime aural broadcast service which could fill an important community need for the coverage of general news items, special events,and public affairs presentations.

4. Petitioner acknowledges that in order to comply with the requirements of § 73.207 of the Commission's rules, the transmitter site must be located at least 5.6 kilometers (3.5 miles) east of Russellville to avoid short-spacing to Station WOOR (Channel 248) in Oxford, Mississippi.

5. In view of the fact that the proposed channel assignment would provide a first FM and local nighttime aural broadcast service to Russellville, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, as follows:

City	Channel No.	
	Present	Proposed
Russellville, Alabama		249A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before January 4, 1982, and reply comments on or before January 19, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.821(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-35038 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 74

[BC Docket No. 81-794; RM-3893; FCC 81-537]

Shared Use of Broadcast Auxiliary Facilities With Other Broadcast and Non-Broadcast Entities and New Licensing Policies for Television Auxiliary Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes several amendments to §§74.601, 74.602, 74.604 and 74.631 of the Commission's Rules

relating to television auxiliary broadcast stations. The proposed rules would permit a licensee to share its facilities with other users and expand the types of material which can be transmitted over the facilities. The proposed rules would also eliminate restrictions on the number of auxiliary channels which may be authorized for use by any one licensee and eliminate the provision of exclusive channel assignments. Under the proposed rules, frequency coordination would be the responsibility of local coordinating committees or individual applicants for new assignments. The proposed rules also establish priorities for television auxiliary broadcast stations for purposes of protection from interference and withdrawal of channels.

DATES: Comments must be filed on or before January 25, 1982 and reply comments on or before February 24, 1982.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: November 12, 1981.

Released: November 25, 1981.

In the matter of amendment of Part 74, Subpart F of the Commission's Rules to permit shared use of broadcast auxiliary facilities with other broadcast and non-broadcast entities and to establish new licensing policies for television auxiliary broadcast stations.

1. The Public Broadcasting Service ("PBS") has submitted a petition for rule making seeking to amend the television auxiliary broadcast station rules to permit the use of excess capacity on intercity relays and studio transmmitter links for purposes other than those permitted by Part 74. Additionally, during the past year, the Commission has received requests from the Christian Broadcasting Network and Westinghouse Broadcasting Company for waiver or interpretation of the television auxiliary broadcast rules to permit various uses of the facilities which currently are not allowed under trhe rules. These petitions demonstrate an increased demand for television auxiliary broadcast services.[1] The Commission therefore proposes to amend several of its rules relating to the overall use of television auxiliary broadcast stations.

2. In general, television auxiliary broadcast stations are licensed to television broadcast licensees for the purpose of transmitting television signals from point-to-point. For example, a studio transmitter link (STL) transmits television program material and related communications from the studio to the transmitter of a television broadcast station. An intercity relay station is used for point-to-point transmission of television program material and related communications for use by television stations. A television pickup station transmits program material and related communications from the scene of events back to the television broadcast station. With limited exceptions, television auxiliary broadcast stations may be used only for these purposes and only by the entities to which the facilities are licensed. Television auxiliary broadcast channels may also be multiplexed in order to transmit audio programming or television-related signals. Again, such signals may generally be used only by the licensees of the auxiliary stations. Auxiliary stations are licensed by the Commission according to a fairly rigid set of criteria regarding the exclusive use of certain frequencies and the number of channels a particular licensee may utilize. In this notice, we propose to modify our current policies concerning television auxiliary stations by substantially deregulating the service. Specifically, the Commission requests comment on the proposals of PBS and Westinghouse, an amendment to § 73.631(d) of the rules to permit expanded use of multiplexed audio signals, and a proposal to modify our television auxiliary broadcast station licensing policy. These three proposals will be discussed separately in this notice.

The PBS and Westinghouse Proposals

3. PBS currently uses a nationwide satellite distribution system to transmit programming material and other information to its affiliated public broadcasting stations. Many of the public broadcast stations are co-located with the satellite receive facilities and therefore take a direct feed from the earth station. However, many other stations are not co-located with the satellite terminals and must take their feeds from television auxiliary stations linking the satellite facilities and their studios. Under the present Commission rules, television auxiliary stations are primarily intended for the transmission of program material to be broadcast by television stations owned by or under common control of the licensee of the auxiliary station. When the material transmitted is so used by the licensee, the programming may also be broadcat by any other television station. PBS proposes that we permit the use of the auxiliary stations to transmit material to any other entity even when that feed is not being used by the primary licensee of the facility. By amending the rules, PBS states that it could utilize excess capacity to transmit material throughout its existing system of satellite and television auxiliary broadcast facilities. The system would be used for the delivery of video teleconferencing and video tape recording and duplication services to commercial television stations, cable systems, educational institutions, businesses, and users of audio-visual material. A similar use of satellite and television auxiliary facilities has been proposed by the Westinghouse Broadcasting Company ("Group W"). Group W has requested a waiver of § 74.631 of the Commission's rules to permit the transmission of program matter to or from earth station facilities without regard to whether the program material is intended for broadcast by any television station owned or under its common control. Group W seeks this capability so that it may distribute syndicated television programming produced by Group W to both Group W and non-Group W stations throughout the country. Also, Group W plans to use its system to serve the program distribution needs of other non-network program producers and distributors.[2]

4. According to the rule proposed by PBS, the licensees of intercity relay stations and studio transmitter links (STLs) would be permitted to share their facilities on a nonprofit, cost-sharing basis for the transmission of material to other users.[3] PBS lists several public

[1] In addition to the growing use of television auxiliary broadcast stations by broadcasters, several non-broadcast entities have recently sought FCC approval of their use of such stations. Such requests have been filed by the Cable News Network and the Entertainment and Sports Program Network. In an effort to meet the increased demand for auxiliary services, the Commission has recently proposed to allow broadcasters to use the frequencies presently allocated for common carrier use. *Notice of Proposed Rule Making*, Gen. Docket No. 81-272, 46 FR 28507, published May 13, 1981. In a separate action, the Commission has proposed use of the 38.6-40 GHz frquency band for television pickup use. *Notice of Proposed Rule Making*, Gen. Docket No. 81-415, 46 FR 37916, published July 23, 1981. In yet another action, the Commission has proposed to allow short-term operation of auxiliary broadcast facilities without prior Commission approval. *Notice of Proposed Rule Making*, BC Docket No. 81-497, 46 FR 41820, published August 18, 1981.

[2] Both PBS and Group W have been granted special temporary authority to utilize their distribution systems as requested.

[3] Such shared use is currently permitted for the transmission of program material to non-broadcast closed circuit educational television systems operated by educational institutions, provided that

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interest benefits in making such a rule change. Allowing shared use of the auxiliary facilities, according to PBS, will promote a more efficient use of the spectrum by eliminating the need to construct parallel facilities. It will also encourage the fullest utilization of domestic satellite facilities. PBS states that such an arrangement will also save money because the purchase of service from common carriers will become unnecessary. Finally, PBS avers that by permitting alternative uses only when the facilities are not being used to transmit material to the licensee's associated broadcast station, the auxiliary broadcast service will retain its primary function as a delivery service for television broadcast stations.

5. Comments in response to the PBS petition were filed by American Broadcasting Companies, Inc. ("ABC") and by Westinghouse Broadcasting Company, Inc. ("Group W"). ABC generally supports the petition as clearly consistent with ongoing Commission efforts to eliminate unwarranted regulatory restrictions and encourage the fuller use of the radio spectru. However, ABC urges that, because the use of spectrum is nearing saturation in many of the larger markets, any new rule should ensure that the basic purpose and characteristics of the broadcast auxiliary services remain intact. ABC states its concern that the flexible policies suggested by PBS wold result in demand for new broadcast auxiliary facilities primarily to accommodate non-broadcast communications needs rather than to facilitate use of idle capacity in existing facilities. Group W also supports the PBS petition but would go a step further and allow licensees to share their auxiliary facilities on a profit-making basis. No reply comments have been received.

6. We believe that the rule modifications proposed by PBS, or some reasonably similar alternative, would serve the public interest and should be presented for public analysis.[4] We therefore seek comment on the time sharing concept as a whole and on the following specific aspects of the proposal.

7. The rule proposed by PBS would permit the transmission of any type of material; material transmitted would not be restricted to broadcast or broadcast related signals. In fact, PBS states that it would use the service for teleconferencing, which is a service traditionally provided by common carriers. The rule proposed by PBS also provides that the material transmitted over the auxiliary facilities may be used by any other entity, broadcast or non-broadcast. As stated previously, the Commission's present rules limit those entities which may utilize material transmitted over a licensee's auxiliary system. Furthermore, other than stating that alternative uses are permitted only when the facilities are not being used to transmit material to the licensee's associated broadcast station, the rule proposed by PBS contains no limitations on the amount of time that a facility could be used for alternative purposes. Under current time-sharing arrangements, alternative uses are allowed for no more than 50 percent of the time. PBS argues that similar time limitations are not necessary and would lead to inefficient use of existing facilities. While we tend to agree that additional uses of a licensee's excess capacity provide a more efficient use of the spectrum, we are still concerned that the unlimited use of auxiliary facilities for non-broadcast purposes may ultimately affect the nature of the auxiliary broadcast service. Tentatively, we are not opposed to allowing the unlimited use of a licensee's excess capacity. Nonetheless, we invite comment on what safeguards, if any, are needed to preserve the auxiliary broadcast service for its intended use.

8. Another aspect of the proposed rule on which we invite comment concerns reporting requirements. Under the current rules, television auxiliary broadcast station licensees transmitting material to non-broadcast closed circuit television systems must submit reports with their renewal applications showing the breakdown of primary and alternate uses during each year of the license term. This information is used to determine whether licensees are complying with the 50 percent limitations currently contained in the rules. If the time percentage limitations are dropped from the rules as PBS suggests, the solicitation of such information may be pointless. As stated above, however, we are concerned that unlimited use of the broadcast auxiliary facilities for non-broadcast use may dilute the prime function of the service. Therefore, we request comment on the necessity of requiring statements from licensees concerning the use of their facilities.

9. A somewhat related issue concerns the extent to which the Commission should oversee the facility-sharing agreements between licensees and other users. Under § 74.631(h) of the present rules, broadcast auxiliary facilities may be authorized to provide material to cable television systems and CARS stations on a nonprofit, cost-sharing basis. The rule further provides that a written contract between the parties containing certain information must be attached to the licensee's request for authorization to provide service. The licensee is also required to keep certain records showing the cost of services and its nonprofit cost-sharing nature. We realize that good business practice dictates that parties entering into time-sharing arrangements will probably do so through some form of contractual agreement, but we question whether the contract requirements and record keeping provisions of our present rules are necessary to assure compliance with our regulations.[5] Therefore, interested parties should comment on our contract and record keeping requirements and explain how the Commission could continue to oversee the proper use of broadcast auxiliary facilities if such requirements are eliminated.[6]

10. PBS states that it seeks no more than the authority to share its facilities with other users on a nonprofit, cost-sharing basis. Group W, on the other hand, argues that it should be permitted to sell its excess capacity together with its other distribution services for a profit. Group W's petition raises substantial legal and policy questions concerning the provision of transmission capacity on a "for profit" basis, as opposed to cost-sharing arrangements. Licensees operating in this manner may take on characteristics of communications common carriers in their offering of transmission capacity to the public. Broadcast licensees of facilities authorized under Part 74, however, traditionally have not been subject to common carrier regulation under Title II of the Act.[7] If this Commission were to adopt unrestricted sale of excess capacity as Group W urges, it may be difficult to distinguish licensees operating in this manner from communications common carriers. The regulatory implication of unrestricted

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such use is less than 50 percent of the total use of the auxiliary broadcast facility during any one year. Section 74.631(f).

[4] The text of the proposed rule may be found in Appendix A. It is also our intention to amend the definitions in § 74.601(b), television STV, and (c) television intercity relay, by reference to § 74.631, to reflect the permissible uses of these services.

[5] In our recent decision adopting the short form renewal, we stated that we will assume continued compliance with our rules in the absence of information to the contrary and admitted that many of our rules are not subject to reporting requirements. *Report and Order* in BC Docket No. 80-253, 46 FR 26236, published May 11, 1981.

[6] Should we find that the reporting requirements are not necessary, we will delete such requirements from § 74.631(h).

[7] A common carrier may also be authorized to provide service under Part 74. *See* 47 CFR 21.801(b).

"for profit" sale becomes even more significant in light of the fact that we have proposed deleting the 50 percent requirement and have tentatively concluded in paragraph 7, *supra*, that we are not opposed to allowing the unlimited use of a licensee's excess capacity. Moreover, it is clear that the applicable facilities would be used to offer services comparable to those currently provided by communications common carriers. Prior to formulating any conclusions, one way or the other, on Group W's request to sell its excess capacity for a profit, a record should be developed that adequately addresses all the relevant legal and policy ramifications and associated common carrier implications of Group W's proposal.[9] We seek comment on Group W's proposal and whether any reference should be made to "non-profit" or "cost-sharing" in the new rule.

Expanded Use of Multiplexed Audio Signals

11. Under the Commission's present policy, the transmitter of an STL, intercity relay, or translator relay station may be multiplexed to provide additional communication channels for the transmission of aural program material and operational communications. Section 74.631(d) of the Commission's Rules provides that aural program material multiplexed and transmitted over the system may include the sound accompanying the visual program material transmitted over the system or aural program material intended for broadcast by other AM, FM, or TV broadcast stations owned by or under the common control of the licensee of the television STL, intercity relay, or translator relay station. Thus, broadcast or non-broadcast entities may not currently utilize the audio material transmitted over another licensee's auxiliary facilities.

12. The Christian Broadcasting Network ("CBN") recently petitioned the Commission for a waiver of § 74.631(d) to allow CBN to transmit audio program material on subcarriers of its intercity relay stations for eventual broadcast on AM and FM stations which are not owned by or under the common control of CBN. CBN stated that this was necessary because of its plans to institute a nationwide radio network program service delivered via its satellite uplink facilities. CBN asserted that the use of its existing television auxiliary stations was the most feasible means for transmitting the audio signals to the satellite uplink station.[9] In its waiver petition, CBN pointed out that the restrictions on the use of multiplexed audio signals were much more severe than those imposed on the use of the primary television program signal. Under § 74.631(e), television programming used by the licensee's associated stations can also be used by other broadcast stations. However, this is not true of multiplexed audio signals, which, according to the present rules, can only be used by broadcast stations owned by or under common control of the licensee of the auxiliary station.

13. We have determined that the discrepancy in the permitted uses between audio and video programming transmitted via television auxiliary broadcast stations makes little practical sense and should be eliminated. Without regard to the proposals to expand the permitted uses of television signals, the present rules allow other television stations to use signals which are broadcast by the licensee's associated stations. At the very least, we believe that a similar situation should exist for the use of multiplexed audio signals. Furthermore, we are interested in receiving comment on permitting any use of multiplexed audio signals carried via television auxiliary broadcast stations, much as we are proposing in the previous section of this notice with respect to visual services.

14. Many of the questions we asked above in relation to the expanded use of television signals must also be asked in this context. For example, should the multiplexed audio signals be only broadcast-related material or should any material be deliverable? Should the licensee be permitted to deliver the audio signals to any other party, or should the material be reserved solely for broadcast users? How can the Commission keep track of the use of broadcast auxiliary facilities if our record keeping and reporting requirements are deleted from our rules? Should licensees be permitted to charge for these services on a revenue producing basis? At this point, we are proposing to allow the greatest possible latitude in the use of multiplexed audio signals transmitted over television auxiliary broadcast stations.[10] [11]

Licensing Policy

15. According to the Commission's current licensing procedure, each television broadcast licensee in an area may request at least one auxiliary broadcast channel in Band A or B for use on an exclusive basis and one channel in Band D for use on an exclusive basis.[12] The rules provide that no more than three channels in Band A and Band B will be assigned to any one licensee unless a showing is made that additional channels will not be needed to provide an exclusive channel to some other licensee in the same area in the foreseeable future.[13] Section 74.602(d). In fact, during the past several years, no exclusive channels have been granted in the television broadcast auxiliary service. As a practical matter the Commission has granted the exclusive use of a particular frequency on a specific *pathway*, which allows the expanded use of the same frequency in one geographical area so long as the pathways do not cross. This practice of no longer assigning exclusive frequencies has been necessitated by the increasing demand for additional channels in the bands allocated to the television auxiliary broadcast service.

16. This increasing demand for the use of television auxiliary broadcast channels has also forced the Commission to discontinue frequency coordination for every requested authorization. Applicants are presently encouraged to select frequencies which will be least likely to cause interference to other licensees in the same area. Licensees utilizing the same frequencies in the same area are expected to take such steps as may be necessary to avoid mutual interference. The Commission may take any action necessary to assure an equitable distribution of available facilities if agreement cannot be reached between the licensees using the same frequencies.

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[9] We also note that the recently passed amendments to the Communications Act specifically permit public broadcast stations to "engage in the offering of services, facilities, or products in exchange for remuneration." Omnibus Budget Reconciliation Act of 1981, section 1231, 47 U.S.C. 399B(b)(1). Parties may wish to comment on what relevance, if any, these amendments may have with respect to allowing public stations to share their facilities on a profit-making basis.

[9] CBN was granted special temporary authority to make such transmissions.

[10] The text of the proposed amendment can be found in Appendix A.

[11] Because of the accelerated growth of radio services in the past ten years, the channels for assignment in the 947–952 MHz band, presently allocated to aural broadcast STL and intercity relay stations, are fully utilized in many metropolitan areas. Before the Commission are two petitions (RM–2697 and RM–3246) seeking specific allocations to relieve this congestion. Interested parties may wish to comment on the extent to which the instant proposal may affect this frequency congestion in the aural broadcast auxiliary service.

[12] Band A channels are located in the 1990 to 2500 MHz range; Band B channels are located in the 6875 to 7125 MHz range; Band D channels are located in the 12.700 to 13.250 MHz range. Channels assigned on an exclusive basis may not be used by any other licensee in a market. Non-exclusive channels may be authorized for use by more than one licensee in a market.

[13] There are currently no restrictions on the number of channels which may be assigned in Band D.

17. In recognition of the factors just described, the Commission believes it is now appropriate to amend the television auxiliary broadcast station rules to reflect the actual practice of the past several years. Accordingly, we are proposing the following changes in our television broadcast auxiliary licensing rules: delete any reference in the rules to exclusive frequency assignments; end the limitations concerning the number of channels which may be authorized for any one licensee; rely exclusively on an applicant's assurance that new authorizations will not interfere with existing stations; encourage the formation of local coordinating committees to study the most efficient use of channels in their areas; and assign "use priorities" for enforcement purposes in the event frequencies for additional uses become unavailable in a community or interference complaints are brought before the Commission. Additionally, we would like to receive comment on proposals to rescind all existing exclusive assignments. These proposals will be discussed in turn, below.

18. By formally ending our policy of granting exclusive authorizations, licensees will be able to utilize more efficiently the limited spectrum currently available for auxiliary uses. In order to further promote the more efficient use of the limited spectrum available to television broadcast auxiliary users, we propose to grant only single frequency authorizations for fixed link services. Such an authorization will aid in the protection against inadvertent interference and will also facilitate local frequency coordination.

19. In proposing that the Commission staff no longer conduct frequency coordination studies for new applications, we realize that we would be adopting essentially an "authorization on demand" approach to auxiliary station licensing. A necessary component of such an approach involves greater reliance on frequency coordination at the local level by the licensees requesting new assignments. Under current procedures, the Commission staff grants applications on an inference of non-interference to existing users. We wish to continue that practice, but we seek comment on whether we should require some type of showing from an applicant that our inferences are well founded. For example, the Private Radio Service rules require a showing that an applicant has either conducted a comprehensive field study or has received frequency coordination information for a new authorization from a local coordinating committee. *See* § 90.175 of the Commission's Rules.

20. We believe such an approach may likewise be suitable for television auxiliary licensing. Using this approach, a broadcast licensee seeking a new auxiliary authorization would have two alternate routes to accomplish the necessary frequency coordination. If a local frequency coordinating committee exists,[14] potential applicants for a new auxiliary authorization could contact the committee to determine which frequencies were available for the applicant's proposed use. This approach to frequency coordination has the benefit of being very efficient in terms of time and expense because the local committee would be expected to have up-to-date information on the frequencies currently in use in the community. After receiving the requested information from the committee, the applicant could then submit its license application to the Commission. In those instances where a potential applicant prefers not to work through a local committee, or where no such committee exists, we would expect the applicant to conduct its own frequency coordination study to determine which frequency best meets its needs without causing interference to existing users.[15] Whether the frequency coordination is done through a committee or individually, assuming the other aspects of the application were in order, the authorization would be granted on the assumption that the frequency requested would not interfere with existing services. We seek comment on whether this approach to auxiliary station licensing is feasible.

21. We anticipate that these local frequency coordinating requirements—either through committees or individual studies—will eliminate the necessity for the Commission routinely to become involved in problems concerning interference among authorized stations. However, as a practical matter, we must also assume that some interference complaints will be brought to the Commission. In order to deal with these complaints fairly and effectively, we need to set up some type of criteria upon which we will act. Therefore, we are considering the establishment of priorities for the use of television broadcast auxiliary frequencies. To a certain extent, such a priority system is now in effect. Greater levels of protection would be afforded to higher priority uses. Similarly, if the channel use in one area is completely saturated,[16] a lower priority channel may have to be withdrawn from one licensee to accommodate new service for a higher priority use. We now seek to delineate more specifically a channel priority system. Certainly, many permutations are possible. Under one possible system, STLs and CARS links would receive the highest priority. These links provide a broadcast station's and a cable system's "life blood" and could therefore be accorded the highest possible protection. Thus, assuming stations are operating as authorized, complaints involving interference between STL or CARS links and lesser priority signals would be resolved in favor of the higher priority channels. This highest priority accorded to STL and CARS links would apply only to a licensee's primary facilities and would not apply to duplicate or backup facilities. We welcome comment on the relative positions of television pickup stations and intercity relay stations as the second and third priorities. We recognize that local characteristics may to some extent bear upon this issue, and we also wish to pursue the possibility of leaving the second, third or other priorities open to local determination, perhaps by an area's frequency coordination committee. Fixed link stations operating outside a licensee's local service area and translator relay stations would assume the fourth priority.[17] Normally unused alternate or backup facilities and television pickup stations operating outside a licensee's local service area would receive the lowest use priority. We urge affected parties to comment on the practicality and appropriateness of this priority system both in terms of the specific priority assignments and the entire priority concept.

[14] Such committees presently exist in several areas. For example, the Southern California Frequency Coordinating Committee, which is composed of chief engineers from a majority of broadcast stations in the Los Angeles-San Diego area, holds monthly meetings to discuss new uses and anticipated changes in use of auxiliary frequencies.

[15] Where an applicant chooses to conduct its own study, a problem could arise regarding the amount and quality of information which would be available. Commenters may wish to address this potential problem by discussing the feasibility of creating a nationwide data base, a regional master file, or some other means of making information readily available.

[16] We believe it highly unlikely that any market would become completely saturated if the policies we are proposing are adopted. However, in the event our belief proves incorrect, some mechanism must be in place to resolve any potential problem.

[17] Proposals for low-power television stations in urbanized areas may, in certain circumstances, require access to auxiliary frequencies, and place additional burdens on this spectrum space. Interested parties may therefore wish to comment on the proper placement of auxiliary links for low-power television stations within the priority system set forth above.

22. If the need arises to withdraw a channel from any licensee in order to provide a higher priority station to another licensee, we would again look to the recommendations of the local coordinating committee for guidance on which channel to withdraw. In the absence of any such recommendation, we would utilize the procedures currently embodied in our rules with one minor exception. At present, § 74.602(e)(1) states that the determination whether to withdraw a channel from Band A, Band B, or Band D is made ". . . based on the design of the equipment proposed to be used by the applicant for whom the . . . channel is required." We propose to add a second criterion which will take into account some sense of spectrum management. For example, it may be inappropriate and inefficient to assign a 2000 MHz frequency to accommodate a very short transmission path. A signal at this frequency has a much longer range than would be necessary and consequently has a greater potential for interference. The new provision we are proposing would allow the Commission to take such issues into consideration when deciding which channel to withdraw.

23. Moreover, we believe that retaining any exclusive authorizations represents an inefficient use of the spectrum and to some extent dilutes the impact of our proposed action. We would therefore prefer to rescind all existing exclusive authorizations and thereby permit other licensees to use those frequencies on an non-interfering basis. Licensees currently holding exclusive authorizations would be permitted to continue operations on those frequencies and the channels would assume a priority depending on the licensee's current use of the channel. The practicality of revoking the existing exclusive authorizations and the procedures which we should follow in making the revocations should be addressed by interested parties in their comments.[18]

24. We wish to reemphasize that the licensing rule amendments we are proposing, for the most part, do not constitute a major policy change. In fact, we are merely seeking to formalize the procedures which, because of increased user demand and limited Commission facilities, we have been utilizing for the past several years. We believe this proposed licensing policy will promote greater and more efficient use of the auxiliary broadcast spectrum, provide more flexibility to users of the television broadcast auxiliary service for their individual needs, and reduce the Commission's regulatory presence in this area. Taken together with the proposed amendments concerning the use of auxiliary broadcast facilities which we have proposed in the first two sections of this notice, the actions proposed herein represent a substantial deregulation of the television broadcast auxiliary rules.

[18] One procedural question on which we invite comment is whether the exclusive authorization could be terminated immediately or only upon the expiration of the present license term.

Regulatory Flexibility Act Initial Analysis

25. The proposed amendments to § 74.631, by permitting the sharing of existing television broadcast auxiliary stations, could lead to a more efficient and less costly use of the electromagnetic spectrum by eliminating the need to build parallel facilities to transmit material between two points when existing facilities can be utilized. The proposed changes in the Commission's licensing policies, as set out in §§ 74.602 and 74.604, likewise will lead to a more efficient use of the spectrum by giving licensees more flexibility regarding the number of channels they may use and the frequencies on which they may operate. The changes in licensing policy could also significantly reduce the Commission's regulatory presence in the area of television broadcast auxiliary licensing. These actions are proposed pursuant to section 303(g) of the Communications Act of 1934, as amended, which charges the Commission to ". . . generally encourage the larger and more effective use of radio in the public interest."

26. Allowing television broadcast auxiliary licensees to share their facilities would increase licensees' revenues. The rule change could benefit the approximately 900 licensees currently operating auxiliary facilities. The number of these licensees who may choose to offer their stations for shared use is unknown. The effect on those entities wishing to utilize a licensee's facilities likewise may be substantial due to decreased costs. Such entities currently must purchase transmission time from common carriers or seek to establish their own facilities through waivers of the Commission's rules. Some common carriers providing transmission services may realize a reduction in revenues, although a Commission study indicates that channels allocated to common carriers for auxiliary transmission purposes are lightly used.

27. The economic effects of the proposed changes in licensing policy should be negligible because the rules are intended merely to conform to the Commission's practices of the past few years. The increased use of local coordination committees could lead to a reduction in expenses among licensees. As a committee becomes more familiar with the spectrum use in an area, the need for applicants to conduct expensive, comprehensive frequency coordination studies may diminish; the committees may simply be able to inform the applicant which frequencies are available in certain areas. In turn, however, this could lead to reduced revenues to small engineering consulting companies who conduct frequency coordination studies.

28. Although the Commission is seeking comment on the need for record keeping and reporting requirements, none are proposed at present. No other federal rules overlap, duplicate, or conflict with the rules proposed herein. As stated above, the impact of the proposed rules is minimal. An alternative to the proposed rules which would further minimize the impact on small entities would be for the Commission to resume conducting frequency coordination studies and thus spare applicants the expense of conducting such studies. However, that alternative conflicts with one of the stated objectives of this proceeding which is to reduce the Commission's presence in the area of television broadcast auxiliary station licensing.

29. Accordingly, it is proposed to amend Part 74 of the Commission's rules as set forth in the attached Appendix.

30. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not

fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules.

31. Authority for the issuance of this notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before January 25, 1982, and reply comments on or before February 24, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

32. In accordance with the provisions of Section 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, D.C.

33. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

It is proposed that Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 74—EXPERIMENTAL AUXILIARY AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. Section 74.601 would be revised as follows:

§ 74.601 Classes of television auxiliary broadcast stations.

(a) Television pickup station. A land mobile station used for the transmission of television program material and related communications from scenes of events occurring at points removed from television broadcast station studios to television broadcast stations or other purposes as authorized in § 74.631.

(b) Television STL station (studio-transmitter-link). A fixed station used for the transmission of television program material and related communications from the studio to the transmitter of a television broadcast station or other purposes as authorized in § 74.631.

(c) Television intercity relay station. A fixed station used for intercity transmission of television program material and related communications for use by television broadcast stations or other purposes as authorized in § 74.631.

(d) Television translator relay station. A fixed station used for relaying programs and signals of television broacast stations to television broadcast translator stations and to other facilities that the Commission may authorize or for other purposes as permitted by § 74.631.

2. Section 74.602 (b), (c), (d) and (e) would be revised as follows:

§ 74.602 Frequency assignment.

* * * * *

(b) Subject to the conditions of paragraph (a) of this section, frequency assignments will normally be made as requested, provided that the application contains a statement that either: The applicant has conducted a comprehensive frequency coordination study and affirms that the frequency requested will cause no interference to existing users in the area; or, a local coordination committee has reviewed the request and has indicated that the use of the frequency in the area is appropriate. The Commission reserves the right to assign frequencies other than those requested if, in its opinion, such action is warranted.

(c) The number of channels that may be assigned to a licensee in a single area is not restricted. Television Broadcast Auxiliary channels will have the following priority for purposes of interference protection and withdrawal of channels for use by other parties:

(1) STL and CARS links (except alternate or "back-up" facilities);

(2) Intercity relay stations;

(3) Television pickup stations;

(4) Translator relay stations; fixed link stations operating outside a licensee's local service area.

(5) Backup facilities; television pickup stations used outside a licensee's local service area.

(d)(1) Fixed link stations will be authorized to operate on one channel only.

(2) The number of channels on which mobile stations may be authorized to operate is not limited.

(e) Low priority channel assignments are subject to withdrawal without advance notice to provide a higher priority channel assignment to a licensee. In withdrawing channels, the Commission will normally accept the recommendation of a local coordination committee if such a recommendation is offered. However, the Commission reserves the right to select the channel assignment to be withdrawn, and, absent a recommendation from a local coordinating committee, will normally withdraw the lowest priority channel in use in an area. Channels having the same priority will normally be withdrawn in the following order:

(1) The most recent channel assignment to the licensee having the greatest number of assignments. Determination as to whether the withdrawal shall be made in Band A, Band B, or Band D will be based on the design of the equipment proposed to be used by the applicant for whom the higher priority channel is required and frequencies appropriate to the applicant's path length and station function.

(2) Where two or more licensees are assigned individually an equal number of channels in the same band and a greater number of channels in that band than any one of the other licensees, the assignment of most recent date.

(3) In all other cases the assignment of most recent date.

* * * * *

3. Section 74.604 would be revised as follows:

§ 74.604 Frequency selection to avoid interference.

(a) Because the Commission does not undertake frequency coordination, applicants for new television auxiliary broadcast authorizations are responsible for selecting the frequency assignments which will least likely result in mutual interference with other licensees in the same area. Applicants may submit their proposals to local coordinating committees, where they exist, for the committee's recommendation before applying to the Commission. In selecting frequencies, consideration should be given to the relative locations of receiving points, normal transmission paths, and the nature of the contemplated operation.

(b) Where two or more licensees are assigned a common channel for television pickup, television STL, or television intercity relay purposes in the same area and simultaneous operation is contemplated, they shall take such steps as may be necessary to avoid mutual interference, including consultation with the local coordinating committee, if one exists. If a mutual agreement to this effect cannot be reached, the Commission shall be notified and it will take such action as may be necessary, including time sharing arrangements, to assure an equitable distribution of available facilities.

4. Section 74.631 (d) and (f) would be revised as follows:

§ 74.631 Permissible service.

* * * * *

(d) The transmitter of an STL, intercity relay station or television translator relay station may be multiplexed to provide additional communication channels for the transmission of aural communications. A television broadcast STL or intercity relay station will be authorized only in those cases where the principal use is the transmission of television broadcast program material for use by its associated TV broadcast station. However, STL or intercity relay stations so licensed may be operated at any time for the transmission of aural communications whether or not visual program material is being transmitted, provided that such operation does not cause harmful interference to television broadcast pickup, STL or intercity relay stations transmitting television broadcast program material.

* * * * *

(f) A television broadcast pickup, STL, or intercity relay station may, at times when it is not transmitting program material to its associated television broadcast station, be used for the transmission of material to be used by others, including but not limited to other broadcast stations, cable television systems, CARS stations, and educational institutions. This use shall not interfere with the use of these auxiliary broadcast facilities for the transmission of programs and associated material intended to be used by the television station or stations licensed to or under common control of the licensee of the television pickup, STL, or intercity relay station. This use of the broadcast auxiliary facilities shall not cause harmful interference to broadcast auxiliary stations operating in accordance with the basic frequency allocation, and the licensee of the television pickup, STL or intercity relay station shall retain exclusive control over the operation of the facilities.

[FR Doc. 81-35160 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 81-787; FCC 81-528]

Specialized Mobile Radio System; Revision of Contour Measurement

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to amend § 90.371(b) of its rules and regulations relating to Private Land Mobile Radio Services to substitute 20 miles in place of 40 dBu as the contour measurement specified in that section in order to simplify the assignment process.

DATES: Interested parties may file comments on or before December 30, 1981, and reply comments on or before January 14, 1982.

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

FOR FURTHER INFORMATION CONTACT: Lewis H. Goldman or Charles F. Turner, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: November 12, 1981.

Released: November 27, 1981.

In the matter of amendment of Part 90 of the Commission's rules and regulations to substitute 20 miles in place of 40 dBu as the measure of service area specified in §§ 90.367(c) and 90.371(b).

1. The Commission on its own motion is here initiating a rule making proceeding looking towards a revision of §§ 90.367(c) and 90.371(b) of its rules [1] to substitute 20 miles as the prescribed radius of a theoretical service area, rather than the 40 dBu field strength contour now specified in those rules. The amendment would permit a licensee of a Specialized Mobile Radio System (SMRS) serving multiple end users to obtain an additional assignment of one or more conventional channels and/or one or more additional trunked SMRS's, spaced no less than 40 miles apart, without the extensive field strength intensity calculations that are necessary if the separation standard between groups of conventional channels or trunked stations is their 40 dBu contours.

[1] 47 CFR 90.367(c) and 90.371(b).

Background

2. In our rule making proceeding in Docket No. 18262 we allocated frequencies in the 806–821 MHz and 851–866 MHz bands for use by conventional and trunked private land mobile radio systems.[2] At that time we explained:

> * * * (W)e will revisit all of the system parameters as we gain knowledge from actual operating experience; and adjustments will be made as it becomes possible to do so.[3]

Since 1979 we have revisited that Docket No. 18262 decision on several occasions to revise the 800 MHz band rules in light of the experience gained through licensing and observing the operation of these facilities. Thus in PR Docket No. 79-106 [4] we revised the mileage separation standards for conventional systems in certain cases, and adjusted the channel loading criteria in and near the largest urbanized areas where spectrum demand is heavy. Currently we are considering, in a consolidated proceeding, proposed rule changes which would alter the channel assignment and loading standards for conventional and trunked systems; release 800 MHz spectrum now held in reserve; and consider the needs of slow-growth users and wide-area systems.[5] We are concurrently considering whether to lift the prohibition on "talk-around," i.e., mobile-to-mobile transmissions which bypass the mobile

[2] See generally, *Land Mobile Radio Service*, Docket No. 18262, Second Report and Order, 46 FCC 2d 752 (1974); *Land Mobile Service*, Docket No. 18262, Memorandum Opinion and Order, 51 FCC 2d 945 (1975).

[3] *Land Mobile Service*, f.n. 2, *ante*, 51 FCC 2d at 978–9.

[4] PR Docket No. 79-106, Report and Order, adopted September 25, 1979 (FCC 79-583, released October 3, 1979).

[5] *See Amendment of Part 90 of the Commission's Rules*, PR Docket Nos. 79-191 and 79-334; RM-3691, Further Notice of Proposed Rule Making (FCC 81-285, adopted June 16, 1981), 46 FR 37927, July 23, 1981.

relay station, on shared frequency pairs in the 800 MHz band.[6] All of these proceedings have had a common goal: to revise the regulations governing use of the 800 MHz band in light of our experience and that of the land mobile marketplace in the use of this spectrum, so as to meet the needs of users.

Discussion

3. Section 90.367(c) of our rules provides that:

> No more than five frequency pairs may be assigned to any person proposing to operate one or more conventional radio systems to provide facilities for use by more than a single entity, if there is any overlap of the 40 dBu contour of the proposed new facility and any of the 40 dBu contours of any station authorized to that person, or to any person or entity in which he has a direct or indirect interest.

A note to the rule specifies:

> For the purposes of this subsection, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this subpart.

Section 90.371(b) provides that:

> No more than a single trunked system will be authorized to any one licensee to provide radio facilities for the use of more than a single person or entity where the 40 dBu contour of the proposed facility will overlap the 40 dBu contour of any existing facility of the licensee, or of any concern in which he has a direct or indirect interest, or for which applications are pending, except where the applicant shows:
>
> (i) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,
>
> (2) That radio systems previously authorized to the applicant are being operated to at least 90 percent of their authorized capacity.

A note to that rule states:

> For the purposes of this paragraph, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this chapter.

The foregoing sections are intended to limit licensees of SMRS systems serving multiple users to no more than five conventional channel pairs and/or one trunked system in a given area. When a trunked system has been loaded nearly to prescribed capacity, a second system may be authorized. In determining why §§ 90.367(c) and 90.371(b) prescribe the 40 dBu contour as the dimension of a service area, we must look back at the Commission's definition, in Docket No. 18262, of a "market."

4. The reasons for defining the 40 dBu contour as the measure of market size were explained by us in a discussion of conventional vis-à-vis trunked systems on reconsideration in Docket No. 18262. It was felt then that using the 40 dBu contour would provide the greatest flexibility in determining station location within a given area. *Land Mobile Service*, f.n. 2, *supra*, 51 FCC 2d at 985. Although the Commission itself has never formally construed or entertained requests for waiver of § 90.367(c) or 90.371(b), our staff has considered such matters pursuant to its delegated authority to do so.[7] The staff on innumerable occasions has dismissed applications for trunked SMR systems which did not comply with § 90.371(b). In so doing it has used 40 miles (the minimum distance between two stations whose theoretical service area radii of 20 miles do not overlap) as the general rule-of-thumb in determining compliance with § 90.371(b). In fact, items 5(a) and 5(b) of FCC Form 400–S (which must be used by all 800 MHz band applicants) call for the applicant to indicate whether it has any other conventional or trunked facilities within 40 miles of the proposed station; the application makes no reference to a 40 dBu contour.

5. As our staff has previously pointed out in denying a petition for reconsideration of denial of a request for waiver of § 90.371(b), that rule is directed specifically towards SMRS—as distinguished from single user—trunked systems, and is intended, without consideration of need for service, to limit an SMRS entrepreneur to a single such trunked system within a given geographic area until this system is loaded. The note to the rule clearly indicates that its intent is to limit a licensee to a single system within a prescribed area rather than to prevent interference.[8]

6. Use of the 40 dBu field intensity contour to compute market dimensions can often be inequitable (in addition to being difficult and expensive to calculate) because topography and other propagation characteristics can vary widely among different geographic areas, thereby affecting the 40 dBu contour and the size of the "market" in a particular area. We believe that substitution of a flat 20-mile radius, i.e., a minimum 40-mile separation between stations, in lieu of the present field intensity standard will accomplish more equitably and consistently the definition of market area for both five-channel group conventional SMRS and individual trunked SMRS facilities, and is warranted. We therefore propose rule amendments to that effect. This is in keeping with our expressed intention to revisit and adjust the Docket No. 18262 system parameters when our experience indicated that revisions would be appropriate.

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

8. Accordingly, notice is hereby given of rulemaking to amend Part 90 of the Commission's Rules, in accordance with the proposal set forth in the Appendix.

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

10. The Commission has determined that sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. There should be no adverse economic

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[6] *See Amendment of the Commission's Rules and Regulations to Permit Talk-around in the Private Land Mobile Radio Services on Shared Channels above 806 MHz*, PR Docket No. 81–215 (FCC 81–120, adopted March 26, 1981) 46 FR 22624, April 20, 1981.

[7] See 47 CFR § 0.331.

[8] Metrocom, Inc., File No. CIB800032807, Memorandum Opinion and Order by the Chief, Private Radio Bureau, adopted January 5, 1981, released January 13, 1981, mimeo #05689.

impact, because substituting a 20-mile fixed mileage standard in place of the 40 dBu field intensity contour is unlikely to limit the opportunities of SMR entrepreneurs to obtain additional facilities outside their existing market area. The rule will have a small beneficial economic impact upon licensees in that it may expand slightly their opportunity to obtain additional conventional and/or trunked SMR systems outside their existing market areas and will permit them to avoid having to make 40 dBu calculations.

11. Pursuant to procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before December 30, 1981, and reply comments on or before January 14, 1982. The Commission will consider all relevant and timely comments before taking final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the public who wish to express their interest are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

13. For further information contact Lewis H. Goldman or Charles F. Turner, Federal Communications Commission, Private Radio Bureau, Rules Division, Washington, D.C. 20554, (202) 632-6497.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

It is proposed that 47 CFR Part 90, be amended as follows:

1. Section 90.367(c) is revised to read as follows:

§ 90.367 Limitation on the number of frequency pairs assignable for conventional systems.

* * * * *

(c) No more than five frequency pairs may be assigned to any person proposing to operate one or more conventional radio systems to provide facilities for use by more than a single person or entity if the proposed facility is within 40 miles of any of the existing base stations of the conventional facilities authorized to that person, or to any person or entity in which he has a direct or indirect interest.

2. Section 90.371(b) is revised to read as follows:

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

* * * * *

(b) No more than a single trunked system will be authorized to any one licensee to provide radio facilities for the use of more than a single person or entity within 40 miles of an existing facility of the licensee or of any concern in which he has a direct or indirect interest, or for which applications are pending, except where the applicant shows:

(1) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) That radio systems previously authorized to the applicant are being operated to at least 90 percent of their authorized capacity.

[FR Doc. 81-35151 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[Docket No. 80-729; FCC 81-529]

Rewrite of the Amateur Radio Service Rules; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Termination of proceeding.

SUMMARY: This document terminates the Notice of Proposed Rule Making in PR Docket No. 80-729 and closes out the proceeding. The Commission decided to take no further action in the proceeding because to continue with the rewrite of the Amateur radio rules could require a great deal of time in order to draft new rules that would be more widely accepted by those subject to them. In addition, the proceeding was terminated because of the generally adverse reaction to the rewrite by a substantial number of persons who filed comments.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964—Room 5218.

SUPPLEMENTARY INFORMATION:

In the matter of revision of the Amateur Radio Service rules into "plain language."; Order (proceeding terminated).

Adopted: November 12, 1981.

Released: November 24, 1981.

By the Commission: Commissioner Dawson issuing a separate statement.

Background

1. On November 18, 1980, the Commission adopted a Notice of Proposed Rulemaking in this proceeding which was published in the **Federal Register** on December 19, 1980 (45 FR 83592). The proposal was to revise the amateur radio rules in order to make them more understandable to the persons regulated by them. The final dates for the filing of comments and reply comments in this proceeding were August 21, 1981, and October 21, 1981, respectively.

Comments Summary

2. Approximately 1200 comments were received. The sentiment expressed by a significant majority of those commenting was strong opposition to the Commission's proposal. Those persons who supported the proposal praised the rewrite as "an excellent update that sets forth the rights and responsibilities of those in the Amateur Radio Service" (see comments of Philip W. and Harriet L. Amborn, Atascadero, California, Amateur Extra Class licensees, both licensed for more than fifty years). We appreciate the many helpful comments and thoughtful concern of all those commenting whether for or against the proposal.

3. It is believed that it will be useful to discuss some of the major themes in the comments. One recurrent criticism was that the question-and-answer format of the proposed rules was viewed as denigrating. Many persons commented that they felt they were being "talked down" to and that their intellectual ability was underestimated.

4. The proposed rule rewrite that provoked the most comment was our attempt to define the Amateur Radio Service. We wrote a rule using the International Telecommunication Union

(ITU) Radio Regulations definition which speaks of a service of self-training, inter-communication and technical investigations carried on by duly qualified persons interested in radio technique who have a personal, not a pecuniary, interest in radio. By and large, amateur operators filing comments felt that the proposed definition of the Amateur Radio Service was inadequate, inaccurate and failed to set a positive tone about a self-training service with a proven record of many and varied benefits to the public. They disapproved of the proposed wording, they said, because it did not connote to them the sense of public service and dedication that is inherent in the spirit of the Amateur Radio Service. Likewise, the proposal to change the name of the service to the Amateur Telecommunications Service met with virtually universal disapproval.

5. We received several comments concerning our proposal to inspect amateur radio stations. Some commenters may not have been aware of our basic statutory authority as contained in section 303 (n) of the Communications Act of 1934, as amended. That section empowers the Commission to inspect all radio installations to determine whether in construction, installation, and operation they conform with the Commission's Rules, the Communications Act, international treaties binding on the United States, and the terms and conditions of the radio station license under which they are authorized to operate. Our proposal to add particulars pertaining to the inspection of amateur radio stations was merely the implementation of that statutory authority in the amateur radio rules.

6. Some of the comments were opposed to our proposed deletion of logging requirements on the grounds that logs were important to substantiate the operator's viewpoint in violation cases. The persons who filed these comments felt that they would be bereft of any defense if they could not resort to a log to show what they had recorded as having occurred.

7. The American Radio Relay League (ARRL), in its comments, recommended that the Commission abandon the rewriting of Part 97 and terminate the proceeding. ARRL thought that the reworded rules turned the Amateur Radio Service into a "sophisticated Citizens Band (CB) Service". It did not care for the question-and-answer format and said that that style could lead to conclusions as to requirements which are not accurate. According to ARRL, the present wording of the purpose of the Amateur Radio Service should be retained since it is invaluable when restrictive zoning ordinances are tested in court proceedings.

8. ARRL said that it did not concur in the proposal to rename the service a the "Amateur Telecommunications Service" since the name "Amateur Radio Service" is understood and universally used by national administrations throughout the world. With respect to power limits in the Amateur Radio Service, ARRL recommended that no changes be made in the present power rules at this time and suggested that a future Commission proceeding explore the possibility of stating power limits in output power as do the rules for the broadcast services.

9. A final observation that we made after studying the comments filed in this proceeding is that the style of the proposed rules apparently detracted from the real purpose of the rewrite, which was to update, codify and simplify the rules. Although there was no intention to equate the CB Radio Service and the Amateur Radio Service, it is clear that this impression was the result. The use of questions with short answers was thought to be too elementary and pedagogical by the adult amateur radio operator.

10. It appears best to forego this major rewrite and codification of the amateur radio rules at this time. To continue the project could require a great deal of time in order to arrive at an accommodation that would be acceptable to those regulated. Additionally, we note the overwhelming opposition to the proposal and, in the final analysis, we must acknowledge the very strong negative reaction which has been so clearly expressed. Therefore, we will terminate this proceeding. Individual rule making proceedings will be initiated on an *ad hoc* basis as the need arises.

11. Finally, we recognize that many people worked long and hard to develop their comments in this docket. Should the amateur community at a later date wish to pursue, on its own, a general rewrite of the rules for the Amateur Radio Service, the contents of this docket will be most helpful.

Action

12. In view of the foregoing, it is ordered, That no further action be taken on the Notice of Proposed Rulemaking in PR-Docket NO. 80-729. It is further ordered, That this proceeding is terminated and the docket is closed. For information, call Maurice J. DePont, (202) 632-4964.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Mimi Weyforth Dawson re: Amateur Rewrite Proceeding

I fully support the Commission's decision to terminate this proceeding with the amateur service rules left in their present form. The amateur radio service has a fundamental purpose which is set forth in § 97.1 of the Commission's rules. That purpose is expressed in the following principles:

(a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.

(b) Continuation and extension of the amateur's proven ability to contribute to the advancement of the radio art.

(c) Encouragement and improvement of the amateur radio service through rules which provide for advancing skills in both the communication and technical phases of the art.

(d) Expansion of the existing reservoir within the amateur radio service of trained operators, technicians, and electronics experts.

(e) Continuation and extension of the amateur's unique ability to enhance international good will.

These principles have been recognized and accepted by the amateur service for many years. The amateur has been particularly recognized for assistance in emergencies and for advancing the state-of-the-art.

The amateur service as defined in the proposed rewrite would have simplified the service to being persons "interested in the technical side of radio * * * for their own personal satisfaction," with a few other comments about learning and communicating with other operators. It is no wonder that a large majority of the approximately 1200 comments received opposed such a change.

The amateur community has traditionally carried out vital public services with a dedication that deserves recognition above that of a simple hobbiest. I believe we have recognized that dedication in today's action. The amateur service, as well as all others, should see this action as indicative of this Commission's sensitivity to their response to our Notices.

[FR Doc. 81-35163 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

[1] See attached Separate Statement of Commissioner Mimi Weyforth Dawson.

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1207 and 1240

[No. 38377]

Indexing Annual Operating Revenues of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to adopt a methodology for indexing the annual operating revenues of motor carriers of property so that the effects of inflation will not affect the classification process. Carriers are placed in the Class I, Class II or Class III categories based on annual operating revenues. Indexing would therefore provide assurances that carriers are moved to a higher accounting and reporting class because of real business expansion, and not from inflationary consequences. The indexing medium would be the Producers Price Index (PPI), and the proposed base year is 1980. The proposed effective date is January 1, 1982.

DATES: Comments are due January 22, 1982.

ADDRESSES: Send comments with 10 copies to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Copies of this notice may be obtained by writing to the Office of the Secretary or by calling toll-free, 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: The Commission classifies carriers based on their annual operating revenues. Part of the annual increase in the annual operating revenues is due to inflation. As a result, some small carriers are unfairly placed in higher classes and become subject to increased accounting and reporting requirements without a real expansion in their business operations.

The Commission, in the past, has alleviated this problem by raising the revenue classification levels every few years. In the interim, however, some carriers were reclassified to higher accounting and reporting classes based on inflated annual operating revenues. When the revenue classification levels were raised, it was probable that these marginally classified carriers would be moved back to a lower class. Besides the apparent inconvenience to these carriers, the fluctuations also hampered comparability for rate bureaus in performing traffic studies and the Commission in performing time series analyses and forecasting.

The Commission believes that indexing of the annual operating revenues would eliminate these deficiencies. The most appropriate index in this situation is an index geared to measure the rate of inflation in the rates charged by the motor carriers of property. The Bureau of Labor Statistics (BLS) of the Department of Labor has been working on forming a "Price Index for Regulated Common Motor Carriers of General Freight" for about two years. BLS is facing major problems in collecting the data needed to establish the index, and the completion date is indeterminable.

As an alternative, the Commission has examined several indices that measure the general rate of inflation, and is proposing to use the PPI. The PPI is published monthly by the BLS. This index measures the average change in prices received in primary markets of the United States by producers of commodities in all stages of processing.

The Motor Carrier Act of 1980 requires that proposed rates taking effect after a certain date be indexed using the PPI. Subsection (d)(3)(B) of the Act states:

> In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

The PPI, therefore, has authoritative support as an index that is suitable for restating financial data relating to motor carriers. For uniformity, the PPI is being proposed for classification purposes also.

The proposed formula to apply the index is as follows:

$$\text{Current year's annual operating revenues} \times \frac{\text{1980 average PPI}}{\text{current year's average PPI}} = \text{adjusted annual operating revenues}$$

We chose 1980 as the base year because the revenue classification levels were last revised in that year (44 FR 55585).

The current motor carriers of property revenue classification levels would not change by the adoption of this rule. The Commission would apply the deflator formula to each carrier's annual operating revenues as reported on the Schedule of Results of Operations in the carriers' annual reports. Carriers that do not file annual reports with the Commission would still be required to file the annual Carrier Classification Survey Form. Carriers would be notified if their classification changes.

Regulatory Flexibility Act: Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that the requirements of the Regulatory Flexibility Act do not apply to this final rule since it will not have a significant impact on a substantial number of small businesses. The Commission would perform the indexing of annual operating revenues; no new accounting and reporting requirements for regulated carriers are introduced in this proceeding.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

Accordingly, we propose to adopt the changes to Title 49 of the Code of Federal Regulations as set forth in the Appendix.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: November 25, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

We propose to amend Title 49 CFR as follows:

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Instruction 1, Classification of carriers, would be amended by revising paragraphs (a), (b) (1), (2), (4) and (5) and adding Notes A and B as follows:

1. Classification of carriers.

(a) For purposes of accounting and reporting regulations, common and contract motor carriers of property subject to the Interstae Commerce Act are grouped into the following three classes:

Class I. Carriers having annual carrier operating revenues (including interstate and intrastate) of $5 million or more after applying the revenue deflator formula shown in Note A.

Class II. Carriers having annual carrier operating revenues (including interstate and intrastate) of $1 million but not more than $5 million after applying the revenue deflator formula in Note A.

Class III. Carriers having annual carrier operating revenues (including interstate and intrastate) of less than $1 million after applying the revenue deflator formula in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula in Note A. If at the end of any calendar year such annual carrier operating revenues exceed the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class II carriers adoption of Class I classification shall be effective as of January 1 of the following year. For Class III carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) A carrier is reclassified downward if for three consecutive years its annual operating revenues, after applying the revenue deflator formula shown in Note A, have declined below the minimum revenue level for its class. The carrier's new classification shall be based on the revenue level it has achieved in the preceding three years. The new carrier classification shall be effective on January 1 of the next year. In situations where a carrier's annual operating revenues fail to decline below the minimum revenue level for three consecutive years, the carrier shall retain its classification.

(3) * * *

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in Note A.

(5) When a business combination occurs, such as a merger reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in Note A.

* * * * *

Note A.—Each carrier's operating revenues will be deflated annually using the Producers Price Index (PPI) before comparing them with the dollar revenue limits prescribed in paragraph (a). The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's operating revenues} \times \frac{\text{1980 average PPI}}{\text{current year's average PPI}} = \text{adjusted annual operating revenues}$$

Note B.—See related Regulation 49 CFR 1240.5, Classification of motor carriers of property.

PART 1240—CLASSES OF CARRIERS

Section 1240.5, Classification of motor carriers of property, would be amended by revising paragraphs (a), (b)(1), (2), (4) and (5) and adding Notes A and B as follows:

§ 1240.5 Classification of motor carriers of property.

(a) Commencing with the year beginning January 1, 1980, common and contract carriers of property subject to the Interstate Commerce Act are grouped into the following three classes for accounting and reporting purposes:

Class I: Carriers having annual carrier operating revenues of $5 million or more after applying the revenue deflator formula in Note A.

Class II: Carriers having annual carrier operating revenues of $1 million but not more than $5 million after applying the revenue deflator formula in Note A.

Class III: Carriers having annual carrier operating revenues less than $1 million after applying the revenue deflator formula in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula in Note A. If at the end of any calendar year, or accounting year of 13 4-week periods, such annual carrier operating revenues exceed the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class II carriers adoption of Class I classification shall be effective as of January 1 of the following year. For Class III carriers adoption of a higher classification shall be effective as of January 1 of the second succeeding year.

(2) A carrier is reclassified downward if for three consecutive years its annual operating revenues, after applying the revenue deflator formula in Note A, have declined below the minimum revenue level for its class. The carrier's new classification shall be based on the revenue level it has achieved in the preceding three years. The new carrier classification shall be effective on January 1 of the next year. In situations where carrier annual operating revenues fail to decline below the minimum revenue level for three consecutive years, the carrier shall retain its current classification.

(3) * * *

(4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenue after applying the revenue deflator formula in Note A. Any carrier which begins new operations is required to furnish the above estimate, including intrastate, anticipated interstate and local cartage revenues, to the Bureau of Accounts, Section of Accounting and Reporting, prior to the issuance of a certificate or permit.

(5) When a business combination occurs, such as a merger, reorganization or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenues, after applying the revenue deflator formula in Note A, for the year when the combination occurred.

* * * * *

Note A.—Each carrier's operating revenues will be deflated, annually, using the Producers Price Index (PPI), before comparing them with the dollar revenue limits prescribed in paragraph (a). The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's operating revenues} \times \frac{\text{1980 average PPI}}{\text{current year's average PPI}} = \text{adjusted annual operating revenues}$$

Note B.—See related Regulation 49 CFR 1207, Instruction 1, Classification of carriers.

[FR Doc. 81-35068 Filed 12-7-81; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 235
Tuesday, December 8, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1982 Crop of Extra Long Staple Cotton: Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of State research and county allotments for the 1982 crop of extra long staple cotton.

SUMMARY: The purpose of this determination is to establish State reserves, allocate State reserves to counties, and establish county acreage allotments for the 1982 crop of extra long staple cotton (referred to as ELS cotton). The need for this determination it to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: December 2, 1981.

ADDRESS: Director, Analysis Division, ASCS, USDA, 3745 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7954.

The Final Impact Statement describing the options considered in developing this determination and the impact of implementing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified as "not major". It has been determined that these provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S. based industries to compete with foreign-based enterprises in domestic or foreign markets.

The title and number of the federal assistance programs that this notice applies to are: Title—Cotton Production Stabilization; Number 10.052 as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

A notice of proposed determination that the Secretary of Agriculture was preparing to establish 1982 State and county ELS cotton acreage allotments as required by sections 344 (b) and (e) of the Agricultural Adjustment Act of 1938, as amended, was published in the **Federal Register** on July 28, 1981, (46 FR 38549) in accordance with 5 U.S.C. 553 and provided for a 60 day comment period. One comment was received indicating that the past procedure for the apportionment of allotments was acceptable. This procedure is being followed with respect to the allocation of acreage allotments for the 1982-crop ELS cotton.

Determinations with respect to 1982 State reserves and allocation of State reserves to counties were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority.

Accordingly, the following determinations have been made with respect to the 1982 crop of ELS cotton.

Determinations

States reserves and county allotments for the 1982 crop of extra long staple cotton.

(1) *State reserves.* The reserves for each State shall be established and allocated among uses for the 1982 crop of extra long staple cotton in accordance with the regulations at 7 CFR 722.508. The full amount of each State's reserves shall be held for new farms and for correction of errors. It is hereby determined that no State reserve is required for trends, abnormal conditions, inequities and hardships, or small farms.

The amount of the State reserve held in each State and the amount of allotment in the State productivity pool resulting from productivity adjustments made in accordance with the regulations at 7 CFR 722.529 (c) and (d) are available for inspection at each State ASCS office.

(2) *County allotments.* County allotments are established for the 1982 crop of extra long staple cotton in accordance with the regulations at 7 CFR 722.509. The amount of the State allotment apportioned to counties is available for inspection at the respective State and county ASCS offices.

(Secs. 344, 347, 375, 63 Stat.670 as amended, 675, as amended, 52 Stat. 66, as amended (7 U.S.C. 1344, 1347, 1375))

Signed at Washington, D.C., on December 1, 1981.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc 81-34982 Filed 12-2-81; 4:39 pm]

BILLING CODE 3410-05-M

Flue-Cured Tobacco; 1982 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1982-83 marketing quota.

SUMMARY: The purpose of this notice, is to announce a number of determinations with respect to the 1982 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. Along with other determinations, the Secretary has declared that the 1982 marketing quota for flue-cured tobacco shall be 1,013

million pounds, the same as last year's quota. The Secretary is required by statute to announce the 1982 marketing quota by December 1, 1981. The Secretary has also determined that the national acreage allotment for flue-cured tobacco shall be 546,386.19 acres.

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION:

Note.—The Agricultural Stabilization and Conservation Service will publish a rule in the near future removing the announcement of quota determinations for flue-cured tobacco from 7 CFR Part 725. The announcements will subsequently be published in the notices section of the Federal Register.

This final rule has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual affect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice is issued in accordance with the Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "Act") in order to announce for the 1982 marketing year for flue-cured tobacco the following:

1. The amount of the reserve supply level.
2. The amount of the total supply.
3. The amount of the national marketing quota.
4. The national average yield goal.
5. The national acreage allotment.
6. The national acreage reserve.
   A. For establishing acreage allotments for new farms.
   B. For making corrections and adjusting inequities in old farms.
7. The national acreage factor.
8. The national yield factor.

Marketing quotas on an acreage-poundage basis were proclaimed for flue-cured tobacco for the 1980-81, 1981-82, and 1982-83 marketing years (44 FR 68804). Flue-cured tobacco farmers approved marketing quotas on an acreage-poundage basis for the 1980-81, 1981-82, and 1982-83 marketing years (45 FR 40096).

The determinations by the Secretary contained in this notice have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others pursuant to a proposed Notice of Determinations (46 FR 53667) which was published in accordance with the provisions of 5 U.S.C. 553 and Executive Order 12044.

Discussion of Comments

During the comment period, 21 written responses were received from farmers, members of the trade including associations, and farm groups. Eight respondents advocated no change in the present quota; 4 were in favor of a small increase (3-5 percent) in the quota; and 9 gave no specific recommendation (although some implied a desire for an increase in quota) or had unrelated comments. The major thrust of these responses centered around a need for adequate supplies to meet both domestic and export needs.

Two meetings were held in the producing areas to give farmers and others the opportunity to express their views verbally. The 21 comments received were similiar in content to the written responses.

In response to these recommendations and considering that the effective quota will be down substantially due to 1981 marketings, a marketing quota of 1,013 million pounds is hereby determined and announced for the 1982-83 marketing year, unchanged from last year's quota. The effective quota is estimated to be 979 million pounds, 133 million pounds below 1981's.

Section 317(a)(1) of the Act provides, in part, that for flue-cured tobacco, the "national marketing quota" for a marketing year is the amount of flue-cured tobacco produced in the United States which the Secretary of Agriculture estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The Act further provides that any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

The "reserve supply level" is defined in section 301(b)(14)(B) of the Act as the normal supply plus 5 per cent thereof, to assure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for normal carry-over.

A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the yearly average quantity of tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the yearly average quantity of tobacco produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The yearly average domestic consumption of flue-cured tobacco during the 10 marketing years preceding the 1981-82 marketing year was 629 million pounds, and the yearly average exports during such period amounted to 532 million pounds. Exports have fluctuated in relatively narrow bands with no predominant trend while domestic use has trended downward. Accordingly, a normal year's exports equals the 10-year average while a normal year's domestic consumption has been set at 570 million pounds. These normals result in a reserve supply level for flue-cured tobacco of 2,568 million pounds.

"Total supply" is defined in section 301(b)(16)(B) of the Act as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins.

The carryover of flue-cured tobacco in the inventories of manufacturers and dealers (including Commodity Credit Corporation (CCC) loan stocks) on July 1, 1981, amounted to 2,012 million pounds, farm sales weight.

The 1981 crop marketings of flue-cured tobacco are currently estimated at 1,144 million pounds. The sum of the carryover of flue-cured tobacco plus the 1981 crop marketings totals 3,156 million pounds and represents the total supply of flue-cured tobacco for the 1981–82 marketing year. This amount exceeds the reserve supply level by 588 million pounds.

It is estimated that 540 million pounds of flue-cured tobacco will be utilized in the United States during the 1982–83 marketing year and 510 million pounds will be exported. Because the total supply is substantially in excess of the reserve supply level, it is deemed desirable to make a downward adjustment of 37 million pounds in order to determine the 1982 flue-cured tobacco quota. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1982, is determined to be 1,013 million pounds.

The "national average yield goal" is defined in Section 317(a)(2) of the Act as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination, the Secretary is required to give consideration to such Federal-State production data as is deemed relevant. The national average yield goal has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of flue-cured tobacco and increase the net return per pound to the growers. In making this determination, the Secretary considered research data of the Science and Education Administration, formerly Argicultural Research Service of the Department, and one of the land-grant colleges in the flue-cured tobacco producing area.

The community average yields have been determined for flue-cured tobacco and were published in the **Federal Register** (30 FR 6207, 9875, 14487).

In accordance with Section 317(a)(3) of the Act, the national acreage allotment for the 1982 crop of flue-cured tobacco is determined to be 546,386.19 acres, which is the result of dividing the national marketing quota by the national average yield goal.

In accordance with Section 317(e) of the Act, the Secretary is authorized to establish a national reserve, from the national acreage allotment, in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. The Secretary has determined that a national reserve for the 1982 of crop flue-cured tobacco of 200 acres is adequate for these purposes.

It has been determined that types 11, 12, 13, and 14 constitute one kind of tobacco for the 1980–81, 1981–82, and 1982–83 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco (30 FR 6144). Therefore, no action is being taken in accordance with Section 313(i) of the Act for the 1982–83 marketing year.

Since farmers are now making their plans for 1982 production of flue-cured tobacco and need to know immediately the acreage allotments and marketing quotas for their farms for the 1982–83 marketing year, it is hereby found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impossible and contrary to the public interest. Therefore, this notice shall become effective December 1, 1981.

Determinations 1982–83 Marketing Year

For flue-cured tobacco for the marketing year beginning July 1, 1982:

(a) *Reserve supply level.* The reserve supply level is determined to be 2,568 million pounds based upon a normal year's domestic consumption of 570 million pounds and a normal year's exports of 532 million pounds.

(b) *National marketing quota.* A national marketing quota on an acreage-poundage basis for the marketing year beginning July 1, 1982 is hereby determined to be 1,013 million pounds. This quota is based on estimated utilization in the United States in such marketing year of 540 million pounds and estimated exports in such marketing year of 510 million pounds, with a 37 million pound downward adjustment in order to effect an orderly reduction of supplies toward the reserve supply level.

(c) *National average yield goal.* The national average yield goal is determined to be 1,854 pounds. This goal is based on the yield per acre which, on a national average basis, will improve or insure the usability of flue-cured tobacco and increase the net return per pound to growers.

(d) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined to be 546,386.19 acres. This allotment is determined by dividing the national marketing quota of 1,103 million pounds by the national average yield goal of 1,854 pounds.

(e) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms is determined to be 200 acres.

(f) *National acreage factors.* The national acreage factor is determined to be 1.0.

(g) *National yield factor.* The national yield factor is determined and announced to be .9307.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C. on December 1, 1981.

John R. Block,

Secretary.

[FR Doc. 81-35129 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-05-M

1982 Peanut Program; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination.

SUMMARY: The purpose of this determination is to (a) establish and proclaim the national marketing quota, and (b) establish and proclaim the national acreage allotment.

The need for this determination is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as "the Act").

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Analysis Division, ASCS, USDA, ROOM 3732–South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5953. The final impact analysis describing the impact of implementing this determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Note.—The Agriculture Stabilization and Conservation Service will publish a rule in the near future removing the announcements of quota determinations for peanuts from 7 CFR Part 729. The announcements will subsequently be published in the notices section of the **Federal Register.**

This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the implementation of these determinations will not result in: (1) an annual effect on the economy of $100 million or more; (2) major increases in costs for consumers, individuals, industries, Federal, State, local government agencies and geographic regions; and (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The title and number of the Federal assistance program that this notice of determination applies to are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this determination since ASCS is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires that between July 1 and December 1 of each calendar year the Secretary shall proclaim a national marketing quota for the crop of peanuts to be produced in the next succeeding calendar year. Section 358(a) of the Act provides that the marketing quota for such crop shall be the quantity of peanuts which will make available for marketing a supply equal to the average quantity of peanuts harvested for nuts during the 5 years immediately preceding the year in which the quota is proclaimed, adjusted for trend and prospective demand conditions. The minimum quota shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres.

The marketing quota for 1982-crop peanuts is determined in the 1981 calendar year. Consequently, the 1976-80 average quantity of peanuts harvested for nuts is the five-year average to be used as the basis for such quota. The 1976-80 average production of peanuts adjusted for trend is 1,925,000 tons. For the 1982-83 marketing year, the total quantity of peanuts required for domestic edible use, seed, commercial crushing, and exports is projected to be 1,600,000 tons based on the data in the following table.

Peanuts: Projected Requirements for Edible and Related Uses for the 1982-83 Marketing Year beginning August 1, 1982.

	1,000 tons
Domestic edible use	960
Seed	105
Commercial crushing	100
Exports	435
Total	1,600

This quantity is used as the prospective demand adjustment factor because such uses reflect commercial requirements. Therefore, the national marketing quota based on the 1976-80 five-year average quantity of peanuts harvested for nuts, adjusted for current trends and prospective demand conditions, is 1,600,000 tons.

The Act requires that the national marketing quota be converted to a national acreage allotment by dividing such quota by the normal yield determined by the Secretary. It also requires that the national acreage allotment shall be the larger of 1,610,000 acres or the allotment needed to produce the national marketing quota determined on the basis of the five-year (1976-80) average production with adjustments for trend and prospective demand.

The normal yield is determined to be 2,538 pounds per harvested acre. The normal yield is the 1976-80 average yield of peanuts for the United States, adjusted for trends and abnormal conditions of production affecting yields.

At the 2,538 pound-per-acre estimated normal yield for 1982-crop peanuts, a 1,355,835-acre national allotment, including adjustments for underharvesting, would be required to produce the 1,600,000 tons marketing quota. Since this allotment is smaller than the 1,610,000-acre minimum allotment specified in the Act, the national acreage allotment for 1982-crop peanuts must be established at the 1,610,000-acre minimum.

The national marketing quota which is the quantity sufficient to provide the 1,610,000-acre minimum national allotment is 2,043,090 tons. This quota is the result obtained by multiplying 1,610,000 acres by the estimated normal yield and converting this quantity to short tons.

Since the national marketing quotal and the national acreage allotment for the 1982 crop of peanuts are calculated in accordance with the formula prescribed by Section 358(a) of the Act and since the proclamation of such quota and allotment is required to be made by December 1, 1981, it has been determined that no further public rulemaking is required with respect to the promulgation of this notice of determinations.

Notice of Determinations

1. *National Marketing Quota.* The national marketing quota for the 1982 crop of peanuts is hereby determined and proclaimed to be 2,043,090 tons, the quantity sufficient to provide the 1,610,000-acre minimum national acreage allotment.

2. *National Acreage Allotment.* The national acreage allotment for 1982-crop peanuts is hereby determined and proclaimed to be 1,610,000 acres, the minimum allotment prescribed under Section 358(a) of the Agricultural Adjustment Act of 1938, as amended.

(Secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended (7 U.S.C. 1301, 1358, 1375))

Signed at Washington, D.C. on December 1, 1981.

John R. Block,
Secretary.

[FR Doc. 81-35150 Filed 12-7-81; 8:45 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

Horse Protection Act Violations; Notice of Disqualification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of disqualification.

PURPOSE: This notice is to advise the general public and the horse industry of the disqualification of the following individuals, who had been charged with violations of the Horse Protection Act, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for the period indicated:

1. Sandy Goss, Memphis, Tennessee.

Sandy Goss has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year running from May 1, 1981, through April 30, 1982.

2. Jimmy Holloway, West, Mississippi.

Jimmy Holloway has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year

running from August 1, 1981, through July 31, 1982.

3. Jim Messenger, Sparta, Tennessee.

Jim Messenger has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year running from September 1, 1981, through August 31, 1982.

4. John Peels, Shelbyville, Tennessee.

John Peels has been disqualified from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of 1 year running from October 15, 1981, through October 14, 1982.

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection Act states that a person may be disqualified from "showing or exhibiting any horse, judging or managing any horse show, horse exhibition or horse sale or auction for a period of not less than 1 year for the first violation and not less than 5 years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to civil penalty of not more than $3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to civil penalty of not more than $3,000 for each violation * * *"

This will serve as notification to the general public and the horse industry that Sandy Goss, Jimmy Holloway, Jim Messenger, and John Peels have been disqualified as indicated, and that allowing a disqualified person to participate in prohibited activities is a violation of section 6(c) of the Act which would subject the violator to the penalties indicated therein.

Done at Washington, D.C., this 2d day of December 1981.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 81-35008 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1981, through June 30,1982

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice implements Congressional action reducing the value of commodity subsidies for federally subsidized meal programs authorized by the National School Lunch Act. The notice announces the value of donated foods given for each lunch served in the National School Lunch Program, and each lunch and supper served in the Child Care Food Program, for the period July 1, 1981 through June 30, 1982. The Department esimates that this nondiscretionary, legislatively mandated action will result in a Federal budget savings.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-8386.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department estimates that the action will result in a savings of about $240 million dollars during the period July 1, 1981 through June 30, 1982. The prior provisions of sections 6(e) and 17(h) of the National School Lunch Act (Act) would have required Federal expenditures of approximately $740 million during that period, whereas the newly mandated legislation reduces this amount to approximately $500 million. The Department anticipates that the greatest impact of this reduction during the 1982 school year will be on Federal purchases of fruit and vegetable products, which will decline by nearly 40 percent over 1981 levels. Federal meat and poultry purchases for schools and institutions will probably decrease by about 30 percent during 1982 and a similar decrease is expected for purchases of grain, oil and peanut products. The overall impact of these reductions on the agricultural sector may be minimal, however, since the decline in Federal purchases should be offset to some extent by local purchases by schools or individual families. Therefore, the net effect of these reductions on the agricultural sector in terms of overall price stability, employment and production would be minimal in the long-run. Because the changes reflected in this notice could result in an increase in costs to State or local governments or individuals and will result in budget savings of more than $100 million, this notice has been classified as major. However, because the effects are caused solely by a reduction in Federal outlays and the reductions are non-discretionary, the requirement that a regulatory impact analysis be prepared has been waived by the Office of Management and Budget. This action will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, the action is unrelated to the abiliy of United States-based enterprises to compete with foreign-based enterprises.

Finally, this action, which implements a mandatory provision aimed at reducing Federal expenditures in programs authorized under the Act, has been reviewed with regard to the Regulatory Flexibility Act, Pub. L. 96-354. G. William Hoagland, Administrator of the Food and Nutrition Service, has determined that the action may have a significant economic impact on a substantial number of small entities in that the reduction in the per-meal level of commodity assistance required by the legislation will cause an increase in food expenditures by local schools and child care institutions.

Section 6(e) of the Act requires the Secretary to establish a level of commodity assistance given to States for each lunch served in the National School Lunch Program. Section 802 of Pub. L. 97-35, enacted August 13, 1981, amended section 6(e) of the Act to establish the national average value of donated foods for lunches served in the National School Lunch Program at 11.0 cents and to provide for an adjustment of this amount on July 1, 1982 and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistnce in donated foods, or cash in lieu thereof, established under section 6(e) for school lunches shall also be established for lunches and suppers served in the Child Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 250) and per lunch

and supper under the Child Care Food Program (7 CFR Part 226), shall be 11.0 cents for the period July 1, 1981 through June 30, 1982. Pub. L. 97-35 also requires that these rates be made effective July 1, 1981.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry, and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of the Index for March, April and May each year.

This notice imposes no new reporting and recordkeeping burdens necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Nos. 10.555 and 10.558)

Dated: December 1, 1981.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81-35020 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-30-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), Science and Education announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.

Date: December 16, 1981.

Time and place: 8:30 a.m.-4:00 p.m., Room 3109, South Building, USDA, Washington, D.C.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Discuss plans for Needs Assessment/Strategic Plan for Agricultural Research and Education; review draft of 1981 Annual Report; discuss implementation of common program structure.

Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 24th day of November 1981.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 81-34182 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-03-M

Office of the Secretary

Intent to Reestablish Advisory Committee on Foreign Animal and Poultry Diseases

Notice is hereby given that the Secretary of Agriculture proposes to reestablish the Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary has determined that the Committee is in the public interest in connection with duties imposed on the Department by law.

The purposes of the Committee will be to advise the Secretary regarding program operations and measures to prevent, suppress, control, or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States. The Committee will have a balanced membership of women, minorities, scientists, farmers, trade association representatives, and university and government personnel.

The Chairman of the Committee will be the Assistant Secretary, Marketing and Inspection Services, United States Department of Agriculture, Washington, D.C. 20250. Plans are for the Committee to meet at least annually.

This notice is given in compliance with the Federal Advisory Committee Act (P.L. 92-463). Views and comments of interested persons may be submitted to The Administrator, Animal and Plant Health Inspection Service, Room 312-E, United States Department of Agriculture, Washington, D.C. 20250 until December 23, 1981. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., this 3d day of December 1981.

John E. Schrote,

Deputy Assistant Secretary for Administration.

[FR Doc. 81-35099 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Riverfront Park RC&D Measure, Oregon; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Guy W. Nutt, State Conservationist, Soil Conservation Service, 1220 S. W. 3rd, 16th Floor, Portland, Oregon, 97204, telephone 503-221-2751.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Riverfront Park RC&D Measure, Linn County, Oregon.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Guy W. Nutt, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreation facilities on the Willamette and Calapooia Rivers in the downtown area of Albany, Oregon. The planned works of improvement include picnic tables, grills, comfort station, bike paths, parking area, picnic shelter, lighting, and a boat dock. Conservation practices include landscaping, grading and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Guy W. Nutt. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until January 7, 1982.

(Catalog of Federal Domestic Assistance Program NO. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse

review of Federal and federally assisted programs and projects is applicable.)

Guy W. Nutt,

State Conservationist.

November 24, 1981.

[FR Doc. 81-34921 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-16-M

Beaver River Central School Land Drainage RC&D Measure, New York

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Dodd, State Conservationist, Soil Conservation Service, 100 South Clinton Street, Syracuse, New York 13260, telephone 315-423-5076.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Beaver River School Land Drainage RC&D Measure, Lewis County, New York.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for the project.

The measure concerns critical land drainage and a plan for recreation area drainage. The planned works of improvement include subsurface drains, waterways, diversion, grading, and seeding.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Paul A. Dodd, State Conservationist. The FNSI has been sent to various federal, state and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until January 7, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable.)

Dated: November 30, 1981.

Paul A. Dodd,

State Conservationist.

[FR Doc. 81-35044 Filed 12-7-81; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under Section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
81-12-6	Ford-Aire, Inc., d.b.a. Susquehanna Airlines.	Dec. 18, 1981.
81-12-7	Direct Air, Inc	Dec. 18, 1981.
81-12-8	Minuteman Aviation, Inc	Dec. 18, 1981.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 81-12-6 and 8 with the Special Authorities Division, Room 915, and for Order 81-12-7 with Mr. Patrick V. Murphy, Chief, Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428 for Orders 81-12-6 and 8: Mr. J. Kevin Kennedy, (202) 673-5918; for Order 81-12-7: Mr. John L. Quay (202) 673-5405.

By the Civil Aeronautics Board: December 1, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-35102 Filed 12-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-12-2; Docket 39964]

Application of Midstate Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81-12-2 Application of Midstate Airlines, Inc., under Subpart Q for certificate of public convenience and necessity for certain points listed in its application, Docket 39964.

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Midstate to authorize it to provide service to the points listed in its application, and is tentatively determining that it is fit, willing, and able to provide this service.

DATE: Objections: All interested persons having objections to the Board's issuing the proposed authority or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than December 21, 1981. A statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESS: Objections should be filed in Docket 39964, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5340..

SUPPLEMENTARY INFORMATION: Objections should be served upon Midstate; the Mayors or chief executives and airport managers at Chicago, Illinois; Detroit, Michigan; Flint, Michigan; Milwaukee, Wisconsin; Muskegon, Michigan; and Wausau/Stevens Point, Wisconsin; the transportation agencies of the States of Illinois, Michigan and Wisconsin, the Federal Aviation Administration, the Airline Pilots Association and the Association of Flight Attendants. The complete text of Order 81-12-2 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a post card request.

By the Civil Aeronautics Board: December 1, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-35100 Filed 12-7-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40269]

Visit USA Fare/Export Inland Contract Rate Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on December 23, 1981 at 10:00 A.M. (local time) in Hearing Room "D", Universal North Building, 1875 Connecticut

Avenue, N.W., Washington, D.C. before the undersigned administrative law judge.

Order 80-11-182 has defined the issues to be considered in this proceeding. However, in order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed stipulations; (2) proposed requests for information and for evidence; (3) statements of position; and (4) proposed procedural dates. The Bureau of International Aviation and the Bureau of Compliance and Consumer Protection will circulate their materials on or before December 11, 1981,[1] and the other parties on or before December 18, 1981. The submissions of the other parties shall be limited to points on which they differ with the Bureaus and shall use the numbering and lettering used by the Bureaus to facilitate cross-referencing. December 11 and 18 are dates for actual delivery of materials and not mailing dates.

Dated at Washington, D.C., December 2, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-35101 Filed 12-7-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles; National Bureau of Standards, et al.

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, by December 28, 1981.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00026. Applicant: U.S. Department of Commerce, National Bureau of Standards, A147/222, Washington, D.C. 20234. Article: TAGA-6000 MS/MS Tandem Mass Spectrometric System. Manufacturer: Sciex Inc., Canada. Intended use of article: The article is intended to be used in a program of research which is intended to develop detailed elementary information about the kinetics and mechanisms of very complex physicochemical systems involving, e.g., aromatic and heterocyclic compounds. These are to be studied under a wide variety of severe conditions, e.g., reactive environments involving high temperature, high pressure, high oxidant concentrations, etc. Systemic studies of model compounds will be carried out with the view of developing predictive schemes for entire classes of compounds, to determine the effect of aromaticity on chemical stability and free radical activity. Application received by Commissioner of Customs: October 30, 1981.

Docket No. 82-00027. Applicant: Monell Chemical Senses Center, 3500 Market Street, Philadelphia, PA 19104. Article: QMC BAT Detector, Model S1000 with SMI Microprobe. Manufacturer: QMC Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used for elicitation of ultrasound from mice by female mice or their odors. Hundreds of experiments will be conducted, manipulating odors and hormones in female mice in order to obtain knowledge about chemical communication in mice vis a vis its influence upon the high frequency auditory communication system. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82-00028. Applicant: Stanford University, Stanford, CA 94305. Article: Circular Dichroism Spectrometer, J-500C and Attachment. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The atricle is intended to be used for studies of metalloproteins and their spectral analogues. The experiments to be conducted will include: (i) circular dichroism measurements, (ii) linear dichroism measurements, and (iii) magnetic circular dichroism measurements, including temperature- and field-dependent studies in order to obain ground and excited state values and symmetries. The objectives of these investigations are (1) the complete elucidation of active site geometry and electronic structure, and (ii) to obtain an understanding of the dynamic function of these proteins. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82-00029. Applicant: The Regents of the University of California, Davis, UCD Nuclear Magnetic Resonance Facility, Davis, CA 95616. Article: 11.74 Tesla NMR Superconducting Magnet and Accessories. Manufacturer: Oxford Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to conduct state-of-the-art high resolution nuclear magnetic resonance studies, with the emphasis on proton NMR of molecules of biological importance. Studies to be pursued include molecule identification, molecular structure and conformation investigations, studies of molecular motion, and investigations of tertiary structure of peptides and proteins. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82-00030. Applicant: Solar Energy Research Institute, 1617 Cole Boulevard, Golden, CO 80401. Article: Fluorescence Lifetime Instrument, Model 3000. Manufacturer: Photochemical Research Associtate, Inc., Canada. Intended use of article: The article is intended to be used to determine fluorescence lifetimes and quantum yields for synthetic porphrins, covalently linked electron-donor-acceptor compounds, and natural photosynthetic pigments (chlorophylls, bacteriochlorophylls) and their pheophytins. The objectives are three-fold: (1) In the case of the chlorophylls, the achievement of a basic understanding of the primary photophysical processes of the natural pigments whose properties need to be mimicked in the context of synthetic systems for solar energy conversion. (ii) From these results and from data obtained in analogous experiments on certain *in vivo* chlorophyll preparations (e.g., reaction centers, light-harvesting proteins), it should be possible to infer additional information on the natural molecular environments of the chlorophylls. (iii) Fluorescence studies on covalently linked donor-acceptor complexes will be used to evaluate these compounds as models for artificial photosynthesis. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82-00031. Applicant: Massachusetts Institute of Technology, RM: E18360, Cambridge, MA 02139. Article: Projection Aligner, FPA141, with a wafer disc, rubber wafer disc, rubber wafer chuck, and two seal glasses.

[1] BIA and BCCP may wish to consider the possibility of filing a joint submission if they believe such joint action would facilitate this phase of the proceeding.

Manufacturer: Canon, Inc., Japan. Intended use of article: The article is intended to be used for research on III–V compound semiconductor of silicon integrated electronic devices and circuits. The III–V materials to be used—gallium arsenide and indium phosphide, and their related lattice-matching compounds—are high mobility semiconductors uniquely suited to application in high frequency, high speed electronic devices. A device and integrated circuit fabrication technology is to be developed, and III–V devices and circuits will be fabricated, tested, and modeled. The aligner will be used to create the patterns used in producing these devices and circuits. The article will be used by faculty and research staff personnel and by graduate students in their masters and doctoral research programs. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82–00032. Applicant: American Museum of Natural History, Center Park W. at 79th Street, New York, NY 10024. Article: Imax Projection System. Manufacturer: Imax Systems Corporation, Canada. Intended use of article: The article is intended to be used for permanent exhibition in a museum. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82–00033. Applicant: University of Utah, Salt Lake City, UT 84112. Intended use of article: Gas Chromatograph/Mass Spectrometer with Data System, MM7025. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use of article: The article is intended to be used to obtain mass spectral data in support or research programs of many of the faculty in the Department of Chemistry at the University. It will be operated as a service instrument, to provide the various types of information for which it is specifically designed, and not for research in the specific field of mass spectroscopy and GC–MS except as such studies may be made without interfering in any way with the use as a service instrument. The research programs will include the following:

1. Reaction mechanism studies.
2. Synthesis problems.
3. Studies of natural products.
4. Development of an improved method for detecing gas chromatographic peaks which result from the superposition of peaks due to two or more compounds and the resolution of the mass spectral data obtained in the GC peak into mass spectra of each compound.

The article will also be used in the course Chemistry 797—Thesis Research (Ph. D) which is designed to give students an understanding of how one does research and to prepare them to engage in future research activities in some area which may or may not be closely related to their thesis research. Application received by Commissioner of Customs: October 26, 1981.

Docket No. 82–00034. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Chicago, IL 60439. Article: Magnetic Specimen Observation Device for Electron Microscope. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope which will be used to observe and characterize the microstructure of various magnetic steels, and Ni-base alloys being investigated. Conventional diffraction contrast experiments in both bright and centered dark field modes, selected area diffraction, and convergent beam diffraction techniques will be used to elucidate the microstructural detail of these materials. The results of these experiments will allow the scientists within the division to understand the relationship of macroscopic properties of these solids to the internal defect structure and are essential to continued progress in the magnetic fusion radiation induced segregation studies being conducted for the Department of Energy. Application received by Commissioner of Customs: November 2, 1981.

Docket No. 82–00036. Applicant: Regents of the University of California, Riverside, Material Management Department, Riverside, CA 92521. Article: Organ Perfusion Apparatus, Model KM1A. Manufacturer: Koken Rika Seisakusho, Japan. Intended use of article: The article is intended to be used to perfuse pancreatic tissues obtained from vitamin D deficient rats an/or chicks with the objective of evaluating the effects of vitamin D deficiency on the capability of the pancreas to secrete the peptide hormone insulin and glucagon. Application received by Commissioner of Customs: November 2, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-35092 Filed 12-7-81; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applicants for Duty-Free Entry of Scientific Articles; University of Iowa, et al.

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used are not being manufactured in the Untied States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

> The applicant shall *on or before the 20th* day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.
>
> * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11 (Emphais added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day* period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth

above; therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 301.8 further provides:

* * * Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the **Federal Register** for publication, to the Commissioner of Customs, and to the applicant.

Docket No. 80-00341. Applicant: The University of Iowa, Department of Physics and Astronomy, Iowa City, Iowa 52242. Article: Electrical Flight Grapple Fixture. Date of denial without prejudice to resubmission: June 26, 1981.

Docket No. 80-00465. Applicant: Presbyterian Hospital of Dallas, 8200 Walnut Lane, Dallas, Texas 75231. Article: Electron Linear Accelerator, Therac 20. Date of denial without prejudice to resubmission: June 22, 1981.

Docket No. 81-00037. Applicant: St. Vincent's Medical Center, 1800 Barrs Street, P.O. Box 2982, Jacksonville, Florida 32203. Article: Radiation Therapy Equipment & Accompanying Accessories (Therac 6). Date of denial without prejudice to resubmission: July 31, 1981.

Docket No. 81-00038. Applicant: Rex Hospital, Radiation Therapy, 1311 St. Mary's Street, Raleigh, North Carolina 27603. Article: Radiation Therapy Simulator, Therasim 750. Date of denial without prejudice to resubmission: July 31, 1981.

Docket No. 81-00042. Applicant: The Cancer Therapy and Research Center of San Antonio, 4450 Medical Drive, San Antonio, Texas 78220. Article: TP-11 Radiotherapy Treatment Planning System. Date of denial without prejudice to resubmission: July 31, 1981.

Docket No. 81-00043. Applicant: Capital Area Radiation and Research Center, 2600 East MLK Blvd., Austin, Texas 78702. Article: TP-11 Radiotherapy Treatment Planning System, Platter, and Processor. Date of denial without prejudice to resubmission: July 31, 1981.

Docket No. 81-00044. Applicant: Letterman Army Medical Center, Radiation Therapy Service, Room 121, Presidio of San Francisco, CA 94129. Article: Therapy Simulator, Therasim 750. Date of denial without prejudice to resubmission: July 31, 1981.

Docket No. 81-00051. Applicant: Booth Memorial Medical Center, Pathology Department, 56-45 Main Street, Flushing, New York 11355. Article: Electron Microscope, Model EM 109. Date of denial without prejudice to resubmission: July 14, 1981.

Docket No. 81-00089. Applicant: University of Georgia, Sea Grant College Program, Ecology Building, Athens, Georgia 30602. Article: Four Radar Units. Date of denial without prejudice to resubmission: July 15, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-35093 Filed 12-7-81; 8:45 am]

BILLING CODE 3510-25-M

[A-588-032]

Large Power Transformers From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on large power transformers from Japan. The review covers the three known exporters of the merchandise, Fuji Electric Co., Ltd., Hitachi Ltd., and Tokyo Shibaura Electric Co., Ltd. The review covers certain unappraised entries during varying time periods through June 30, 1980.

As a result of this review the Department has preliminarily determined to postpone appraisement of certain shipments entered during the review period, that margins exist for four units, and that no margins exist for four other units. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Sid Briggs or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5346/5289).

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1972, a dumping finding with respect to large power transformers from Japan was published in the **Federal Register** as Treasury Decision 72-162 (37 FR 11773). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on large power transformers from Japan.

The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of large power transformers, that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, used in the generation, transmission, distribution, and utilization of electric power.

The term "transformers" includes but is not limited to shunt reactors, autotransformers, rectifier transformers and power rectifier transformers. Such transformers are currently classifiable under items 682.0765 and 682.0775 of the Tariff Schedules of the United States Annotated (TSUSA). Not included are transformer-rectifier units, commonly known as rectiformers, if the entire assembly is imported in the same shipment and entered on the same entry, and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly.

The Department knows of a total of three Japanese firms which export large power transformers to the United States. These are Fuji Electric Co., Ltd. ("Fuji"), Hitachi, Ltd., and Tokyo Shibaura Electric Co., Ltd. ("Toshiba").

This review covers the three exporters and certain sales made and entered, not covered by prior appraisement instructions ("master lists"), during varying time periods through June 30, 1980. We have one reported unit for which we have not completed our analysis and six known unreported units sold during this period for which we will analyze and publish the results in a subsequent administrative review. Treasury reviewed all entries made prior to September 26, 1975.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act

or section 203 of the 1921 Act, as appropriate, since all sales were made prior to exportation through a related U.S. firm to unrelated purchasers in the U.S. Purchase price was calculated on the basis of the CIF delivered price with adjustments, where applicable, for U.S. duty, U.S. and foreign inland freight, ocean freight, handling, FOB charges, terminal charges, marine insurance, brokerage fee, commissions to unrelated parties, and U.S. state and local sales taxes. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The home market prices are delivered prices and adjustments were made for inland freight, insurance, and differences in packing costs. In accordance with § 353.15 of the Commerce Regulations or § 153.10 of the Customs Regulations, where the time gap between U.S. and home market purchase dates resulted in significant escalation in costs, adjustments were made based on published monthly price indices for electrical machinery contained in the *Japan Statistical Yearbook*. Adjustments were also made for differences in circumstances of sale involving warranty expenses, inspection and installation costs, and additional labor expenses (overtime) due to expedited delivery schedules; however, certain claimed adjustments for differences in warranty terms were disallowed since we had no evidence of differences in actual warranty expenses. Claims for various selling expenses were disallowed since they were not directly related to the home market sales under consideration or were subsumed in the claims for differences in warranty, inspection, and installation costs. Claimed adjustments for differences in credit costs were disallowed because of a lack of supporting evidence and inadequate quantification. The Department is pursuing the question of an upward adjustment to account for possibly greater credit expenses on U.S. sales. In accordance with § 353.16 of the Commerce Regulations or with § 153.11 of the Customs Regulations, adjustments were also made for differences in efficiency, that is, differences in internal transformer power losses and in the physical characteristics of the transformers being compared. The measurement of differences in efficiency between transformers provides a measure of quality of each transformer. An adjustment was also made for differences in transformer tank construction costs incurred in adapting the unit for rail transportation.

Owing to the complexity of large power transformer design, the Department derived the theoretical price for each of the compared models by pricing the components of such models from price lists, published by the Westinghouse Electric Corp., routinely used as standard manuals in the industry in the determination and analysis of transformer pricing. The Department then applied the ratio of the theoretical prices of the U.S. and home market transformers to the actual unadjusted home market price, in order to arrive at a foreign market value adjusted for differences in the merchandise. The Department also adjusted, where applicable, for costs of additional differences in the merchandise which were incurred in protecting the unit against both portential earthquake damage and salt contamination. No other adjustments were claimed or allowed.

In calculating the foreign market value the standard manuals referred to above reflect the commercial situation as of 1968. These manuals have been used for calculations in determining values used in all prior master lists as well as the calculations in the current review and parallel reviews of large power transformers from Italy and France. In 1975 a new set of standard manuals was published reflecting changes in the technology generally employed in the industry between 1968 and 1975. We believe the information contained in the 1975 manuals is more appropriate for use as a basis for the adjustments described above. However, in fairness to all parties concerned, we propose this change in the basis for calculating such adjustments be effective prospectively, that is, be used in calculations for all entries of transformers sold after the date that the 1975 manuals are placed in the Department's public reading file.

Westinghouse Electric Corp. disagrees with several of the Department's selections of certain home market transformers as most similar for comparison purposes. Westinghouse contends that certain other home market units are more similar for comparison to U.S. units than the Department's selection, due to both fewer technical differences as well as fewer differences in circumstances of sale. The petitioner will have adequate opportunity to present its views during the comment period afforded by publication of this preliminary notice.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist on the entries covered:

Manufacturer	Period	Margin (percent)
Fuji	Sept. 26, 1975 to June 1980.	0
Hitachi, Ltd.	Oct. 1979 to June 1980	13.3
Toshiba	Sept. 12, 1977 to June 1980.	15.3

Interested parties may submit written comments on these preliminary results by January 7, 1981 and may request disclosure and/or a hearing by December 23, 1981. Any request for an administrative protective order must be made no later than December 14, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on the reviewed entries. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based on the margin calculated above for each firm shall be required on all shipments by these firms of large power transformers from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative reiew and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 3, 1981.

Leonard M. Shambon,

Director, Office of Compliance.

[FR Doc. 81-35086 Filed 12-7-81; 8:45 am]

BILLING CODE 3510-25-M

[A-461-008-001]

Titanium Sponge From U.S.S.R.; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on titanium sponge from the U.S.S.R. This review covers the one known exporter from the U.S.S.R. to the United States and the period March 1, 1979 through June 30, 1980. This review indicates no dumping margins exist for the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 8, 1981.

FOR FURTHER INFORMATION CONTACT:

Dennis U. Askey or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4793/5289).

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1968, a dumping finding with respect to titanium sponge from the U.S.S.R. was published in the **Federal Register** as Treasury Decision 68-212 (33 FR 12138). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on titanium sponge from the U.S.S.R. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of titanium sponge, currently classifiable under item 629.1420 of the Tariff Schedules of the United States Annotated (TSUSA). This material is used for aerospace vehicles. The Department knows of only one exporter of titanium sponge from the U.S.S.R. to the United States, Techsnabexport. This review covers the period from March 1979 through June 30, 1980. The Treasury Department reviewed all prior time periods.

United States Price

In calculating United States price the Department used purchase price, as defined in section 203 of the 1921 Act or section 772 of the Tariff Act, as appropriate.

Purchase price was based on the CIF packed price to an unrelated purchaser in the United States. Deductions were made for ocean freight and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used the state-controlled-economies provisions in section 773(c) of the Tariff Act or section 205(c) of the 1921 Act, as appropriate. The foreign market values were based on prices in a non-state-controlled-economy country (Japan) and were adjusted, where applicable, for inland freight and a commission to an unrelated party. Adjustments were also made for differences in the merchandise and size differences, in accordance with § 353.16 of the Commerce Regulations and section 153.11 of the Customs Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no margins exist.

Interested parties may submit written comments on these preliminary results by January 7, 1982 and may request disclosure and/or a hearing by December 23, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing. The Department will issue appraisement instructions directly to the Customs Service.

Since there were no margins, the Department shall not require a cash deposit, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of titanium sponge entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This zero deposit rate shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 2, 1981.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-35085 Filed 12-7-81; 8:45 am]

BILLING CODE 3510-25-M

COMMISSION OF FINE ARTS

Appearance of Washington, D.C.; Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, December 15, 1981 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., December 1, 1981.

Charles H. Atherton,

Secretary.

[FR Doc. 81-35094 Filed 12-7-81; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From India

December 3, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for swing for cotton, wool and man-made fiber textile products in Categories 330-369, 431-469 and 630-669, as a group, produced or manufactured in India and exported during the agreement year which began on January 1, 1981, increasing the group level from 43,370,197 square yards equivalent to

47,707,217 square yards equivalent.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).)

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India provides for percentage increases in certain categories (swing).

Pursuant to the terms of the bilateral agreement and at the request of the Government of India, the import restraint level established for Categories 330–369, 431–469 and 630–669, as a group, is being increased to 47,707,217 square yards equivalent for the twelve-month period which began on January 1, 1981 and extends through December 31, 1981. The increase is applicable only to visaed, mill-made products.

EFFECTIVE DATE: December 3, 1981.

FOR FURTHER INFORMATION CONTACT:

Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 19, 1980 a letter dated December 16, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (45 FR 83645), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 330–369, 431–469 and 630–669, as a group, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1981 and extends through December 31, 1981.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 330–369, 431–469 and 630–669, as a group, produced or manufactured in India, in excess of the designated, adjusted level of restraint, during the twelve-month period which began on January 1, 1981.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 3, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On December 16, 1980, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in India, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 3, 1981, to amend the twelve-month level of restraint established for cotton, wool and man-made fiber textile products in Categories 330–369, 431–469 and 630–669, as a group, accompanied by a visa, to the following:

Category and Amended Twelve-Month Level of Restraint [2]

330–369, 431–469 and 630–669—47,707,217 square yards equivalent

The actions taken with respect to the Government of India and with respect to imports of cotton, wool and man-made fiber textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-35091 Filed 12-7-81; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, which provide, in part, that: (1) Within the aggregate, group limits may be exceeded by designated percentages; (2) specific limits may be exceeded by various percentages subject to various provisions of the agreement; (3) consultation levels may be increased upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to account for any imports after December 31, 1980.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. E-9563]

Bonneville Power Administration; Filing

December 2, 1981.

Take notice that on November 18, 1981, Bonneville Power Administration (BPA) filed a response to Order of December 1, 1980, Remanding Rates Without Prejudice. On July 30, 1976, the Secretary of Interior, on behalf of BPA, filed with the Commission a request for confirmation and approval of certain transmission of non-Federal power and energy over BPA's transmission facilities. By order issued June 10, 1977, the Commission conditionally approved and confirmed BPA's proposed transmission rates through June 1978.

By order issued May 12, 1979, the Assistant Secretary for Resource Applications of the Department of Energy confirmed and approved on an interim basis an extension of interim approval of BPA's transmission rates as filed with the Commission. By Rate Order No. BPA–5, issued June 24, 1981, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy confirmed and approved on an interim basis, effective July 1, 1981, new transmission rates identified as FPT–2, UFT–2, ET–2 and IR–1. New rate schedules are now in place and available to apply to the transmission of non-Federal electric power over BPA's transmission facilities.

On December 1, 1980, the Commission remanded the 1976 transmission filing without prejudice, in order for BPA to submit an explanation further supporting the rates in certain particulars [Order Remanding Rates Without Prejudice, Docket No. E–9563 (December 1, 1980)].

According to BPA, its response together with the original filing, affords a rationale and a rational basis for all of the determinations to be made by the Commission.

Any person desiring to be heard or to protest this filing should file comments

with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 22, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35109 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-111-000]

Central Illinois Public Service Co.; Filing

December 1, 1981.

The filing Company submits the following:

Take notice that on November 20, 1981, Central Illinois Public Service Company (CIPS) tendered for filing Revision No. 7 including Service Schedules "B" & "C" dated October 15, 1981, to the Interconnection Agreement between CIPS and Southern Illinois Power Cooperative dated May 2, 1972.

Copies of this filing have been sent to Southern Illinois Power Cooperative and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35110 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-69-000]

Georgia Power Co.; Compliance Filing

December 2, 1981.

Take notice that on October 26, 1981, Savannah Electric and Power Company (Savannah) filed a compliance report pursuant to the Commission's letter order dated September 18, 1981. The order approved an offer of settlement between Georgia Power Company and Savannah in this docket.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 18, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35111 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI82-59-000]

Gillring Oil Co. et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

December 1, 1981.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 9, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft.[3]	Pressure base
CI82-59-000, B, Nov. 16, 1981	Gillring Oil Co., P.O. Drawer 1279, McAllen, Texas 78501.	Natural Gas Pipeline Company of America, D. J. Sullivan Lease, Ann Mag Field, *et al.*, Brooks County, Texas.	(1)	
CI82-68-000, B, Nov. 30, 1981	Rollar Oil Company, Inc., P.O. Box 215, Luling, Louisiana 70070.	Transcontinental Gas Pipe Line Corporation, Bayou Des Allemands, St. Charles, Louisiana.	(2)	

[1] The gas from this property originally was dedicated by Maguire Oil Co. to Natural Gas Pipeline; no gas was ever sold from this 1000-acre lease. Property released by Maguire to owner March 14, 1980 (effective August 1, 1980); property acquired by Gillring Oil Co. October 10, 1980. Drilled one well, reentered one well which had never produced. NGPL does not wish to purchase the gas, and has given a release. Gillring has a sales contract with Tennessee Gas Pipeline Co. and will commence producing these wells as soon as this abandonment authorization is obtained.

[2] Not economically feasible.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 81-35112 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-559]

Kansas Power and Light Co., Compliance Filing

December 2, 1981.

The filing Company submits the following:

Take notice that on November 16, 1981, Kansas Power and Light Company (KPL) filed a compliance report pursuant to the Commission's letter order dated October 16, 1981. The compliance report reflects refunds made by KPL.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, on or before December 21, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35113 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-109-000]

Mississippi Power Co.; Filing

December 1, 1981.

The filing company submits the following:

Take notice that Mississippi Power Company on November 19, 1981, tendered for filing proposed agreement with Municipal Energy Agency of Mississippi for extension of the term of the existing bulk power transmission service agreement approved in Docket ER81-194. The filed agreement provides for extension of the term of the existing agreement for twelve months from December 1, 1981 to November 30, 1982. No change is made in the rates and charges which Mississippi Power Company will make for performing the bulk power transmission services for Municipal Energy Agency of Mississippi during the extension period.

The filing is an extension of an existing service contract which expires November 30, 1981. The service is presently continuing.

Posting of the filing has been accomplished with notice to Municipal Energy Agency of Mississippi, the only affected customer.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35114 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-108-000]

Monongahela Power Co., Filing

December 1, 1981.

Take notice that Allegheny Power Service Corporation (APSC) on November 19, 1981, tendered for filing on behalf of its affiliates, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies) an Agreement between the APS Companies and Atlantic City Electric Company (Atlantic) for the sale by the APS Companies and the purchase by Atlantic of specified amounts of electric power and energy to be sold from the APS Companies' Pleasants Station (Pleasants Power) for a period commencing January, 1982, and ending December 31, 1985. The Agreement provides, among other things, that Pleasants Power will be sold to Atlantic at a rate of $11.03 per kw per month plus the out-of-pocket cost of energy delivered, including losses plus the lesser of 2 mills or 10% of energy cost. Deliveries of energy to Atlantic will be scheduled for as many hours as Atlantic desires but not to exceed 50,000 kwh per hour in 1982 and such other amounts in the later years as the parties may agree.

Applicants estimate that for the 12 months ended December 31, 1982, the demand charges will total $6.6 million ($.55 million per month and state that energy charges cannot be estimated at the present time since the cost of producing energy will vary and the number of kwh that Atlantic will take will vary from month to month.

Applicants state that no facilities need be constructed or acquired in connection with the sale and purchase of Pleasants Power.

Applicants have requested the Commission to accept the Agreement for filing on or before January 1, 1982, as they intend to commence the sale and purchase of pleasants Power as of that date, and in that connection have requested waiver of any requirements of the Commission's Rules and Regulations deemed necessary and desirable by the Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35115 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-112-0]

Niagara Mohawk Power Corp.; Tariff Change

December 1, 1981.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 23, 1981 tendered for filing as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY) dated June 23, 1981.

Niagara presently has on file an agreement with PASNY dated January 15, 1963. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 22. This new agreement is being transmitted as a supplement to the existing agreement.

The original January 15, 1963 agreement states that Niagara will provide backup power when requested by PASNY so that PASNY can maintain

an uninterrupted supply of interruptible power and energy to its alumunum reduction customers in the St. Lawrence Area. Niagara will supply the energy at a power rate not to exceed 80,000 kilowatts at any time prior to January 1, 1993 and at the rate of 40,000 kilowatts for the remainder of the agreement when and if Niagara can supply the power and energy from its generating facilities, contract resources or its interconnections without necessitating an interruption to its customers. This supplement revises the rate for emergency power as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior requirements in order to allow said agreement to become effective as of September 1, 1981.

Copies of the filing were served upon the following:

Power Authority of the State of New York, 10 Columbus Circle, New York, N.Y. 10019

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, N.Y. 12223

Any persons desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practices and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35116 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. ID-1988-000]

Nicholas R. Petry; Application

December 1, 1981.

The filing individual submits the following:

Take notice that on November 24, 1981, Nicholas R. Petry filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Public Service Company of Colorado

Director—Eaton Corporation

In the alternative, Mr. Petry seeks an order dismissing his application for want of jurisdication.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35117 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-1-000]

Public Service Co. of New Mexico; Order Accepting for Filing and Suspending Revised Rates, Denying Motion To Reject, Granting Summary Disposition in Part, Granting Intervention, and Establishing Hearing and Price Squeeze Procedures

Issued: November 30, 1981.

On October 1, 1981, Public Service Company of New Mexico (PNM) filed a proposed increase in rates [1] for firm power service to four partial requirements customers [2] and one full requirements customer, the City of Gallup (Gallup). The proposed rates would result in increased revenues of approximately $11,327,000 (11.31%) for the twelve months ending December 31, 1982. Gallup's contract provides that changes in rates for service up to 30 MW at three original delivery points can become effective prospectively only after final Commission order. No such limitation applies to service provided at a new fourth delivery point. Therefore, PNM requests different effective dates for the two sets of rates: PNM requests an effective date of December 1, 1981, for the increase applicable to the four partial requirements customers and service to Gallup in excess of 30 MW at the fourth delivery point (Schedule B rates). PNM requests that the proposed rates for service to Gallup up to 30 MW at the remaining delivery points (Schedule A rates) become effective prospectively upon final Commission approval.

Notice of the filing was issued on October 9, 1981, with responses due on or before October 30, 1981. Petitions to intervene were filed by Texas-New Mexico Power Company (TNP) on October 22, 1981, and by Plains Generation and Transmission Cooperative (Plains), Kennecott Corporation (Kennecott), and the Department of Energy at Los Alamos (DOE) on October 30, 1981. On November 3, 1981, the Cities of Gallup and Farmington jointly filed an untimely petition to intervene and a motion for leave to file the petition out of time and for leave to file a separate protest, motion to reject, motion for summary judgment, and motion for a five-month suspension on November 10, 1981. An extension of time was granted until November 6, 1981. On November 10, 1981, Gallup and Farmington jointly filed their protest together with a motion for a further extension of time reciting that compliance with the November 6 filing date had been physically impossible.

The petitions and protests raise a number of substantive issues and request various forms of relief. Kennecott asserts that the retail electric rates of its supplier, TNP, will be affected significantly by the outcome of the proceedings in this docket. DOE seeks a five-month suspension and asserts that the requested return on equity is excessive. Plains also requests a five-month suspension and alleges that adjustments are required to the return on equity, inclusion of uranium leases in rate base, accounting for sales of non-firm power to the Los Angeles Department of Water and Power, inclusion of prepayments of purchases of PNM common stock as part of PNM's employee stock ownership plan, cash working capital, and customer charges. Farmington and Gallup seek rejection of the filing, refiling of the rates to produce a resale rate of return lower than the currently earned retail rate of return, summary rejection of PNM's cash working capital allowance and PNM's inclusion of uranium leases in rate base, and a five-month suspension.

Discussion

As an initial matter, the Commission finds that participation in this proceeding by each of the petitioners is in the public interest and that good cause exists to permit Gallup and

[1] *See* Attachment A for rate schedule designations.

[2] Texas-New Mexico Power Company (formerly Community Public Service Company), the City of Farmington, Plains Generation and Transmission Cooperative, and the Department of Energy at Los Alamos.

Farmington to intervene out of time. Therefore, the petitions to intervene will be granted. The Commission also finds that good cause exists to accept the late filed protest of Gallup and Farmington and to entertain the motions contained therein. The timely-filed petition of DOE is sufficient under the terms of section 405 of the Department of Energy Act to initiate its participation in this proceeding.

Gallup and Farmington seek rejection of PNM's filing on the grounds that the claimed rate of return on equity exceeds the return on equity agreed upon in the settlement of PNM's most recent retail rate filing. Gallup and Farmington assert that, as a result, PNM's customers would experience a price squeeze and would be placed at a competitive disadvantage during the period that the proposed wholesale rates are in effect. Gallup and Farmington suggest that the Commission permit refiling of the rates at a level which would reduce the return on equity to that applicable at the retail level.

The Commission was recently presented with a similar argument in *Minnesota Power & Light Company*, Docket No. ER81-764-000, order issued November 13, 1981, in which certain customers requested rejection of that portion of the proposed rate increase which could be attributed to the difference between the wholesale and retail rate of return on equity. We declined to reject that filing because it substantially complied with the requirements of section 35.13 of the Commission's regulations,[3] because the appropriate rate of return is a question of fact which should be resolved at hearing, and because the purported differential in wholesale and retail rates of return does not, in itself, establish unlawful price squeeze without a comparison of other costs.[4] The same considerations apply here. The Commission finds that PNM has substantially complied with the filing requirements of section 35.13 of the regulations. The Commission also finds that the requested relief is inappropriate at this stage of the proceedings, and that the concerns of Gallup and Farmington regarding rate of return and price squeeze can be addressed more appropriately by setting these issues for hearing.

Our analysis reveals that PNM has failed to reduce its long-term debt cost to reflect gains on reacquired securities. Such an adjustment was found to be appropriate in *Arkansas-Louisiana Gas Company*, Docket Nos. RP77-54, *et al.*, Opinion No. 71, (January 1, 1980). Consistent with Commission precedent, we shall direct PNM to so reduce the long-term debt cost reflected in its cost of service. However, because the revenue impact of this summary disposition is relatively small in relation to the proposed rate increase, we shall not require the company to refile its rates at this time.

The request for summary disposition with respect ot PNM's cash working capital calculation and PNM's inclusion of uranium leases in rate base will be denied. These issues, as well as the other matters raised by the intervenors, presents question of law or fact more appropriately resolved on the basis of an evidentiary hearing.

Our analysis of PNM's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we shall accept the rates for filing and suspend them as directed below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Accordingly, we shall suspend the rates applicable to the four partial requirements customers and the Schedule B rates applicable to Gallup's fourth delivery point for service in excess of 30 MW for five months to become effective, subject to refund, on May 1, 1982. Revised Schedule A rates for service to Gallup up to 30 MW at its three original delivery points may become effective prospectively only upon a final Commission order in these proceedings.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 1979), we shall phase the price squeeze issue. This procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) The motion of Gallup and Farmington for an extension of time until November 10, 1981, is hereby granted.

(B) The motion of Gallup and farmington to reject is hereby denied.

(C) Summary disposition of PNM's treatment of gains on reacquired debt is hereby ordered, as noted in this order. PNM shall reflect this summary disposition in its compliance cost of service at the conclusion of these proceedings. All other motions for summary dispositon are hereby denied.

(D) PNM's proposed rates for service to its partial requirements customers and for service to Gallup in excess of 30 MW at its fourth delivery point (Schedule B rates) are hereby accepted for filing and suspended for five months from sixty days after filing to become effective on May 1, 1982, subject to refund.

(E) PNM's rates for service to Gallup up to 30 MW at its three original delivery points (Schedule A rates) shall be set for investigation, and such rates as are found to be just and reasonable by the Commission after hearing shall become effective prospectively upon a final Commission order in this docket.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of PNM's rates.

(G) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act: *Provided, however*, that participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *provided, further*, that the admission of such

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[4] *See Missouri Power and Light Co.*, Docket No. ER76-539, Opinion No. 31 and 31-A (October 27, 1978, and May 16, 1979); *Southern California Edison Co.*, Docket No. ER76-205, Opinion No. 62 (August 22, 1979); *Commonwealth Edison Co.*, Docket Nos. E-9002 and ER76-122, Opinion No. 63 (September 14, 1979).

[5] *E.g., Boston Edison Company*, Docket No. ER80-506 (August 29, 1980) (five-month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one-day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one-day suspension).

intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(H) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Commission staff shall serve top sheets in this proceeding on or before December 1, 1981.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law judge for that purpose, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—PUBLIC SERVICE COMPANY OF NEW MEXICO, DOCKET NO. ER82-1-000, RATE SCHEDULE DESIGNATIONS

Designations	Other parties
(1) Supplement Nos. 25 and 26 to Rate Schedule FPC No. 31 (Supersedes Supplement Nos. 23 and 24).	Plains Generation and Transmission Cooperative.
(2) Supplement No. 13 to Rate Schedules FPC No. 32 (Supersedes Supplement No. 12).	Texas-New Mexico Power Company (formerly Community Public Service Company).
(3) Supplement No. 9 to Rate Schedule FPC No. 34 (Supersedes Supplement No. 8).	DOE—Los Alamos.
(4) Supplement No. 10 to Rate Schedule FPC No. 35 (Supersedes Supplement No. 9).	City of Farmington.
(5) Supplement No. 10 to Rate Schedule FPC No. 2 (Supersedes Supplement No. 9).	City of Gallup—Service Schedule B.

[FR Doc. 81-35118 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-110-000]

Southern California Edison Co.; Filing

December 1, 1981.

The filing company submits the following:

Take notice that on November 20, 1981, Southern California Edison Company ("Edison") tendered for filing an agreement entitled "Edison-Pacific Interruptible Transmission Service to Midway Agreement" which has been executed by Edison and Pacific Gas and Electric Company ("Pacific").

Under the terms and conditions of the agreement, Edison will make available to Pacific interruptible transmission service between several points of receipt and the point of delivery at Midway Substation.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Pacific Gas and Electric Company.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35119 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-113-000]

Superior Water, Light and Power Co.; Filing

December 1, 1981.

The filing Company submits the following:

Take notice that Superior Water, Light and Power Company (SWL&P), on November 24, 1981, tendered for filing proposed changes in its FERC Electric Rate Schedule W-8. The proposed changes would increase revenues from jurisdictional sales and service by $508,547 based on the 12 month period ending December 31, 1982. SWL&P requests a waiver of the Commission's notice requirements so that the proposed increase can be made effective as of November 16, 1981. To the extent that the Commission declines to grant the requested waiver to permit a retroactive effective date of November 16, 1981, SWL&P requests an effective date no later than the date of this tender for filing, or November 24, 1981. If such alternative request for waiver is also denied, SWL&P requests an effective date no later than sixty (60) days from the date of this tender for filing, or January 23, 1982.

The proposed rate changes and rate charges are designed to increase the revenue from Dahlberg Light and Power Company, SWL&P's only jurisdictional customer, sufficiently to recover the proportionate share of the increase in the cost of purchased power from SWL&P's supplier and to raise the rate of return on the investment necessary to service the jurisdictional customer to an accepatable level.

Copies of the filing were served upon SWL&P's jurisdictional customer and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35120 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-58]

Southern Company Services, Inc.; Compliance Filing

December 2, 1981.

The filing company submits the following:

Take notice that on October 14, 1981, Southern Company Services, Inc. (Southern) filed a refund compliance pursuant to the Commission's letter order dated September 14, 1981. The order approved an offer of settlement between Florida Power & Light Company and Southern.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 21, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-35121 Filed 12-7-81; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51362; TSH-FRL-1999-7]

Acrylic Copolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of one PMN and provides a summary.

DATE: Written comments by: PMN 81-607, January 29, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51362]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT: 0David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA:

PMN 81-607

Close of Review Period. February 28, 1982.

Manufacturer's Identity. S. C. Johnson and Son, Inc., 1525 Howe Street, Racine, WI 53403.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acrylic copolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a highly dispersive manner by consumers.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No date were submitted.

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: December 1, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc 81-35090 Filed 12-7-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51361; TSH-FRL-1999-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of three PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-604, 81-605, & 81-606, January 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51361]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-604

Close of Review Period. February 25, 1982.

Manufacturer's Identity. Mobay Chemical Corporation, Stanley Research Center, 17745 South Metcalf, Stilwell, KS 66085.

Specific Chemical Identity. 2-chlorobenzamide.

Use. The manufacturer states that the PMN substance will be used as an intermediate for pesticide.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH, 7 @ 100 g/L water
Melting point, 139° C
Solubility:
  Water @ 20° C, 5.6 g/L
  Toluene @ 20° C, Insoluble
Density @ 20° C, 1.29 g/cm^3

Toxicity Data

Acute oral toxicity LD_{50} (rat), 1,200/1,390 mg/kg
Acute dermal toxicity LD_{50} (rat), 5,000 mg/kg
Skin irritation (rabbit), Non-irritant
Eye irritation (rabbit), Non-irritant

Environmental Test Data

Inhalation toxicity LC_{50} 4 hr. (rat), No symptoms @ 94 mg/m^3

Exposure. The manufacturer states that during processing 2 workers may experience dermal and inhalation 0.2 days/yr during unloading.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible.

PMN 81-605

Close of Review Period. February 25, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Substituted benzophenone reacted with methyl silsesquioxane.

Use. The manufacturer states that the PMN substance will be used in industrial coating resin.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Translucent dry powder
Solubility:
Water, Negligible
Density, 1.3–1.4 estimated
Vapor pressure, Negligible

Toxicity Data

Acute oral toxicity LD_{50} (rat), > 5,000 mg/kg
Skin irritation (rabbit), Slightly irritating
Eye irritation (rabbit), Slightly irritating
Ames salmonella, Non-mutagenic
DNA repair, Negative

Exposure. The manufacturer states that during manufacture workers may experience dermal exposure during testing.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81–606

Close of Review Period. February 25, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Substituted-(2-hydroxy-benzophenone oxy) propane.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Yellow viscous liquid
Specific gravity, 1.08
Flash point, 152°F
Melting point, < −20°C
Solubility:
Water, Reacts with water to form gel and ethanol.

Toxicity Data

Oral toxicity LD_{50} (rat), > 5,000 mg/kg
Dermal toxicity LD_{50} (rat), > 2,000 mg/kg
Skin irritation (rabbit), Slight irritant
Eye irritation (rabbit), Not an irritant
Ames salmonella, Not mutagenic
Skin sensitization (guinea pig), No response to challenge
DNA repair (E coli), No detectable activity.

Environmental Test Data

Acute inhalation toxicity LC_{50} 4 hr. (rat), No death, damp fur, loss of hair, low activity.

Exposure. The manfacturer states that during manufacture, quality control testing and processing workers may experience dermal and occular exposure during testing.

Environmental Release/Disposal. Claimed confidential business information.

Dated: November 30, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-35089 Filed 12-7-81; 8:45]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1321]

American Waterways Operators, Inc.; Petitions for Reconsideration of Actions in Rule Making Proceedings

December 2, 1981.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before December 23, 1981. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Request amendment of Parts 81 & 90 of the Commission's Rules to permit local low power secondary use of certain land mobile VHF for limited operations by mobile and shore based harbor support facilities in the New Orleans, Louisiana and Houston, Texas port areas. (RM–3848)

Filed by: George Petrutsas, Attorney for American Waterways Operators, Inc., on 10–23–81.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-35040 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81–833 and 81–834; File Nos. BPCT–801112KH and BPCT–80121KE]

Comark Television, Inc. and Three Star Telecast, Inc.; Memorandum Opinion and Order

Adopted: November 24, 1981.

Released: December 4, 1981.

In re applications of Comark Television, Inc. San Juan, Puerto Rico, BC Docket No. 81–833, File No. BPCT–801112KH; Three Star Telecast, Inc. San Juan, Puerto Rico, BC Docket No. 81–834, File No. BPCT–810121KE, for Construction permit; designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 18, San Juan, Puerto Rico.

Comark Television, Inc.[1]

2. Applicant estimates its costs as follows:

Equipment	
Cash purchases	$279,900
Down payments	137,926
Three months payments	56,284
Land	50,000
Building	30,000
Legal costs	4,500
Engineering costs	3,000
Miscellaneous	5,000
Operating Costs, three months	183,750
Total	750,360

3. Since the application is herein designated for hearing, the applicant's estimate of legal costs appears to be unrealistically low. We are, therefore, unable to determine the applicant's costs to construct and operate for three months. An appropriate financial issue will be designated.

4. To finance its proposal, applicant relies upon: (1) Existing capital of $750; and, (2) a bank loan from Old Colony Bank of $1,250,000. The bank letter states that the bank "would consider" lending Comark up to $1,250, 000, but does not commit the bank any further. The bank also requires guarantees from the principals and investors, but there is no indication that the principals and investors are willing to guarantee the loan. Consequently, a question arises as to whether the bank loan will be

[1] Comark has also applied for television stations to operate on: "Channel 38, New Orleans, Louisiana (BPCT–800721KO); Channel 26, Daytona Beach, Florida (BPCT–791214KE); Channel 51, Portland, Maine (BPCT–800721KH); Channel 62, Syracuse, New York (BPCT–800521KN)."

In addition, David Smith, who is Secretary-Treasurer, Director, and 33% owner of Comark, is the 4.8% owner of Commerical Radio Institute, Inc., which has interests in: "WPTT–TV, Pittsburgh, Pennsylvania; WBFF–TV, Baltimore, Maryland; Channel 28, Columbus, Ohio (grantee) (BPCT–4925); Channel 38, St. Petersburg, Florida (applicant) (BPCT–790130LT); Channel 61, Wilmington, Delaware (applicant) (BPCT–801001KI); Channel 61, Hartford, Connecticut (applicant) (BPCT–790419KE)."

Section 73.636(a)(2) of the Commission's Rules limits a party to direct or indirect interest in no more than seven television stations.

available and appropriate issues will be specified.

Three Star Telecast, Inc.

5. Three Star Telecast, Inc. is a wholly-owned subsidiary of Three Star Corporation. Two of the three principals of Three Star Corporation Mr. Saleh and Mr. Gawrych, are officers and directors of Antilles Broadcasting Corporation, licensee of Station WSVI(TV), Christiansted, St. Croix, Virgin Islands. They control both Antilles and Three Star Corporation. On February 20, 1981, the Commission issued a so-called "B cut-off list" announcing the acceptance for filling of the Three Star application and setting April 2, 1981, as the date by which petitions to deny must be filed. This notice was published in the **Federal Register** on February 23, 1981 (46 FR 13575). On June 11, 1981, more than two months after the "cut-off" date, the Department of Education of Puerto Rico, licensee of noncommercial educational Station WIPR(TV), Channel 6, San Juan, Puerto Rico, and a hearing-impaired viewer of Station WIPR(TV), Mr. Max Goldman, filed a joint petition to deny, together with a request for waiver of § 73.3584(a) of the Commission's Rules, which is concerned with the time within which petitions to deny must be filed. The only reason offered in support of the waiver request is that the "cut-off" notice did not describe the relationship between the applicant and Station WSVI(TV). This is an inadequate reason. The Commission's public notice of "cut-off" does not purport to contain all information contained in an application and, of course, it cannot. Its purpose is to alert interested parties that an application has been filed for a particular channel in a particular community by a specified applicant. It is an invitation to interested parties to make further inquiry if additional information is desired. The licensee of a television station in San Juan can reasonably be expected to interest itself in any application for a new station in San Juan and to take the necessary steps to inform itself of the content of the application if it wants to learn more about the proposal. *Reeves Broadcasting Corporation*, 8 FCC 2d 448, 10 RR 2d 259 (1967). Moreover, the applicant gave local public notice of the filing of its application at the end of January and the beginning of February, 1981. These notices, published in Spanish in "El Dia" and in English in "San Juan Star", both daily newspapers of general circulation in San Juan, gave all information concerning the identity of the principals of Three Star and disclosed the location where the application could be inspected. Petitioners' failure to avail themselves of the opportunity to inspect the application is fatal to their waiver request. Consequently, the waiver request will be denied and the petition dismissed, but we will consider the petition as an informal objection filed pursuant to § 73.3587 of the Commission's Rules.

6. The objectors' grievance lies against the operation of Station WSVI(TV) and they claim that the licensee's conduct has been so inconsistent with operation of the station in the public interest that the principals are unfit to be licensees of the new station proposed for San Juan. Some background is necessary to understand the gravamen of the complaint.

7. Station WSVI(TV) is affiliated with the ABC network. It carries captioned English language news for the hearing-impaired, pursuant to arrangements with ABC, Station WTJX-TV, Charlotte Amalie, St. Thomas, Virgin Islands (a noncommerical educational station), and WGBH Educational Foundation, licensee of noncommercial educational Station WGBH(TV), Boston, Massachusetts. WGBH operates a captioning center and makes the captioned ABC news availabe to educational stations via earth satellite. Pursuant to a written agreement between ABC and WGBH, before an educational station can carry the captioned ABC news, it must obtain clearance from any ABC affiliate into whose market the educational station's signal reaches. Antilles has given such clearance to WTJX-TV (St. Thomas), which receives the satellite feed and then feeds WSVI(TV). WSVI(TV) inserts commercial matter and broadcasts the captioned ABC news. Without having sought clearance from any ABC affiliate, WIPR(TV) began to carry the captioned ABC news in May 1979. The Department of Education was immediately notified by the Public Broadcasting Service (PBS) that is must cease carriage until the clearance procedures had been followed. The Department claims that WIPR(TV)'s signal does not reach into the market of any ABC affiliate;[2] Christiansted is 90 miles from San Juan. Nevertheless, Antilles, presumably as the closest ABC affiliate, objected to the carriage and the Department claims that its efforts to obtain clearance from Antilles over a two-year period have been fruitless. This, it is alleged, deprives the hearing-impaired in San Juan of the captioned ABC news, contrary to the public interest.

[2] See paragraph 10, *infra*.

8. On July 1, 1981, the applicant responded to the objections, but did not address the merits. Instead, it pointed out that, on the previous day (June 30, 1981), Antilles' attorney (also the attorney for the applicant) filed a letter with the Commission advising that Antilles "* * * has no objection to the rebroadcast of the captioned English language ABC News by WIPR-TV". The letter states that WSVI's consent will terminate upon the expiration of the ABC affiliation agreement with WSVI or upon grant by the Commission of a construction permit for a new commercial television station in San Juan which would broadcast primarily in English. On July 20, 1981, WIPR filed a reply in which it rejected these two conditions.

9. WIPR demands unconditional consent and urges the Commission to require assurances "* * * from any applicant for a construction permit for a television station in Puerto Rico that it will do nothing to prohibit the carriage of the Captioned ABC News by the Department's non-commercial television stations."[3] We find no justification for requiring such assurances and we believe that acquiescence in this request would be inconsistent with the provisions of § 73.658(b) of the Commission's rules.[4] Nevertheless, we are unable to find any basis for the power of veto which Antilles has exercised. It is not contended that WIPR's Grade B contour extends into WSVI's market area and, it seems to us, the exercise of such a power by WSVI in the fact situation in this case transcends the ABC agreement with WGBH as well as § 73.658(b) of the Rules. ABC may confer upon an affiliate the right to first call on ABC programs as against a nonaffiliate in the same community, but that is the limit of its right to territorial exclusivity in a case such as this one. We hold, therefore, that WSVI has no role in whether WIPR carries the

[3] The Department of Education of Puerto Rico is also the licensee of noncommercial educational Station WIPM(TV), Mayaguez, Puerto Rico.

[4] Section 73.658(b) of the rules provides, in pertinent part:

"No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders another broadcast station located in a different community from broadcasting any program of the network organization. This section shall not be construed to prohibit any contract, arrangement, or understanding between a station and network organization pursuant to which the station is granted the first call in its community upon the programs of the network organization. As employed in this paragraph, the term 'community' is defined as the community specified in the instrument of authorization as the location of the station."

Captioned ABC News and that WIPR may carry that program, if it follows the procedures established by the ABC–WGBH agreement, without the consent of WSVI.

10. The Department seeks to raise a question as to whether Antilles' conduct in this affair reflects adversely on its principals' qualifications to be the licensee of a television station in San Juan. We understand that WSVI can be viewed in San Juan and other parts of eastern Puerto Rico, although the signal quality is poor, and WSVI is carried in San Juan and elsewhere by cable television systems. The signals of WIPR can be received in St. Croix, although its signals, too, are poor. The parties do not seem to regard these conditions as constituting penetration into each other's market. The agreement between ABC and WGBH has been in effect for more than seven years and its validity was assumed by ABC, WGBH and PBS. Certainly PBS and WGBH acquiesced in Antilles' exercise of its supposed power and while both expressed an intention to assist the Department in obtaining Antilles' consent, both appear to have assumed that Antilles was exercising a power properly conferred upon it. Finally, it should be noted that, at the outset, Antilles indicated that it would grant consent to carriage by WIPR if the Captioned ABC News were carried one-half hour later in San Juan than in St. Croix. Although we are not informed as to the logic which led Antilles to conclude that it had the veto power which it was exercising, the circumstances recited above compel us to conclude that it was not unreasonable for Antilles to believe, in good faith, that, as the nearest ABC affiliate to Puerto Rico, it had the power it was exercising. For these reasons, we hold that Antilles' conduct, erroneous though it may have been, does not reflect adversely on its principles.

11. Applicant estimates its costs as follows:

Equipment	$150,757
Land	1,800
Legal costs	15,000
Installation	95,000
Miscellaneous	5,000
Operating cost, three months	144,141
Total	351,698

The applicant has not provided a coherent account of its plan to pay for its equipment. We are unable to determine which equipment is to be acquired by cash purchase, the total cost of equipment, the amount of down payments required, the value of donated equipment, or the amount to be paid on principal and interest for equipment on deferred credit. Consequently, issues must be specified to enable a determination to be made as to the applicant's total costs to construct and operate as proposed.

12. To finance its proposal, applicant relies upon the following funds, as outlined, in part, on page 2, exhibit 4, *Financing Plan*, amendment dated April 2, 1981: (1) Bank of Nova Scotia stand-by line of credit of up to $184,000 (net); (2) a $100,000 loan from Barakat Saleh; (3) donations of time and equipment totalling $100,000 from Walter Beaver; (4) existing capital (cash) of $10,000, and, (5) sale of new stock of $90,000. These sources of funds total $484,000. With respect to (2) above, Mr. Saleh, President and Treasurer of applicant, has not submitted an agreement undertaking to furnish funds. Applicant has included (3) above as a source of financing on page 2, Section III, FCC Form 301, but we are unable to determine if it is included as a cost on page 1, supra. In (4) above, only $4,752 is available as a source of financing.[5]

13. Finally, with respect to (5) above, the officers of the applicant, Mr. Saleh, Mr. Gawrych and Mr. Beaver, who are committed to an additional $90,000 capital contribution, have not submitted balance sheets or financial statements showing that they have the net liquid assets with which to meet such commitments. In light of the foregoing, only $4,752 in cash and the $184,000 net loan from the Bank of Nova Scotia, a total of $188,752, are available to finance the proposal. Therefore, an appropriate financial issue will be designated.

14. The tower height and location proposed by the applicant has not been approved by the Federal Aviation Administration. An issue will be specified, therefore, to determine whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

16. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Comark Television, Inc.:

(a) Whether its estimate of $4,500 for legal costs is reasonable;

(b) The source and availability of funds in excess of $750;

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

2. To determine, with respect to Three Star Telecast, Inc.:

(a) The total costs to construct and operate as proposed;

(b) The source and availability of funds in excess of $188,752;

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

(d) Whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

17. It is further ordered, That the petition to deny filed herein against the application of Three Star Telecast, Inc. is dismissed, and, considered as an informal objection filed pursuant to § 73.3587 of the Commission's rules, is denied.

18. It is further ordered, That the Federal Aviation Administration is made a party to this proceeding with respect to Issue 2(d), above.

19. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

20. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

[5] Applicant apparently sold stock for $10,000 to the Three Star Corporation, parent company of the applicant. Mr. Saleh has invested in or lent the applicant $7,179. Thus, the total cash was $17,179. Applicant spent $12,427 for "organizational expenses", leaving a balance of $4,752 in cash. No information has been furnished to show that the $12,427 spent was a part of the proposed expenditures. Accordingly, $4,752 is available as a source of financing.

Federal Communications Commission.
Larry D. Eads,
Chief, Broadcast Facilities Division, Broadcast Bureau.
[FR Doc. 81-35045 Filed 12-7-81; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 81-820 and 81-821; File Nos. BP-810209AL and BP-810430AB]

General Broadcasting Inc. and Rifle Broadcast Co.; Hearing Designation Order

Adopted: November 1, 1981.
Released: December 1, 1981.

In re applications of General Broadcasting Inc., KFAM, Bountiful, Utah, BC Docket No. 81-820, File No. BP-810209AL, Has: 680 kHz, 1 kW, D, Req: 700 kHz, 1kW, 10 kW-LS, DA-2, U; Rifle Broadcast Co., Sentinel Financial Services (A Trust), General Partner, Silt, Colorado, BC Docket No. 81-821, File No. BP-81043AB, Req: 700 kHz, 1kW, 50 kW-LS, DA-N, U, for construction permit; designation applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast facilities.

2. *General Broadcasting Incorporated.* Since KFAM is not yet an operating station, it must demonstrate its financial ability to effectuate its proposal. *Financial Qualification Showing,* FCC 80-20, Mimeo No. 15343, 45 Fed. Reg. 6165 (1980). General's financial showing consists entirely of the financial portion of its 1979 application for a new daytime station (BP-790822AC), incorporated by reference. However, the present fulltime proposal would necessarily involve costs substantially greater than estimated in the earlier application, and probably greater than the $99,000 shown to be available there. Consequently, a general financial issue will be specified.

3. General proposes to establish its main studio at its daytime transmitter site, located outside Bountiful. As a result, its nighttime operation would technically not comply with § 73.1125(a) of the Commission's Rules, which requires the main studio to be either in the city of license or at the transmitter site. However, the operation proposed would be in substantial compliance with the requirements of the rules.

4. *Rifle Broadcast Company.* Rifle is a limited partnership whose general partner is Sentinel Financial Service (A Trust). Under the terms of the partnership agreement, Sentinel is "responsible for the management of all aspects of the business * * *." However, we know nothing about Sentinel except the name of its trustee. Because applicant has not submitted a copy of the trust agreement or provided information about other parties to the trust, we are unable to determine whether all parties to this application and all "documents, instruments, contracts [and] understandings relating to ownership, management, use or control of the station or facilities, or any right or interest therein" have been disclosed to us as required. An amendment is necessary.

5. Mariner Communications, Inc., licensee of co-channel class I-A station WLW, Cincinnati, Ohio, has filed a conditional objection to Rifle's application, claiming that the nighttime antenna system proposed should be designated a critical array and requesting the imposition of certain conditions to assure protection of WLW. Rifle opposes the objection, arguing primarily that Mariner's charges lacked specificity, and that an RSS/RMS ratio of 1.22 indicated array stability.

6. A determination of array stability involves consideration of factors both internal and external to an array. Our own computerized stability studies show that with parameter variations as small as 0.1-percent current-ratio deviation and 0.1° phase deviation, nighttime radiation would exceed the specified standard radiation values. Despite the relatively low RSS/RMS ratio, the array is thus highly unstable under our standards, and we are unable to determine that it can be adjusted and maintained within the proposed standard pattern. See *Home Service Broadcasting Corp.*, 68 FCC 2d 1135 (1978). An appropriate issue must therefore be specified.

7. *Other matters.* Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Because the proposals are for different communities, an issue must be specified to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service.

8. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether General Broadcasting Incorporated is financially qualified to construct and operate its proposed station.

2. To determine whether the proposed nighttime antenna system of Rifle Broadcast Company can be adjusted and maintained within the proposed limits of radiation.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

4. To determine in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application, if either, should be granted.

9. It is further ordered, That Mariner Communications' conditional objection is granted to the extent indicated, and Mariner IS MADE PARTY to the proceeding.

10. It is further ordered, That Rifle Broadcast Company shall file the amendment specified in paragraph 4 above on or before January 7, 1982.

11. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

12. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Larry D. Eads,
Chief, Broadcast Facilities Division.
[FR Doc. 81-35046 Filed 12-7-81; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 81-828, etc.; File No. BPCT-810227KH, etc.]

Toledo Telecasting, Inc., et al.; Hearing Designation Order

Adopted: November 24, 1981.
Released: December 2, 1981.

In re applications of Toledo Telecasting, Inc., Toledo, Ohio, BC Docket No. 81-828, File No. BPCT-

810227KH; Toledo Family Television, Inc., Toledo, Ohio, BC Docket No. 81–829, File No. BPCT–810615KH; Toledo Ohio T.V., Inc., Toledo, Ohio, BC Docket No. 81–830, File No. BPCT–810615KO; Channel 36, Inc., Toledo, Ohio, BC Docket No. 81–831, File No. BPCT–810615KU; TvUSA/Toledo, Inc., Toledo, Ohio, BC Docket No. 81–832, File No. BPCT–810615KW, for construction permit; designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Toledo Telecasting, Inc. (Toledo Telecasting), Toledo Family Television, Inc. (Toledo Family), Toledo Ohio T.V., Inc. (Toledo Ohio), Channel 36, Inc. (Channel 36), and TvUSA/Toledo, Inc. (TvUSA) for a new commercial television station to operate on Channel 36, Toledo, Ohio.

2. No determination has been reached that any of the tower heights and locations proposed by the applicants would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.[1]

3. All applicants propose to operate from sites located within 250 miles of the Canadian border with maximum visual effective radiated power of more than 1,000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1,000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). In the event of a grant of any application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1,000 kilowatts, absent Canadian consent. *South Bend Tribune*, 8 R. R. 2d 416 (1966).

Channel 36, Inc.

4. Applicant estimates that it will require $1,190,091 to construct its proposed facility and operate for three months, itemized as follows:

Equipment (down payment) (3 months payment)	$751,500
Land and Building (included in operating costs)	208,541
Other items	65,000
Operating costs (3 months)	165,050

Channel 36 intends to finance the proposed station through a commercial loan for $1.3 million; deferred credit from its equipment supplier; subscriptions totaling $10,000; and existing capital of $1,000. FCC Form 301, Section III, page 3, item 4 requires that copies of agreements supporting loans, credit extended from equipment suppliers and stock subscriptions be furnished with the application. Channel 36 has indicated that the information will be forthcoming; however, our records do not indicate receipt of any of these documents. Because there is no letter of credit from an equipment manufacturer, Channel 36 would require an additional $2,045,959 for equipment. Since applicant can only rely on existing capital of $1,000, a financial issue will be specified to determine the availability of an additional $3,235,050 to construct its facility.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and a place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to each of the applications, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation; [2]

2. To determine with respect to Channel 36, Inc.:

(a) Whether applicant has an additional $3,235,050 available;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to issue 1.

8. It is further ordered, That in the event of a grant of Toledo Family's or Toledo Ohio's application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1,000 kW after September 1, 1983 is subject to a further extension of consent by Canada.

9. It is further ordered, That in the event of a grant of either Toledo Telecasting's, Channel 36's or TvUSA's application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1,000 kW after October 1, 1983 is subject to a further extension of consent by Canada.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-35047 Filed 12-7-81; 8:45 am]

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[CC Docket Nos. 81-814 and 81-815; File No. 20059-CD-P-3-81, etc.]

Williams & Williams Radio Telephone and Roberto Chomat, Jr.; Memorandum Opinion and Order

Adopted November 12, 1981.

Released December 3, 1981.

In re applications of Williams & Williams Radio Telephone, CC Docket No. 81-814, File No. 20059-CD-P-3-81, for authority to construct a new two-way facility to operate in the Domestic Public Land Mobile Radio Service on frequencies 454.100, 454.275 and 454.350 MHz at Tallahassee, Florida; Roberto Chomat, Jr., CC Docket No. 81-815, File No. 22635A-CD-P-3-80, for authority to construct a new two-way facility to operate in the Domestic Public Land Mobile Radio Service on frequencies 454.100, 454.275 and 454.350 MHz at Tallahassee, Florida; Roberto Chomat, Jr., File No. 22635B-CD-P-1-80, for

[1] The FAA has notified the Commission that it has approved the tower height and location proposed by Toledo Ohio T.V., Inc. Therefore, Issue 1 herein will not be applicable to it.

[2] See footnote [1] supra.

authority to construct a new two-way facility to operate in the Domestic Public Land Mobile Radio Service on frequency 454.200 MHz at Tallahassee, Florida; designating applications for consolidated hearing on stated issues.

1. Presently before the Chief, Mobile Services Division, acting pursuant to delegated authority, are the captioned applications of Williams & Williams Radio Telephone (Williams & Williams) and Roberto Chomat, Jr. (Chomat). The applications for frequencies 454.100, 454.275 and 454.350 MHz are electrically mutually exclusive. Therefore, a comparative hearing will be held with respect to these frequencies to determine which applicant would better serve the public interest. Radio Telephone Communications, Inc. (RTC), a Tallahassee radio common carrier, filed an informal objection to the Williams & Williams application and a petition to deny the Chomat applications. Responsive pleadings have been filed. Subsequently, RTC and Chomat submitted a settlement agreements, pursuant to § 22.29 of the Rules, requesting dismissal of RTC's petition.

2. The following issues have been raised for our consideration:

(a) Whether Williams & Williams possesses the requisite character qualifications to be a Commission licensee;

(b) Whether the application of Williams & Williams was filed with a strike motive;

(c) Whether Williams & Williams has demonstrated adequate public need for the frequencies it requests; and

(d) Whether Chomat has demonstrated adequate public need for the frequencies it requests.

3. *Character—Williams & Williams.* Williams & Williams is a partnership comprised of A. Suzanne Williams and Betty J. Williams. A. Suzanne Williams is the wife of Kenneth L. Williams, president of Williams Metro Communications Corporation (WMCC) which is licensed to operate on three domestic public land mobile radio service channels at Tallahassee. Betty J. Williams in the mother to two of WMCC's three stockholders, Kenneth L. Williams and Karen W. Dunlap. RTC claims that the failure of Williams & Williams to disclose in its application this relationship with WMCC reflects adversely on the character qualifications of Williams & Williams to be a Commission licensee. We disagree. While Williams & Williams should have disclosed in its application its family relationship with WMCC, we do not believe that its failure to do so in this instance reflects adversely on its character qualifications to be a Commission licensee. In the present case, we believe Williams & Williams may have had some question about whether to disclose its relationship with WMCC. For this reason, we will not designate for hearing an issue as to whether the failure of Williams & Williams to disclose its relationship with WMCC reflects adversely on the character qualifications of Williams & Williams to be a Commission licensee. However, we take this opportunity to emphasize that while we have no specific rules requiring disclosure of family relationships, applicants have an obligation to give us any relevant information that impacts on public need. The public need standards we impose for grant of an initial channel are different from those that we impose for grant of an additional channel. Therefore, it is crucial that applicants give us any significant information relating to public need so that we know which need standards to apply. In the future, we expect all applicants to heed this warning.

4. *Strike Application.* We have examined the Williams & Williams application and the associated pleadings and find that RTC has failed to raise a substantial and material question of fact as to whether the Williams & Williams application is a "strike" application. *See generally, Grenco, Inc.*, 28 FCC 2d 166 (1971). Therefore, we will not designate a "strike" issue for hearing.

5. *Public Need—Williams & Williams.* RTC claims that the capacity of WMCC facilities in Tallahassee is relevant to consideration of the Williams & Williams application. We agree. We find that the totality of these family relationships is sufficient to demonstrate a common interest and control of the proposed facility of Williams & Williams and the existing facility of WMCC. See *East Arkansas Broadcasters, Inc.*, 20 RR 934 (1960). In addition to these family relationships, there are other indications of common interest and control which support this conclusion. One indication is that the proposed facility of Williams & Williams and the existing facility of WMCC would share a common control point in Tallahassee—1213 West Tharpe Street. Another indication is that maintenance of both facilities will be provided by Williams Communication, Inc. (WCI), which is wholly owned by Betty J. Williams. WCI is also located at 1213 Tharpe Street. All these circumstances lead us to conclude that there is common interest and control of the proposed facility of Williams & Williams and the existing facility of WMCC. Williams & Williams did not submit a traffic load study for the existing WMCC Tallahassee facility as required by § 22.516 of the Commission's Rules. Therefore, it is questionable whether Williams & Williams has demonstrated sufficient need for any of the channels it requests. Accordingly, we will designate for hearing an issue as to whether Williams & Williams has demonstrated adequate public need for its proposed facility.[1]

6. *Public Need—Chomat.* Chomat submitted a public need showing indicating that 82 prospective users "expressed a definite interest" for 134 mobile telephones and 113 pagers. After reviewing Chomat's need showing, it appears that he has demonstrated need for only two of the four frequencies he requests. One of the frequencies he requests, frequency 454.200 MHz, file No. 22635B-CD-P-1-80, is not electrically mutually exclusive with the application of Williams & Williams. We fine Roberto Chomat, Jr. qualified to construct and operate the proposed facility on frequency 454.200 MHz. We further find that Roberto Chomat, Jr. has demonstrated a public need for this frequency and that a grant of its application would serve the public interest, convenience and necessity. However, we will designate for hearing an issue as to whether Chomat has demonstrated adequate public need for more than two frequencies.

7. *Settlement Agreement.* Under the terms of the settlement agreement entered into by Chomat and Mobile Communications Corporation of America (MCCA), the parent corporation of RTC, MCCA has agreed to loan Chomat the sum of $5,000. As collateral for this loan, MCCA receives a security interest of 49% in two proposed facilities of Chomat. MCCA has also agreed to withdraw its petition to deny Chomat's application. MCCA's request for dismissal of RTC's petition to deny appears to be unconditioned, and we consider the petition to be withdrawn pursuant to this request. Based on our review of the settlement agreement, we find that the terms of that agreement do not appear to contravene the public interest. Allegations raised in the petition to deny have been adequately resolved and will not be discussed here.

[1] Normally, failure to provide a traffic load study will result in the return of an application as blatantly defective. (See Public Notice entitled "Blatantly Defective Applications", Mimeo 00350, released April 16, 1981). However, because the issue of common ownership and control remained to be settled at the time the application was submitted, we will not return the application as blatantly defective.

8. Accordingly, it is ordered, that RTC's informal objection to the Williams & Williams Radio Telephone application, File No. 20059–CD–P–3–81, is granted with respect to the issue of public need and is denied in all other respects.

9. We find both Williams & Williams and Chomat to be legally, technically and otherwise qualified to construct and operate the proposed facilities. Accordingly, it is ordered, That pursuant to section 309 of the Communications Act of 1934, as amended, the applications of Williams & Williams Radio Telephone, File No. 20059–CD–P–3–81, and Roberto Chomat, Jr., File No. 22635A–CD–P–3–80, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine whether Williams & Williams Radio Telephone has demonstrated adequate public need for the three frequencies it requests;

(b) To determine whether Roberto Chomat, Jr. has demonstrated adequate public need for more than two frequencies;[2]

(c) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[3] based upon the standards set forth in § 22.504(a) of the Commission's rules,[4] and to determine and compare the need for the proposed service in said areas; and

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

10. It is further ordered, That with respect to issue (a), the burden of proof and the burden of proceeding with the introduction of evidence is placed upon Williams & Williams Radio Telephone.

11. It is further ordered, That with respect to issue (b), the burden of proof and the burden of proceeding with the introduction of evidence is placed upon Roberto Chomat, Jr.

12. It is further ordered, That with respect to issues (c) and (d), the burden of proof and the burden of proceeding with the introduction of evidence are placed on each of the applicants, as the issues affect them, and that the ultimate burden of proof with respect to issue (e) is similarly placed on each of the applicants.

13. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

14. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

15. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

16. It is further ordered, That the application of Roberto Chomat, Jr., File No. 22635B–CD–P–1–80, to operate a facility on frequency 454.200 MHz is granted.[5]

17. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Roberta Cook,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-35046 Filed 12-7-81; 8:45 am]

BILLING CODE 6712-01-M

[2] If only one of the applicants demonstrates need for additional frequencies, it will not be necessary to decide comparative issues (c) and (d).

[3] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R–6406, equation 8.

[4] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of reliable service area for base stations engaged in one-way signaling service. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours (F 50, 50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

[5] See Arnold Anderson d.b.a. Concho Communications, Mimeo 31635, released May 19, 1980, for precedent for the Bureau issuing a partial grant.

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 29, 1981.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Horizon Bancorp*, Morristown, New Jersey (financing, leasing and servicing activities; Florida): proposes to engage through a subsidary known as Horizon Creditcorp in the folllowing activities: offering inventory floor plan financing for dealers of yachts, term loans to purchase yachts at retail, and second mortgage financing. The yacht loans will be primarily secured by large U.S. produced fiberglass pleasure yachts, aluminum and fiberglass sport boats and marine equipment. In connection therewith, Horizon Creditcorp will engage in the following activities: making or acquiring, for its own account or for the account of others, loans and other extenisons of credit (including issuing letters of credit and accepting drafts) such as would be made, for example, by a mortgage, finance, credit card or factoring company; leasing personal property or acting as broker or advisor in leasing such property provided such leases meet the criteria of § 225.4(a)(6) of Regulation Y; and servicing loans and other extensions of credit for the account of others. Typically, the persons for whom such

loans would be serviced are other financial institutions. Such activities will be conducted at an office in Pensacola, Florida, and will service Northern Florida, Kentucky, Tennessee, South Carolina, Georgia, Mississippi, and Louisiana.

2. *Horizon Bancorp*, Morristown, New Jersey (financing, leasing and servicing activities; Maryland): proposes to engage through a subsidiary known as Horizon Creditcorp in the following activities: offering inventory floor plan financing for dealers of yachts, term loans to purchase yachts at retail, and second mortgage financing. The yacht loans will be primarily secured by large U.S. produced fiberglass pleasure yachts, aluminum and fiberglass sport boats and marine equipment. In connection therewith, Horizon Creditcorp will engage in the following activities making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made, for example, by a mortgage, finance, credit card or factoring company; leasing personal property or acting as broker or advisor in leasing such property provided such leases meet the criteria of § 225.4(a)(6) of Regulation Y; and servicing loans and other extensions of credit for the account of others. Typically, the persons for whom such loans would be serviced are other financial institutions. Such activities will be conducted at an office in Annapolis, Maryland, and will service the states of Maryland, Delaware, Virginia, West Virginia, North Carolina, and Pennsylvania.

3. *Horizon Bancorp*, Morristown, New Jersey (financing, leasing and servicing activities; Rhode Island): proposes to engage through a subsidiary known as Horizon Creditcorp in the following activities: offering inventory floor plan financing for dealers of yachts, term loans to purchase yachts at retail, and second mortgage financing. The yacht loans will be primarily secured by large U.S. produced fiberglass pleasure yachts, aluminum and fiberglass sport boats and marine equipment. In connection therewith, Horizon Creditcorp will engage in the following activities making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts) such as would be made, for example, by a mortgage, finance, credit card or factoring company; leasing personal property or acting as broker or advisor in leasing such property provided such leases meet the criteria of § 225.4(a)(6) of Regulation Y; and servicing loans and other extensions of credit for the account of others. Typically, the persons for whom such loans would be serviced are other financial institutions. Such activities will be conducted at an office in Newport, Rhode Island, and will service the states of Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, New York and Maine.

4. *Manufacturers Hanover Corporation*, New York, New York (trust company activities; Florida): to engage, through an indirectly owned subsidiary known as Manufacturers Hanover Trust Company of Florida, in activities of a fiduciary, investment advisory, agency or custodial nature. Such actitivies will be conducted at offices in the following location: 100 North Biscayne Boulevard, Miami, Florida 33132, serving the State of Florida, and in particular Dade, Broward, Palm Beach, Monroe, and Collier Counties, Florida. Comments on this application must be received not later than December 21, 1981.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation*, Baltimore, Maryland (reinsurance activities; Colorado): to engage through its subsidiary, Mid-Atlantic Life Insurance Company in reinsurance underwriting activities for credit life and credit accident and health insurance sold in connection with extensions of credit by its subsidiary, American Industrial Bank, Inc., Colorado Springs, Colorado. The area to be served is the area in which extensions of credit are made by American Industrial bank, Inc., Colorado Springs Colorado. Comments on this application must be received not later than December 21, 1981.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

First Bancorporaton, Salt Lake City, Utah (leasing and insurance activities, Western United States): to engage through its proposed subsidary, Foothill Leasing, and its existing subsidiary, Foothill Thrift and Loan, in leasing and insurance activities. Leasing activities will include, but not be limited to, leasing personal property and acting as a broker in leasing such property in accordance with the Board's Regulation Y. Insurance activities will include, acting as an agent for the sale of life, accident and health, disability, and property insurance directly related to its extensions of credit. These activities will be conducted from an office in Salt Lake City, Utah serving the states of Utah, Idaho, Nevada, Wyoming, Montana, Colorado, Arizona, Washington, Oregon, and New Mexico.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, December 2, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-35084 Filed 12-7-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F-0367]

Borg-Warner Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Borg-Warner Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of cyclic neopentanetetrayl *bis*(octadecyl phosphite) as an antioxidant and/or stabilizer in ethylene-vinyl acetate copolymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b) (5))), notice is given that a petition (FAP 2B3591) has been filed by the Borg-Warner Chemicals, Inc., Technical Centre, Washington, WV 26181, proposing that Part 178 (21 CFR Part 178) of the food additive regulations be amended to provide for the safe use of cyclic neopentanetetrayl *bis*(octadecyl phosphite) as an antioxidant and/or stabilizer in ethylene-vinyl acetate copolymers intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21

CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 30, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-35053 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F-0364]

GB Fermentation Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that GB Fermentation Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the use of natamycin as an antimycotic on cheese surfaces.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5A3067) has been filed by GB Fermentation Industries, Inc., 1 North Broadway, Des Plaines, IL 60016, proposing that the food additive regulations be amended to provide for the safe use of natamycin (sometimes called pimaricin) as an antimycotic on cheese surfaces.

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 (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 30, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-35052 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F-0178]

R. F. Vanderbilt Co., Inc.; Withdrawal of Petition for Food Additive

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (FAP 1B3560) proposing that the food additive regulations be amended to change the name "dipentamethylenethiuram tetrasulfide" to "dipentamethylenethiuram hexasulfide".

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7) of the procedural food additive regulations, R. T. Vanderilt Co., Inc., 30 Winfield St., Norwalk, CT 06855 has withdrawn its petition (FAP 1B3560), notice of which was published in the **Federal Register** of August 28, 1981 (46 FR 43503) proposing to change the name "dipentamethylenethiuram tetrasulfide" to "dipentamethylenethiuram hexasulfide" under paragraph (c)(4)(ii)(*b*) of § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600(c)(4)(ii)(*b*)).

Dated: November 30, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-35054 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-01-M

Health Services Administration

Materal and Child Health Research Grants Review Committee; Filing of Annual Report

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Services Administration Federal Advisory Committee has been filed with the Library of Congress:

Maternal and Child Health Research Grants Review Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245-6791.

Dated: December 2, 1981.

William H. Aspden, Jr.,

Associate Aministrator for Management.

[FR Doc. 35122 Filed 12-7-81; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Coal Lease Offerings By Sealed Bid, Southern Applachian Federal Coal Production Region, Alabama; Amendment

In FR Doc. 81-33679 appearing on page 57349 in the issue of Monday, November 23, 1981, make the following amendments under coal offered:

Jess Creek Tract—ES 27218

Recoverable reserves are estimated to be 5.150 million tons.

Windham Springs Tract—ES 27231

T. 18, S., R. 9 W., Section 17 should read SW¼SW¼.

The acreage is recalculated to be 6956.97 acres and the minimum sealed bid is $328.00 per acre.

All other items remain the same.

Pieter J. VanZanden,

Acting Eastern States Director.

[FR Doc. 35107- Filed 12-7-81; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Redelegation of Authority

Section 1.1(a)(3) of Bureau Order No. 701, dated July 23, 1964, as amended by notice published at 45 FR 81128 on Tuesday, December 9, 1980, (FR Doc. 80-38128 filed 12-8-80, 8:45 a.m.) authorizes the Bureau of Land Management State Directors to redelegate that authority for "land use" to District Managers. This action is taken so Bureau of Land Management field personnel can be more responsive to the public for uses of public land by having the district offices as the focal point for land and realty actions.

This redelegation authorizes the BLM District Manager to assume responsibility for all realty actions for which applications are filed or proposals are made for use or disposition of public lands under the jurisdiction of the Bureau of Land Management in Idaho.

The authority redelegated is to District Managers in Idaho with respect to public lands under the jurisdiction of each district office to take action on matters listed in § 1.9 of Part 1 of Bureau Order 701.

For applications involving more than one BLM district, all affected District

Managers shall approve the action.

The District Managers may redelegate this authority to Area Managers under their supervision for actions involving public lands entirely within a single Resource Area.

This redelegation will become effective December 14, 1981.

For further information, contact: Guy E. Baier, Chief, Division of Resources, (208) 334–1919, Idaho State Office, Bureau of Land Management, 550 W. Fort Street, Box 042, Federal Building, Boise, Idaho 83724.

Dated: November 30, 1981.

J. David Brunner,

Acting State Director, BLM, Idaho.

[FR Doc. 81-35074 Filed 12-7-81; 8:45 am]

BILLING CODE 4310-84-M

[Nev-047449]

Nevada; Proposed Continuation of Withdrawal

Corrections

In FR Doc. 81–33236 appearing on page 56664 in the issue for Wednesday, November 18, 1981, make the following correction:

1. On page 56665, first column, the thirteenth line from the bottom should read as follows:

"T. 13 N., R. 34 E.,"

2. On page 56666, first column, the twenty-fifth line from the bottom should read: "Sec. 18, Lot 2, SE¼NW¼, SW¼NE¼", and the fifteenth line from the bottom should read: "T. 47 N., R. 68 E.,"; in the second column, eleventh line from the top, "* * * 88,296.54 * * *" should read "* * * 8,296.54 * * *".

BILLING CODE 1505-01-M

Wyoming; Limited Motor Vehicle Use Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation WY–010–8105.

EFFECTIVE DATE: January 1, 1982.

Decision

Notice is hereby given that the use of motorized vehicles is limited on public lands under the administration of the Bureau of Land Management located in the Pits Motorcycle Use Area. This decision is in accordance with Executive Order 11644 of February 8, 1972, as amended by Executive Order 11989 of May 25, 1977; Title 43 CFR 8341.2 and Subpart 8342; section 603(c) of Pub. L. 94–579; and in conformance with the principles established by the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321). It has been determined that the unrestricted use of this area will result in conflicts between motorcyclists and other users of public land, that damage to existing developments through misuse or vandalism will occur, and that the safety of motorcyclists and other users will be affected. Use of the Pits Motorcycle Use Area is at the risk of the user, whether involved in casual or organized activity.

Designation

1. The limited use designation applies to the following public lands:

Sixth Principal Meridian, Wyoming

Washakie County

Generally, public rangelands located approximately 5 miles east of Worland, Wyoming, along the old alignment of U.S. Highway 16, known locally as the Pits, totalling about 125 acres.

Specifically the following:

Section 25: Portions of N½SE¼NW¼NW¼; W½ SE¼NE¼NW¼; S½SW¼NE¼NW¼; SE¼NW¼; SW¼NW¼; S½NW¼NW¼

Section 26: Portions of SE¼NE¼NE¼; E½SE¼NE¼; E½W½SE¼NE¼.

The boundaries of the restricted area will be identified with signs and fences.

2. The limited use designation applies to motorized vehicles which include but are not limited to: automobiles, trucks, four-wheel drive or low-pressure-tire vehicles, tracked or amphibious machines, ground-effect or air-cushion vehicles, recreation campers, and any other means of transportation deriving motive power from any source other than muscle. Under the limitation, exceptions are made for motorcycles, snowmobiles, vehicles used in conjunction with motorcycles or snowmobiles and (1) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, or any combat or combat support vehicle when used for national defense purposes, (2) any vehicle whose use is expressly authorized by the Bureau of Land Management under permit, lease, license, or contract, and (3) any government vehicle on official business.

Protests

Any person(s) having disagreement with this decision and having information which may influence this decision may file a protest with: District Manager, Worland District Office, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Protests must be filed with the Worland District Manager before 4:30 P.M. on January 1, 1982.

If protests are filed, the Worland District Manager will consider such protests and issue a decision which will be subject to appeal to the Department of Interior, Board of Land Appeals (IBLA). If the decision on the protest remains consistent with this decision, only the protestant may appeal to the IBLA. If the decision on the protest reflects changes from this decision based on information submitted by the protestant, any adversely affected person(s) may appeal to the IBLA.

This decision will become effective as of 4:30 P.M., on January 1, 1982, if no protest is filed. This designation will remain in effect until such time as the use limitation is reviewed and modified as part of the Bureau's Planning system update for the Washakie Planning Unit, and pursuant to 43 CFR Subpart 8342 and applicable Bureau Manual sections.

Additional Information

An implementation plan for the limited use designation, an environmental assessment of the plan, maps showing the designated area, and additional information about the designation are available for review at the following Bureau of Land Management Office: District Manager, Worland District Office, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401, (307) 347–6151.

John A. Kwiatkowski

District Manager.

[FR Doc. 81-35073 Filed 12-7-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 27, 1981. 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 December 23, 1981.

Carol D. Shull,

Acting Keeper of the National Register.

INDIANA

Fayette County

Connersville vicinity, *Longwood Covered Bridge*, W of Connersville.

LOUISIANA

Jefferson Davis Parish

Jennings, *Jennings Carnegie Public Library*, 303 Cary Ave.

NEW JERSEY

Essex County

Livingston, *Ward-Force House and Condit Family Cook House*, 366 S. Livingston Ave.

[FR Doc. 81-35050 Filed 12-7-81; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 30, 1981. Waiver of the 15-day public commenting period following this publication is necessary for the Oregon nominations listed below in order for listing of eligible properties to be accomplished before December 31, 1981. Listing in the National Register by this date will enable property owners to take advantage of Oregon's Historic Property Tax Law of 1975 (ORS 358.475), which provides that owners of properties entered into the National Register of Historic Places, including those properties which have been designated as contributing features of historic districts, may apply for special assessment status—a freeze of the assessed valuation for a 15-year period. Waiver of the public commenting period will allow timely listing which is necessary to aid in the preservation of these properites.

Carol D. Shull,

Acting Keeper of the National Register.

OREGON

Clackamas County

Mulino, *Howard's Gristmill*, 26401 OR 213

Hood River County

Hood River, *Waucoma Hotel*, 2nd St.

Jackson County

Gold Hill vicinity, *van Hoevenberg, Henry, Jr., House*, 9130 Ramsey Canyon Rd.

Multnomah County

Portland, *Jacobs-Wilson House*, 6461 SE. Thorburn St.

[FR Doc. 81-35051 Filed 12-7-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Motor Carriers; Expedited Procedures for Recovery of Fuel Costs

Decided: December 2, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owneroperators were employed. We ordered that all owner-operators were to receive compensation at this level.

This weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.0-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 2.0-percent surcharge for United Parcel Service, or the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators. However, the bus carrier surcharge is increased to 6.7-percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m. December 4, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

November 30, 1981.

APPENDIX.—FUEL SURCHARGE

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

November 30, 1981 ..... 131.0¢

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	18.0	3.1	6.7	[3] 2.8
Percent surcharge allowed	18.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-35065 Filed 12-7-81; 8:45 am]

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Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following

decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Krock, Joyce and Dowell.

MC–FC–79348. By decision of November 3, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to CAR-BEC TRUCKING CO., INC. of Box 6250, Bluefield, WV 24701 of Certificate No. MC–143623 (Sub-No. 1) issued to City Coal and Supply Company, Inc. of Princeton, WV 24740 authorizing: to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in bulk, in dump vehicles, from the facilities of Morton Salt Company, at or near Princeton, WV, to points in Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Henry, Montgomery, Patrick, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties, VA. Representative: Clovis Cox, Box 6250, Bluefield, WV 24701. TA lease is not sought. Transferee is not a carrier.

MC–FC–79426. By decision of November 5, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1045.11, Review Board Number 3 approved the transfer to OLYMPIA TRAILS TOURS, INC., of License No. MC–130951F issued February 6, 1981, to Olympia Trails Bus Co., Inc., authorizing the holder to engage in operations as a *broker*, at Irvington, NJ, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Essex and Union Counties, NJ, and New York, NY, and extending to points in the United States (except AL and HI). Representative: Eric Meierlioefer, 1029 Vermont Ave., NW., Suite 1000, Washington, DC 20005, (202) 347–9332.

MC–FC–79428. By decision of November 4, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Broad Number 3 approved the transfer to BLUE STREAK CORPORATION of 170 Avenue F, Bayonne, NJ 07002 of Permit No. MC–142820 (Sub-Nos. 1 and 3) now held by Odex Express, Inc. of 170 Avenue F, Bayonne, NJ 07002 authorizing the transportation of: (1) Fat and trimmings (except in bulk) from Baltimore, MD, Boston, MA and points in NY, NJ and DC to Carteret, NJ. (2) Shortening from Carteret, NJ to points in CT, DE, NJ, MD, MA, RI and DC, Kissimmee, FL, Collingwood, Pittsburgh and Saltsburg, PA, Roanoke, VA, Clarksburgh and New Cumberland, WV; and all points within that part of the United States bounded generally on the east by the Atlantic Ocean, on the north by the MD–VA State line; on the west generally by a line beginning at the junction of U.S. Highway 15 and the MD–VA State line, and extending southerly along U.S. Highway 15 through Virginia and across the VA–NC State line to Oxford, NC, then southwesterly along U.S. Highway 85 to the NC–SC State line, then westerly along the NC–SC State line, then westerly along the NC–SC, NC–GA, and TN–GA State lines to the junction of U.S. Highway 75 and the TN–GA State line, then southerly along U.S. Highway 75 to the GA–FL State line; and on the south generally by a line beginning at the junction of Interstate 75 and the GA–FL line, then easterly, southeasterly and north-easterly along the GA–FL State line to junction Interstate 95, then southerly along Interstate 95 to junction U.S. 1, then southerly along U.S. 1 to the Atlantic Ocean. (3) Fat and trimmings from points in OH to Carteret, NJ. (4) Shortening (except in bulk) form Carteret, NJ to points in OH, and (5) Animal Feed, animal feed ingredients, and animal feed additives and materials and supplies used in the manufacture or distribution of the commodities named herein from OH to points in CT, ME, MA, NH, NJ, NY, PA, RI and VT, under continuing contract(s) in (1) and (2) above with Intercom Co. Inc., of Carteret, NJ and 3, 4 and 5 above with Kal Kan Foods, Inc., of Vernon, CA. Representative: Arthur J. Piken, Esq., Piken & Piken, P.C., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. TA lease is not sought. Transferee is not a carrier.

MC–FC–79429. By decision of November 4, 1981, issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133, Review Board Number 3 approved the transfer to JEFFREY J. WELCH, d.b.a. RAILBOW TOURS of P.O. Box 286, Alpena, MI 49707 of License No. MC–130477F issued to Jeffrey J. Welch and Cody F. Welch, d.b.a. Alpena Travel Service of 118 West Washington Avenue, Alpena, MI 49707 authorizing: brokerage service at Alpena, MI, for the transportating passengers and their baggage, in round-trip tours, in special or charter operations, between points in the United States (including AK, but excluding HI), restricted to tour service originating at and destined to points in Cheybogan, Presque Isle, Montmorency, Alpena, Ostego, Oscoda, Alcana, Roscommon, Ogenaw, and Jasco Counties, MI. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transferee is not a carrier.

MC–FC–79434. By decision of November 4, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to WALTER J. McAULEY, Warminister, PA of Certificate No. MC–146567 (Sub-No. 3)F issued November 26, 1980, to Coast Transport, Inc., of Trevose, PA, authorizing the transportation of general commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, (1) between Philadelphia, PA, on the one hand, and on the other, Baltimore, MD; New York, NY; and Norfolk, VA; and (2) between points in Philadelphia, PA, restricted to traffic having a prior or subsequent movement by water. Representative: Leon H. Kline, 1201 PSFS Bldg., 12 S. 12th Street, Philadelphia, PA 19107.

MC–FC–79435. By decision of November 16, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LeANNE EMERY, JAMES CLOUGH, GENE TOLLOTY, d.b.a. B.D. & G. TRANSPORTATION OF MIDVALE, OH of Certificate No. MC–119573 (Sub-Nos. 15 (portion) and 18) issued December 19, 1980, and July 9, 1981, to Watkins Trucking, Inc., of Uhrichsville, OH, authorizing the transportation in Sub-No. 18 of *building materials* between points in WI, MN, ND, NJ, and OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and, in Sub-No. 15, part (5), of *ores* from Exton, PA and Camden, NJ, to points in Tuscarawas County, OH, part (6), *iron oxide* from East Greenville, PA, to points in Tuscarawas County, OH, and part (7), *iron and steel and iron and steel products*, between points in Tuscarawas County, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. TA legse is not sought. Transferee is not a carrier.

MC–FC–79439. By decision of November 6, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49

CFR 1132, Review Board Number 3 approved the transfer to AIRPORT MINI-BUS, INC., of Reno, NV, of Certificate No. MC-146460 (Sub-No. 2F), issued September 11, 1981, to Consolidated Transportation Services, of Incline Village, NV, authorizing the transportation of *passengers and their baggage and ski and camping equipment*, in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 20 passengers including the driver in any one vehicle, between those points in CA in and east of Tahoe National Forest, on the one hand, and, on the other, points in Washoe, Carson City, Storey, and Douglas Counties, NV. Representative: Michael W. Dyer, 50 West Liberty, Suite 610, Reno, NV 89501.

Notes.—TA has not been filed. Transferee is a non-carrier.

MC-FC-79444. By decision of November 20, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to UTAH VALLEY TRANSIT, INC., of Provo, UT of a portion of Certificate No. MC-112062 issued to Dickerson J. Smith, d.b.a. Uinta Motor Ways, an individual proprietorship of Caspter, WY on February 13, 1973, authorizing the regular route transportation of *passengers and their baggage*, during the season extending from June 1 and December 31, both inclusive, of each year, between Salt Lake City, UT and Evanston, WY. Representative: Harry Hardman, P.O. Box 195, Provo, UT 84601. TA lease is not sought. Transferee is a carrier.

MC-FC-79445. By decision of November 17, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to the HAMILTON TRAVEL AND INCENTIVE CORP. OF NEW YORK, NY of License No. MC-12426 and MC-12426 (Sub-No. 1) issued June 24, 1970, and August 10, 1972, to Groups Unlimited, Inc., of New York, NY, authorizing the transportation as a broker of passengers and their baggage, moving in round-trip all-expense tours, by motor vehicle or by any combination of motor vehicle and other means of transportation, beginning and ending at New York, NY and extending between points in the United States (except those in AK and HI. Restriction: The service authorized herein is subject to the right of the Commission, which is hereby expressly reserved, to impose, after final determination of the proceeding in Ex Parte No. MC-29 (Sub-No. 2), *Operations of Brokers of Passenger Transportation*, such terms and conditions, if any as may be deemed necessary to insure that the transportation which applicant arranges is limited to bona fide service as a broker of transportation by motor vehicle of passengers and their baggage, in round-trip all-expense tours. Applicant is authorized to engage in the above-specified operations as a broker at New York, NY, Atlantic City, NJ, Philadelphia, PA, and Baltimore, MD. Passengers and their baggage, in round-trip group tour service in special operations, beginning and ending at Westchester County, NY, and extending to points in the US. Restriction: The operations authorized herein are restricted against the transportation of students or youth groups between the period June 20 and September 20 of each year. Applicant is authorized to engage in the above-specified operations as a broker at New York, NY. Representative: Leonore Enken, 15 Central Park West, New York, NY 10023, 212-765-8026.

MC-FC-79446. By decision of November 19, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to T. E. SMITH AND SON, INC., of West Chester, PA, of Certificate No. MC-3106 issued to Herbert D. Smith II, d.b.a. T. E. Smith and Son of West Chester, PA authorizing the transportation of household goods, between points within a radius of 10 miles of West Chester, PA, on the one hand, and, on the other, points, CT, DE, MD, MA, NJ, NY, RI, VA, and DC. Representative: John A. Featherman III, P.O. Box 657, West Chester, PA 19380. TA lease is not sought. Transferee is not a carrier.

MC-FC-79447. By decision of November 16, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to MANN-HAN, INC. of No. MC-31023 (Sub-No. 5 & 6) issued October 7, 1981 and June 30, 1981 respectively to Thomas Express Co., Inc. authorized the transportation of *general commodities* (a) in (Sub-No. 5), except classes A and B explosives between points in NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, RI, VA, and DC and (b) in (Sub-No. 6) (1) over regular routes with the usual exceptions, between New York, NY, Clifton, NY, and Philadelphia, PA, serving certain intermediate and off-route points and (2) over irregular routes with the usual exceptions between Clifton, NJ and points in eight NJ counties, between Clifton, NJ, and points in eight NJ counties, on the one hand, and, on the other, New York, NY, and points in ten NY counties, and between New York, NY, on the one hand, and, on the other, points in 19 NJ counties.

MC-FC-79453. By decision of November 20, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to DIAMOND VAN LINES, INC. of Manassas, VA of Certificate No. MC-15643 and Sub-Nos. 1, 2, 5, 6G and 7 issued on March 9, 1981, September 14, 1965, November 29, 1966, July 18, 1981, March 6, 1981 and July 30, 1981 to FOUR WINDS VAN LINES, INC. of San Diego, CA. authorizing the transportation of household goods as defined by the Commission from to or between various points in the United States. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. TA lease is not sought. Transferee is not a carrier.

MC-FC-79463. By decision of November 17, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PARKWAY CARTAGE, INC., of Franklin Park, IL, of Certificate No. MC-126764 (Sub-No. 1F), issued to MOHAWK CARTAGE COMPANY, of Chicago, IL, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), between points in Boone, Cook, Crystal Lake, Kalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, LaSalle, Livingston, McHenry, Will and Wonder Lake Counties, IL, on the one hand, and, on the other points in Lake, Lafayette, Elkhart, Porter and St. Joseph Counties, IN, and Green, Kenosha, Lake Geneva, Milwaukee, Jefferson, Rock, Walworth, Waukesha and Washington Counties, WI. Representative: Carl L. Steiner, 29 South LaSalle Street, Suite 905, Chicago, IL 60603.

Notes.—TA has been filed. Transferee is authorized to operate as a common carrier under MC-135235.

MC-FC-79464. By decision of November 17, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to JAMES C. DURHAM d/b/a WOODWAY MOVING & STORAGE of Certificate No. MC-101299 and (Sub-No. 2) issued to HAROLD WOOD SR d/b/a THE WOODWAY authorizing the transportation of (1) *household goods*, between points in VT on and north of U.S. Hwy 2, on the one hand, and, on the other, points in NH, MA, and NY; (2)

race horses, between points in VT north of U.S. Hwy 2, on the one hand, and, on the other, the International Boundary Line between the United States and Canada through VT ports of entry; (3) *posts*, from Newport, VT, and points within 20 miles of Newport, to points in NH, and (4) *household goods* as defined by the Commission, between points in that part of VT on and north of U.S. Hwy 2, on the one hand, and, on the other, points in CT and ME. Representative: James Durham, P.O. Box 152, Lyndonville, VT 05851.

Note.—Transferee presently has no authorized authority from the Commission.

MC–FC–79465. By decision of 11/17/81, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to EIT TRANSPORTATION, INC., of Certificate No. MC–99369 (Sub-No. 3) issued to IMPERIAL MOTOR LINES, INC., authorizing the transportation of *general commodities* (usual exceptions) (a) between points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in NJ within 15 miles of Columbus Circle, NY and (b) between New York, NY, on the one hand, and, on the other, points in NJ within 15 miles of Columbus Circle, NY. TA is not sought. Representative: Ronald Dandrea, 1456 Deer Park Ave., North Babylon, NY 11703

Note.—Transferee presently holds no authority from the Commission.

MC–FC–79469. By decision of 11/20/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CLASS TRAVEL, INC. of License No. MC–12791 issued to MEYER & DIETEL TOURS, LTD., (R. ARTHUR LUDWIG, TRUSTEE IN BANKRUPTCY) authorizing operations as a broker, at Milwaukee, WI, arranging for the transportation of *passengers and their baggage*, limited to students, their teachers and chaparones, in charter operations, in round-trip all expense tours, (a) beginning and ending at points in WI and extending to rail terminals in Chicago, IL; and (b) beginning and ending at Washington, DC, Silver Spring and Baltimore, MD, and extending to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA and WV. Representative: Jules E. Novak, P.O. Box 213, W16485 Janesville Road, Muskego, WI 53150.

Note.—Transferee is a non-carrier.

MC–FC–79470. By decision of November 23, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Topliff Truck Line, Inc. of Salina, KS of Certificate No. MC–57393 (Sub-No. 11) issued to Winters Truck Line, Inc. of Wichita, KS on March 19, 1981, authorizing the transportation of general commodities (except those of unusual value, nitroglycerine, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Wichita, KS and Abilene, KS, serving the intermediate points of Solomon, Salina, McPherson, KS, and the off route point of Enterprise, KS. From Wichita, KS over US Hwy 81 and I–135 to the junction of NJ Hwy 40 and I–70 and then over U.S. Hwy 40 at I–70 to Abilene, KS. Applicant's representative: Charles J. Kimball, 1600 Sherman St., Denver, CO 80203. TA lease is sought. Transferee is a carrier.

MC–FC–79471. By decision of November 19, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. Review Board Number 3 approved the transfer to Leasing Systems, Inc., of San Jose, CA, of Permit No. MC–144547 issued October 5, 1979, MC–144547 (Sub-No. 2) issued May 25, 1979, MC–144547 (Sub-No. 4) issued February 12, 1980, MC–144547 (Sub-No. 6) issued November 19, 1980, Mc–144547 (Sub-No. 7) issued September 10, 1980, MC–144547 (Sub-No. 8) issued November 19, 1980, MC–144547 (Sub-No. 9) issued November 19, 1980, MC–144547 (Sub-No. 10) issued November 7, 1980, MC–144547 (Sub-No. 11) issued October 28, 1980, MC–144547 (Sub-No. 12) issued November 26, 1980, MC–144547 (Sub-No. 13) issued October 28, 1980, and Certificate No. MC–144547 (Sub-No. 14) issued February 13, 1981, to Dura-Vent Transport Corporation, of Redwood City, CA, authorizing the movement of named commodities, from, to, or between various points in the United States under continuing contracts with (1) Dura-Vent Corporation, of Redwood City, CA; (2) Southport Stoves, Inc., of Stratford, CT; (3) Building Products Manufacturing Co., Div., "Hutch" Manufacturing Co., of Detroit, MI; (4) Dunham Lehr, Inc., of Richmond, IN; (5) All Nighter Stove Works West, Inc., of Richmond, IN; (6) The Williamson Company of Cincinnati, OH; (7) Universal Filter Supply, Inc., (8) Road Systems, Inc., a C.F. Company, of Fontana, CA; (9) Warner-Lambert Company and its subsidiaries; (10) Lehn & Fink Products Group/Sterling Drug, Inc., of Montvale, NJ; (11) Charms Company of Freehold, NJ; (12) Olin Corporation, of Stamford, CT; and (13) American Cyanamid Company, of Wayne, IN, and the common carrier transportation of wood burning stoves between points in the U.S. Applicant's representative is: Michael Nolan, 1346 East Taylor Street, San Jose, CA 95133, (408) 286–3015. TA lease is not sought. Transferee is not a carrier.

MC–FC–79476. By decision of November 20, 1981 served under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to T&M TRUCKING of Certificate No. MC–128191 issued to RICHARD KRAHENBUHL authorizing: over irregular routes, *general commodities*, (with the usual exceptions), from South St. Paul, St. Paul, Newport, Minneapolis and Stillwater, MN, to points in the towns of Clinton and Barron, Barron County, WI. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. TA lease is not sought. Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–35067 Filed 12–7–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 40 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and

payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: December 1, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14714, filed October 13, 1981. (Correction) (Previously published in the **Federal Register** issue of November 2, 1981.) W.T.S. ENTERPRISES, INC.—CONTROL—WESTERN TRANSFER AND STORAGE, INC.; WESTERN TRANSPORTATION SYSTEMS, INC.; and W.T.S. OF MICHIGAN, INC. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. The purpose of this republication is to correct a typographical error in System's Permit No. MC–146336 (Sub-No. 4), which should read as follows: (1) *uncrated xerox copying machines and word processing machines,* and (2) *materials, supplies and parts* used in the manufacture, installation, and distribution of the commodities named in (1) above, between El Paso, TX, on the one hand, and, on the other, points in NM, under continuing contracts with Xerox Corporation.

MC–F–14741, filed November 17, 1981. LTC CORPORATION, a wholly owned subsidiary of LEASEWAY TRANSPORTATION CORP., 3700 Park East Dr., Cleveland, OH 44122, seeks authority to (1) acquire control of MIDWESTERN DISTRIBUTION, INC., through purchase of stock, and (2) merge with Midwestern Distribution, Inc. Applicants' Attorney: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Operating rights sought to be controlled: Midwestern Distribution, Inc. holds Certificate No. MC–128273 and Subs thereunder which authorize the transportation of general commodities, over irregular routes, between points in the U.S. Midwestern Distribution, Inc. controls Intermodal Systems, Inc. which holds Certificate No. MC–144901 and Subs thereunder which authorize the transportation of general commodities, over irregular routes, between points in the U.S. Leaseway Transportation Corp. is a publicly held corporation that controls, with Commission approval, the following motor carriers: Anchor Motor Freight, Inc. (MC–808); Gypsum Haulage, Inc. (MC–112113); Signal Delivery Service, Inc. (MC 108393); Sugar Transport, Inc. (MC 115924); Dedicated Freight Systems, Inc. (MC 139583); Custom Deliveries, Inc. (MC 142693); LDF, Inc. (MC 147101); Stam-Win, Inc. (MC 147294 and MC 150185); Pep Lines Trucking Co. (MC 120184 and MC 152085); General Trucking Service Inc. (MC 143308); Charlton Transport (Quebec) Limited (MC 141250); Vernon Equipment, Inc. (MC 150412); Amac Trucking, Inc. (MC 140619); Better Home Deliveries, Inc. (MC 150511); Geo. McNeil Teaming Company (MC 153315); Leaseway Trucking, Inc. (MC 153610); United Home Delivery, Inc. (MC 153685); Max Binswanger Trucking (MC 116314); and Refiners Transport & Terminal Corporation (MC 50069). Max Binswanger Trucking controls Balser Truck Co. (MC 96630), and Bulk Freightways (MC 125417). Refiners Transport & Terminal Corporation controls A.R. Gundry, Inc. (MC 25562). Application has not been filed for temporary control under 49 U.S.C. 11349.

[FR Doc. 81–35066 Filed 12–7–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 67)]

Rail Carriers; Louisville & Nashville Railroad Co.; Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and its contract and contract tariff to be filed may be made effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Louisville and Nashville Railroad Company filed on November 25, 1981, a petition for exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit it to make tariff ICC–LN–C–0006 effective on one day's notice.

Under 49 U.S.C. 10713(e) contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition is granted. The involved shipper has limited storage facilities and is now approaching its maximum storage level. The shipper will incur a severe hardship if shipments can not begin immediately.

We conclude that this is the type of exceptional circumstances which warrants an exemption. Petitioner's contract tariff ICC–LN–C–0006 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances in not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: December 1, 1981.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-35062 Filed 12-7-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-125 (Sub-No. 5F)]

Rail Carriers; Norfolk Southern Railway Co. and Durham and South Carolina Railroad—Abandonment—in Wake, Chatham, and Durham Counties, NC; Notice of Findings

The Commission has issued a certificate authorizing the Norfolk Southern Railway Company to discontinue operations and the Durham and South Carolina Railroad Company (DSC) to abandon a 23.27-mile rail line between Bonsal, NC (milepost DD-10.43) and South Durham, NC (milepost DD-33.7), in Wake, Chatham, and Durham Counties, NC, subject to conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on applicants with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-35064 Filed 12-7-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Allis Chalmers Corp. et al.

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 and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involves.

Pursuant to 29 CFR 90.13, 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

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

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 30th day of November 1981.

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. (workers)	Laporte, Ind	11/24/81	11/19/81	TA-W-13,109	Equipment—farm.
Concord Coats, Inc. (ILGWU)	New York, N.Y	11/25/81	11/19/81	TA-W-13,110	Coats—misses and Jr's.
Elliott Sportswear Co., Inc. (company)	Elliott, Miss	11/27/81	11/20/81	TA-W-13,111	Coats—men's ladies' and boys'.
Embassy Produce Corp. (workers)	Ridgewood, Queens, N.Y	11/27/81	11/24/81	TA-W-13,112	Tomatoes—ripping, grading, packing.
General Dynamics Corp., Quincy Shipbuilding Div. (T.U.M.S.W.A.).	Quincy, Mass	11/27/81	11/16/81	TA-W-13,113	Ships, tankers.
Grand Fashions, Inc. (company)	Hoboken, N.J	11/20/81	11/16/81	TA-W-13,114	Coats—ladies'.
Hamilton Cedar Products, Inc. (workers)	Sedro Wooley, Wash	11/27/81	11/23/81	TA-W-13,115	Shakes, tapersaws.
Jones & Laughlin Steel Corp., Briar Hill Works (USWA).	Youngstown, Ohio	11/25/81	11/24/81	TA-W-13,116	Bars, coils and wire.
LaSalle Machine Tool, Inc. (UAW)	Warren, Mich	11/27/81	11/24/81	TA-W-13,117	Machines, tools and agricultural implement industries.
Peabody House, Inc., (ILGWU)	New York, N.Y	11/23/81	11/18/81	TA-W-13,118	Coats—ladies.
Philips ECG, Inc. (IBEW)	Ottawa, Ohio	11/24/81	11/19/81	TA-W-13,119	Tubes—picture, color, black and white.
RCA Corp., Consumer Electronics Div. (IBEW)	Bloomington, Ind	11/27/81	11/24/81	TA-W-13,120	T.V. sets—color players—video disc.
Scullin Steel Co. (USWA)	St. Louis, Mo	11/25/81	11/23/81	TA-W-13,121	Castings—railroad.
Valli Fashions Co., Inc. (company)	Hoboken N.J	11/30/81	11/23/81	TA-W-13,122	Coats—ladies'.
W.S. Shanhouse (Operating Engineers Union)	Hope, Ark	11/20/81	11/12/81	TA-W-13,123	Outerwear—men's.

[FR Doc. 81-35080 Filed 12-7-81; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Brown Shoe Co. Et Al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 23–27, 1981.

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 or articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–11,212; Brown Shoe Co., Bernie, MO

TA–W–11,636; Kay Industries, Inc., Detroit, MI

TA–W–11,413; N.L. Fasteners, Statesville, NC

TA–W–11,374; Lansford Apparel Co., Lansford, PA

TA–W–11,315; Jonathan Logan Dress, Philadelphia, PA

TA–W–12,310; Elrae Press Metals, Buffalo, NY

TA–W–11,520; Simonds Cutting Tools, Wallace Murray Corp., Newcomerstown, OH

TA–W–11,746; General Motors Corp., Truck and Coach Div. Coach Line, Pontiac, MI

TA–W–11,065; Modern Tool and Die Co., A Div. of MTD Products, Inc., Cleveland, OH

TA–W–11,063; United Technologies Corp., Automotive Products Div., Kenton, OH

TA–W–11,092; Holiner Leather Products, Inc., Elizabeth, NJ

TA–W–11,627; Westinghouse Electric Corp., Small Motor Div., Union City, IN

TA–W–11,311; Dyneer Corp., Mercury Products Div., Canton, OH

TA–W–11,598; Andrew Bruce Fashions, Ltd., New York, NY

TA–W–12,023; Lally Mfg. Corp., New York Mills, NY

TA–W–12,670; Bethlehem Mines Corp., Kayford-Boone-Nicholas Div., Charleston, WV

TA–W–11,890; Columbia Belt and Novelties, Inc., Boston, MA

TA–W–10,863, 12,072, & 12,678l; Ely and Walker, Inc., Paragould, AR, Kenneth, MO, and Heber Springs, AR

TA–W–11,732; Gerardi Sportwear Co., Inc., Oceanside, NY

TA–W–11,577; Theodore Gershenwald and Sons, Inc., New York, NY

TA–W–12,326; Chrysler Corp., Michigan City Molded Products Div., Michigan City, IN

TA–W–11,645; Dyneer Corp., Spun Steel Div., Canton, OH

TA–W–11,017; United Screw and Bolt Corp., Fastener and Stamping Div., Cleveland, OH

TA–W–12,071; Alison Ayres, Inc., New York, NY

TA–W–12,179; Haidee Sportswear Co., Inc., Highland Park, NJ

TA–W–12,064; Sprague Electric Co., Hillsville, VA

TA–W–11,603, 11,726, 12,012, 12,013, 12,013A, 12,111, 12,873, 12,874, 12,875, & 12,876; Salant Corp., Salant and Salant Div., Lexington, TN; Marked Tree, AR; Trumann, AR; Somerville, TN; New York City, NY; Union City, NY; Loretto, TN; Lawrenceburg, TN; Henderson, TN; and Jackson, TN

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,120; N&R Fashions, Inc., Paterson, NJ

TA–W–10,166 & 11,252; Penick Corp., Lyndhurst and Newark, NJ

TA–W–12,410; Stupp Brothers Bridge and Iron Co., St. Louis, MO

TA–W–11,353; B&G Fabricating Co., Inc., Carnegie, PA

TA–W–11,181; SKW Alloys, Inc., Calvert City, KY

TA–W–12,436; Alorna Coat Corp., Hoboken, NJ

TA–W–12,655; DAP, Inc., Michigan City, IN

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

TA–W–12,705; Amoco Chemicals Corp., New Castle, DE

Aggregate U.S. imports of polypropylene resin is negligible.

TA–W–12,397; Hooker Chemical Corp., North Tonawanda, NY

Aggregate U.S. imports of phenolicresing and molding compounds are negligible.

TA–W–13,046; White Diamond, Inc., Algoma, WV

Aggregate U.S. imports of bituminous coal and of coke did not increase as required for certification.

TA–W–11,346; Rud-Shaw Mfg. Corp., Brooklyn, NY

Aggregate U.S. imports of suitcoats and sportcoats did not increase as required for certification.

TA–W–11,157; Mahon Industrial Corp., Saginaw, MI

Aggregate U.S. imports of paint spray systems are negligible.

In each of the following cases the investigation revealed that workers of the subject firms do not produce an article within the meaning of Section 222(3) of the Act.

TA–W–11,952; Gastrans, Inc., Stramford, CT

TA–W–11,319; American Biltrite, Inc., Trenton, NJ

In the following case the investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA–W–11,672; All Seasons, Inc., Paterson, NJ

Affirmative Determinations

TA–W–12,401; Walnut Grove Mfg. Co., Walnut Grove, MS

A certification was issued for a petition received on March 5, 1981 covering all workers of the firm separated on or after March 2, 1980.

TA–W–11,354; Eric Scot Sportswear, Inc., Farmington, NY

A certification was issued for a petition received on October 15, 1980 covering all workers separated on or after January 1, 1980.

TA–W–11,177–11,180; Monte Glove Co., Webster Street Plant and Highway 15 Plant, Maben, MS, Mantee, MS, and Pheba, MS

A certification was issued for a petition received on September 29, 1980 covering all workers separated on or after September 24, 1979.

TA-W-12,637; Hope Mfg. Co., Scranton, PA

A certification was issued for a petition received on April 16, 1981 covering all workers separated on or after September 1, 1980.

TA-W-10,164 & 10,165; Murata Erie North American, Inc., Marietta, and Rockmart, GA

Certifications were issued for a petition received on July 21, 1980 covering all workers producing filters at the Marietta, Georgia plant separated on or after December 1, 1979 and all workers producing capacitors at the Rockmart, Georgia plant separated on or after January 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period November 23-27, 1981. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 or will be mailed to persons who write to the above address.

Dated: November 30, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-35081 Filed 12-7-81; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to the requirements of Pub. L. 95-602, I hereby certify that the Consumer Price Index for All Urban Consumers rose by 10.2 percent between October 1980 and October 1981 from a level of 253.9 (1967=100) in October 1980 to a level of 279.9 (1967=100) in October 1981.

Signed at Washington, D.C., on the 3rd day of December 1981.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-35161 Filed 12-7-81; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Cancellation of Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Cancellation of meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 57657, Tuesday, November 24, 1981.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is given of the cancellation of the meeting previously scheduled for December 18, 1981, at the Hyatt Regency Hotel, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph E. Smith, Deputy Director, National Commission for Employment Policy, 1522 K Street, N.W., Washington, D.C., Suite 300, (202) 724-1553.

Signed in Washington, D.C. this second day of December 1981.

Ralph E. Smith,

Deputy Director, National Commission for Employment Policy.

[FR Doc. 81-35082 Filed 12-7-81; 8:45 am]

BILLING CODE 4510-30-M

Cancellation of Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Cancellation of meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: FR 46 57657, Tuesday, November 24, 1981.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is given of the cancellation of the meeting previously scheduled for December 16 and 17, 1981, at the Hyatt Regency Hotel, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph E. Smith, Deputy Director, National Commission for Employment Policy, 202-724-1553, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C. this second day of December, 1981.

Ralph E. Smith,

Deputy Director National Commission for Employment Policy.

[FR Doc. 81-35083 Filed 12-7-81; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Visual Arts Panel (Painting); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Painting) to the National Council on the Arts was to be held on December 15-17, 1981, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506 and is hereby cancelled.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

December 2, 1981.

[FR Doc. 35072 Filed 12-7-81; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 105, 105, and 102 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TSs to allow full power operation of Unit 1 for fuel Cycle 7, reflect completed modifications to the high pressure injection system and revise the boron concentration requirements.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will

not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated May 29 and August 25, 1981, as supplemented by letter dated October 16, 1981, (2) Amendments Nos. 105, 105, and 102 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of November 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-35103 Filed 12-7-81; 8:45]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Company et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensee), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment: (1) Revises the operability requirements for fire-detection instruments by identifying the minimum numbeer required to be operable by fire detection zones within each safety-related area, (2) adds operability requirements for fire detection instruments in eight additional areas, and (3) modifies the visual inspection of fire hose stations in areas which are inaccessible during plant operation to require such inspections during each cold shutdown exceeding 24 hours in duration.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 8, 1981, (2) Amendment No. 69 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Multnomah County Library, Social Science and Science Department, 801 SW 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of November, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-35104 Filed 12-7-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment reduces the trip setpoint for high containment pressure as specified in NUREG-0737, "Clarification of TMI Action Plan Requirements", item II.E.4.2.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 16, 1981, (2) Amendment No. 68 to License No. NPF-1 and (3) the Commission's related letters dated July 28, 1981 and November 24, 1981. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of November 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-35105 Filed 12-7-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266-OLA & 50-301-OLA]

Wisconsin Electric Power Co., (Point Beach Nuclear Plant, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred

by 10 CFR 2.787(a) the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding: Thomas S. Moore, Chairman, Dr. W. Reed Johnson, Dr. Reginald L. Gotchy.

Dated: December 1, 1981.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 81-35106 Filed 12-7-81; 8:45 am]

BILLING CODE 7590-01-M

State of Texas; Staff Assessment of Proposed Amended Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed amended agreement with State of Texas.

SUMMARY: Notice is hereby given that the Nuclear Regulatory Commission is publishing for public comment a proposed amendment to the existing section 274b. agreement between NRC and the State of Texas which became effective March 1, 1963. The request dated November, 6, 1981 from Governor Clements of the State of Texas, if approved, would permit Texas to regulate byproduct material as defined in section 11e(2) of the Atomic Energy Act, as amended, (uranium mill tailings) in conformance with the requirements of section 2740. of the Atomic Energy Act of 1954, as amended.

A staff asessment of the State's proposed radiation control program to implement the amended agreement is set forth below as supplementary information to this notice. A copy of the complete program description submitted by Texas including a narrative describing the State's proposed program for control over byproduct materials as defined in section 11e.(2) of the Act, appropriate State legislation, and Texas regulations is available for public inspection in the Commission's public document room at 1717 H Street, NW, Washington, DC.

DATE: Comments must be received on or before January 7, 1982.

ADDRESS: All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed amended agreement should send them to the Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Craig Z. Gordon, Office of State Programs, Nuclear Regulatory Commission, Washington, DC 20555. Phone: (301) 492-9886.

SUPPLEMENTARY INFORMATION: Assessment of Proposed Texas Program to Regulate Byproduct Material as Defined in section 11e.(2) of the Act, based on Criteria 29-36 of "Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreements," 44 FR 42818.

I. Introduction

The Uranium Mill Tailings Radiation Control Act of 1978 amended the requirements of section 274 of the Atomic Energy Act, "Cooperation With States" and imposed certain requirements that must be met by Agreement States in order to regulate uranium mill tailings after November 8, 1981. Governor William P. Clements, Jr. of the State of Texas has requested NRC to amend its agreement with NRC to permit continued State regulation of uranium mill tailings. His request was supported by a description of the State's program for control of uranium mills and mill tailings.

The State has 19 active licensees who process ore primarily for its source material content including two conventional uranium mills, 15 in-situ mining operations, and 2 smaller uranium recovery operations. Texas has also received four applications, one for a conventional mill and three for in-situ mining operations. No in-situ mining and recovery facility licensed by the State is authorized to establish a permanent tailings disposal area.

II. Assessment of Proposed State of Texas Radiation Control Program for Uranium Mills and Mill Tailings

1. Statutes

State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Pub. L. 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA).

In the enactment of any supporting legislation, the State should take into account the reservations of authority to the United States in UMTRCA as stated in 10 CFR 150.15a.

It is preferable that State statutes contain the provisions of section 6 of the Model Act,[1] but the provisions may be accomplished by adoption of either procedures by regulation or technical criteria. In any case, authority for their implementation should be adequately supported by statute, regulation or case law as determined by the State Attorney General.

In the licensing and regulation of ores processed primarily for their source material content and for the disposal of byproduct material, procedures shall be established which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

a. An assessment of the radiological and nonradiological public health impacts;

b. An assessment of any impact on any body of water or groundwater;

c. Consideration of alternatives to the licensed activities; and

d. Consideration of long-term impacts of licensed activities.

The Texas Radiation Control Act, as amended by Senate Bills 480 and 735, includes the legislative provisions required by the UMTRCA of 1978 and provide satisfactory statutory authority for the State of Texas to implement the requirements of UMTRCA of 1978.

2. Regulations

State regulations should be reviewed for regulatory requirements, and where necessary, incorporate regulatory language which is equivalent, to the extent practicable, or more stringent than regulations and standards adopted and enforced by the Commission, as required by section 274o. (See 10 CFR Part 40, Appendix A and 10 CFR 150.31(b).)

On September 19, 1981, the Texas Board of Health adopted amendments to Parts 21, 41, and 43 of the *Texas Regulations for Control of Radiation* relating to the licensing and regulation of uranium mill tailings. Part 43 regulations address: bonding requirements, siting requirements, criteria for tailings management, dam stability analyses, inspection procedures, surety arrangements, requirements for site ownership, and criteria for decontamination, decommissioning, and reclamation of facilities following license expiration. The rules became effective on October 3, 1981. In the narrative section of the formal proposal, several statements

[1] The reference is to the Model Uranium Mill Radiation Control Act, a copy of which has been placed in the Commission's Public Document Room. Section 6 of the Model Act requires that, among other things, statutory authority must be enacted to make clear State authority to carry out the requirements of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, as amended. UMTRCA specifies that when States license an activity involving mill tailings, that has a significant impact on the human environment, they must prepare a written independent analysis of the impact of such license on the environment, including any activities conducted pursuant thereto.

describe how certain rules are to be implemented. It is the staff's opinion that these rules, in conjunction with the statements made in the narrative, are, to the maximum extent practicable, equivalent to the regulations promulgated and enforced by NRC.

3. Organizational Relationships Within the States

Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings.

a. Charts should be developed which show the management organization and lines of authority. This chart should define the specific lines of supervision from program management within the radiation control group and any other department within the State responsible for contributing to the regulation of uranium processing and disposal of tailings. When other State agencies or regional offices are utilized, the lines of communication and administrative control between other agencies and/or regions and the Program Director should be clearly drawn.

Organizational charts outlining the Texas Department of Health, the Bureau of Radiation Control (BRC), and divisions within the Bureau of Radiation Control have been included in the proposal. The BRC is organized into three operational divisions: The Division of Licensing, Registration, and Standards (LRS), the Division of Compliance and Inspection (CI), and the Division of Environmental Programs (EP). Each division is subdivided into Branch Offices. Regional office staff are included in the Division of Compliance and Inspection.

All other functions of the uranium mill regulatory program will be conducted by the Bureau's office located in Austin, Texas.

b. Those States that will utilize personnel from other State Departments or Federal agencies in preparing the environmental assessment should designate a lead agency for supervising and coordinating preparation of this environmental assessment. It is normally expected that the radiation control agency in Agreement States will be the lead agency. The basic premise is that the lead agency is required to prepare the environmental assessment.

The Uranium Program within the Industrial Operations Branch, Division of LRS, is responsible for the evaluation of all applications for uranium recovery facility licenses received by the Bureau. Included are the preparation of the in-plant safety analysis reports and licensing documents.

The Standards Branch is responsible for developing and coordinating adoption of rules, regulatory guides, and license application guides related to uranium recovery facilities. This Branch also works with the Legal Division in coordinating all public notices and public hearings.

It is not anticipated that staff from other State agencies will be directly utilized in the preparation of environmental assessments nor in the licensing and inspection of uranium recovery facilities. However, three State agencies do work closely with the Bureau of Radiation Control by providing reference materials, and supplying review and comments on the applicant's environmental report, and the environmental assessment. These are the Texas Air Control Board (emission of non-radioactive pollutants into air), the Texas Department of Water Resources (emission of non-radioactive pollutants into water, aquifers, and wells used for in situ mining), and the Texas Railroad Commission (regulation of open pit mining and uranium exploration).

c. When a lead agency is designated, that agency should coordinate preparation of the statement. The other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. Factors relevant in obtaining assistance from other agencies include the applicable statutory authority, the time sequence in which the agencies become involved, the magnitude of their involvement, and relative expertise with respect to the project's environmental effects.

The Texas Department of Health is the agency which will prepare the environmental assessment. The Environmental Assessment Branch is responsible for the evaluation, analysis, coordination, and preparation of environmental assessments issued by the Bureau of Radiation Control. This Branch has persons with expertise in geology, hydrology, soil mechanics, meteorology, zoology, botany, computer science, chemistry, physics, radiation protection and dose assessment. This Environmental Assessment Branch's effort may be augmented with other Bureau personnel on a case-by-case basis, if needed.

In preparing the environmental assessment, the Division of Environmental Programs will conduct site visits, evaluate computer analyses, perform literature reviews, coordinate laboratory analysis of environmental samples, and perform field evaluations. A draft environmental assesment is prepared.

Similarly, the Division of Compliance and Inspection furnishes the Division of Licensing, Registration, and standards with recommendations concerning potential problem areas within the proposed facility. After the LRS considers all recommendations, an independent safety evaluation report is prepared. Following completion of the draft environmental assessment and the draft in-plant analysis, both documents are reviewed internally by Bureau Staff and the Legal Division taking into account comments, information, and data received from other State agencies. Final documents are then prepared. A flowchart has also been included in the proposal which describes coordination with the Department for processing uranium mill license applications.

d. For those areas in the environmental assessment where the State cannot identify a State agency having sufficient expertise to adequately evaluate the proposal or prepare an assessment, the State should have provisions for obtaining outside consulting services.

Due to the establishment of adequate expertise and resources in the Bureau of Radiation Control, it is not anticipated the Bureau will need consultants. However, monies are available for consultants if they are needed for evaluating any particular site or project.

Medical consultants recognized for their expertise in emergency medical matters relating to the intake of uranium and its diagnosis thereof associated with uranium mining and milling, should be identified and available to the State for advice and direct assistance.

Physician members of the Radiation Advisory Board serve as medical consultants to provide advice and direct assistance in emergency medical matters relating to radiation exposure including uranium intake.

4. Personnel

Personnel needed in the processing of the license applications can be identified or grouped according to the following skills: Technical, Administrative, and Support.

In order to met the requirements of UMTRCA, current indications are that 2–2.75 total professional person-years' effort is necessary to process and evaluate a new conventional mill license, in-situ license, or major license renewal. A complete review of in-plant safety, production of the environmental assessment, and consultant use are primary considerations in the total professional effort for each licensing case. With respect to clerical support, one secretary is required to process two

conventional milling applications, including the pre-licensing and post-licensing phases. Legal support is also an essential element of the mill program, and the effort is set at a minimum of 1/2 staff-year. In addition, consideration must be given to such post-licenisng activities as issuance of minor amendments, mill inspections, and environmental monitoring. Professional staff effort is estimated at 0.5–1.0 person-years for each year of post-licensing activities.

a. We estimate the total professional and technical staff-years effort within the Bureau of Radiation Control directly responsible for regulation of uranium mills and mill tailings to be equivalent to 27 full-time staff members. A breakdown of professional personnel in each of the three Divisions has been provided along with job descriptions and duties for each position (including vacancies). Resumes describing the education, training, and experience of individual staff members were also submitted.

Details of staffing levels in each of the Bureau's three divisions are as follows:

(1) Division of Licensing, Registration and Standards. The organization of the Division of Licensing, Registration, and Standards, and the personnel assigned to each section within the division have been identified. Seven of eight professional positions having full-time or part-time responsibilities for regulation of uranium mills have been filled. These include two in the Industrial Operations Branch, two in the Uranium Program, one authorized but vacant position in the low-level waste program, and three in the Standards Branch.

(2) Division of Compliance and Inspection. The Division of Compliance and Inspection is organized into three Inspection and Enforcement Branches: Radioactive Materials, X-Ray/non-ionizing radiation, and Emergency Response. The Uranium Inspection Program and the Regional Inspection Programs are the two programs within the Radioactive Materials Inspection and Enforcement Branch responsible for conducting inspections at uranium mills. Currently, there are nine professional full-time staff members assigned to perform uranium mill compliance functions. The three members from the Uranium Inspection Program are responsible for performing on-site inspections. Inspectors from the Regional Inspection Program who are assigned to the regions in which certain uranium recovery facilities are located assist the three members during inspections of tailings areas and the environment. Also included in the uranium mill compliance program are three staff members from the Emergency Response Branch, an Administrator, and a Division Director.

(3) Division of Environmental Programs. Two branches in the Division of Environmental Programs are directly responsible for environmental monitoring and sampling at uranium mills. The Facility Surveillance Branch is responsible for implementation of the environmental surveillance program around milling facilities. There are three qualified staff members in this Branch. The basic functions of the Environmental Assessment Branch is to coordinate and prepare the environmental assessment. Personnel in this Branch have expertise in the areas of geology, hydrology, soil mechanics, meterology, computer science, radiation health, and dose assessments. A breakdown by program and associated personnel directly involved in preparation of an environmental assessment are: the Ecological Evaluations Program (3 members), the Hydrological and Geotechnical Program (2 members), and the Engineering Program (3 members). Directly supporting the Bureau and coordinating with the Division of Environmental Programs is the Bureau of Laboratories which provides five full-time environmental chemists (radiochemists) to process environmental samples.

b. Legal, Clerical, and Secretarial Support. Three full-time attorneys and two legal secretaries in the Environmental Law Branch of the Texas Department of Health's Legal Division are assigned to the Bureau of Radiation Control. They are responsible for providing legal assistance and advice on laws and regulations, issuance of public notices, and conducting public hearings.

c. Administrative Support. Senate Bills 480 and 375 established an 18-member Radiation Advisory Board whose members are appointed by the Governor. The Board acts in an oversight capacity to the Bureau to review and evaluate State policy relating to radiation sources. It also provides technical advice on matters related to regulation of sources of radiation. Within the Bureau, each division is staffed by at least one full-time individual who is responsible for administrative functions. In addition, programs in the Office of Information, Education, and Administration also provide administrative support to the Radiation Control Bureau in the following areas: public information, coordination of training for Bureau staff, maintaining license registration files, and procurement of equipment and supplies. Assisting the Bureau in maintaining the budget and in collection of surety arrangements for uranium mills (required by regulation) is the Financial Analysis Program.

5. Functions to be Covered

The State should develop procedures for licensing, inspection, and preparation of environmental assessments.

Evaluation of an application for a uranium milling license is performed against appropriate State statutory and regulatory authority, and licensing guides. A list of NRC and State regulatory guides utilized in evaluating license applications has been furnished. The in-plant safety analysis and review of the applicant's enviromental report are performed concurrently.

In regard to the in-plant safety review, the Compliance and Inspection Division conducts a preliminary evaluation of the applicant's proposed facility, equipment, administrative procedures, radiation safety program, environmental monitoring program, and emergency procedures. Findings are then forwarded to the Division of Licensing, Registration and Standards for consideration in the safety analysis report.

A procedural flow diagram for processing the environmental report including interdivision coordination has been furnished. If the findings of the preliminary review are adequate, copies of the report are forwarded to outside State agencies for review and comment. At the same time, the Division of Environmental Programs initiates preparation of the environmental assessment pursuant to the requirements of UMTRCA and State regulation utilizing appropriate licensing guides.

Inspections of all byproduct material licensees are conducted by Texas in accordance with general inspection procedures. These procedures, which are common to all routine inspections, have been supplemented by instructions specific to inspections at mills.

Compliance and Inspection Division policy is to perform unannounced inspections. The functions of all State inspectors are to prepare for inspections, conduct on-site inspections, prepare a written report of the inspection, prepare enforcement letters, and review corrective actions. For uranium mill compliance functions, inspectors assigned to the uranium inspection program, in cooperation with regional inspectors, are required to review and evaluate all aspects of mill operations and tailings control. During these inspections, personnel utilize standard inspection forms supplemented by NRC inspection guides. Copies of

forms and guides have been furnished with the proposal. The frequency for conducting on-site uranium mill inspections is on an annual basis.

An environmental sampling program which includes obtaining samples of groundwater, surface water, vegetation, soil, air, and processing of thermoluminescent dosimeters (TLD) is also conducted by the uranium mill inspectors on a quarter basis. Results of inspection findings are submitted to the supervisory staff for appropriate technical consultation and review.

Section 274o.(3)(c) of the Atomic Energy Act requires the State to prepare a written analysis of the impact on the environment with respect to uranium mill tailings from proposed operations. Sections 4 and 11A. of the Texas Radiation Control Act, as amended, indicate that the Texas Radiation Control Agency will act as lead agency to independently prepare the environmental impact statement (EIS). Procedural requirements specific to preparing, coordination, organizing, and completing the EIS and issuance of specific licenses for uranium milling operations are contained either in the Act or recently adopted Part 43 of the Texas regulations.

As a supplement to the reporting requirements required by regulations or license conditions, the State should require the licensee to submit in writing on a semi-annual schedule reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and gaseous effluents from all pathways during the previous six months of operations. This data shall be reported in a manner that will permit the regulatory agency to confirm annual radiation doses to nearest individuals are within the requirements of 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations."

As previously noted, the Facility Surveillance Branch is responsible for designing and implementing a routine environmental surveillance program around each uranium recovery facility and conducting any special environmental surveillance project that may be needed. This Branch is also responsible for the operation of an environmental TLD monitoring system and verification of the licensee's environmental monitoring data. Dose assessments have been made at both conventional mills through utilization of computer models. The State's confirmation of radiation doses to nearest receptors from the conventional mills are determined to be within the limits of 40 CFR Part 190. Due to the absence of yellowcake dryer circuits, environmental doses may be considered to be negligible from in-situ uranium recovery operations.

6. Instrumentation

The State should have available both field and laboratory instrumentation sufficient to ensure the licensee's control of materials and to validate the licensee's measurements.

The Bureau of Radiation Control has utilized a portion of funds authorized under its UMTRCA grant to purcahse field equipment for monitoring and surveillance purposes. The list submitted in the proposal shows radiation detection instruments and environmental sampling capability of equipment available at the Bureau's headquarters and regional offices. A separate list of instruments each inspector uses in the field to conduct radiation surveys for identification of alpha, beta and gamma emitting isotopes, and equipment for sampling environmental media in and around milling facilities has also been included. Essential equipment has been duplicated and ensures full-time availability of appropriate instrumentation and equipment for inspection purposes. Detection capabilities of equipment include identification and analysis of alpha, beta and gamma emitters in the uranium decay chain (including Pb–210, Rn–222, RA–226, Th–230, and U–238) in solids, liquids, and gases. Commonly analyzed sample media includes smear samples, soil, water, vegetation, milk, and filter media.

All radiation instrumentation is calibrated within the Bureau according to written procedures. Standard radiation sources traceable to the U.S. National Bureau of Standards are used for calibration. In addition to internal quality control/quality assurance procedures, the Bureau of Laboratories also participates in the U.N. Environmental Protection Agency's Inter-Laboratory Quality Assurance Program.

Supplementing the radiochemical analyses, the Bureau of Laboratories can also provide standard chemical analysis for trace elements, inorganics, organics, etc. As the primary laboratory for water analysis under contract from the Texas Department of Water Resources, the Bureau of Laboratories conducts analyses of all water samples for the State required under U.S. Environmental Protection Agency regulations.

7. Conclusion

Based upon the foregoing, the NRC staff concludes that the State of Texas has met the criteria for an amended agreement.

III. Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Atomic Energy Commission[1] (herinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 10, 1963) with the State of Texas under section 274 of the Atomic Energy Act of 1964, as amended (hereinafter referred to as the Act), which Agreement became effective on March 1, 1963, and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, it is necessary to enter into this amendment in order to implement new requirements of section 274 of the Act which become fully effective on November 8, 1981; and

Whereas, the Commission found on _____ that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, Therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of January 10, 1963, is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act;".

Section 2. Article II of the Agreement of January 10, 1963, is amended by inserting "A." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for

[1] Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are not carried out by the Nuclear Regulatory Commission as of January 19, 1975.

any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

"2. The Commission reserves the authority to establish minimum standards governing reclamation, long term surveillance or maintenance, and ownership of such byproduct material. Such reserved authority includes:

"a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

"b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

"c. The authority to permit use of surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article;

"d. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and

"e. The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States.".

Section 3. Article III of the Agreement of January 10, 1963, is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of January 10, 1963, is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

", or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of section 274 of the Act.".

Section 5. Article VIII of the Agreement of January 10, 1963, is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"In the licensing and regulation of byproduct material as defined in section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of section 274o. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation of long term surveillance or maintenance of such material,

"A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

"B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site.".

This amendment shall become effective on .

Done at Austin, State of Texas, in triplicate, this day of 198 .

For the State of Texas.

William P. Clements, Jr.,

Governor.

Done at Washington, District of Columbia, in triplicate, this day of 198 .

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

Dated at Bethesda, Maryland, this 2nd day of December, 1981.

For the United States Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 81-35079 Filed 12-7-81; 8:45 am]

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POSTAL SERVICE

Change in Mail Classification Schedule Attached Mail

On February 5, 1981, the Postal Rate Commission instituted a proceeding to evaluate whether separate rates and classifications should be established for mail of one class attached to mail of another class. On July 6, 1981, the Postal Service filed a request with the Postal Rate Commission for a recommended decision on changes in rates of postage for attached mail, pursuant to Chapter 36 of Title 39, United States Code. The Postal Rate Commission combined the two proceedings, docketed as Postal Rate Commission Docket Nos. MC81-2, R81-1. Notice of this action was published in the **Federal Register** by the Postal Rate Commission on July 20, 1981 (46 FR 37412).

On October 2, 1981, the parties to the combined proceeding entered into a Stipulation for Compromise Settlement, and filed it with the Commission in settlement of certain issues in the combined proceeding. The compromise settlement provides that incidental pieces of First-Class Mail may be attached to or enclosed with second-class mail, third-class merchandise (including books but excluding merchandise samples), and forth-class mail, with postage paid on the combined piece at the applicable rate of the host piece. Currently, although an incidental attrached piece of First-Class Mail travels as part of the host piece, the mailer pays not only the rate applicable for the host piece, but also the applicable First-Class rate if the attached piece had been mailed separately.

On November 20, 1981, the Postal Rate Commission issued an Opinion and Recommended Decision concerning the stipulated proposal for attached mail. The Commission recommended that the Governors adopt the revisions to the Domestic Mail Classification Schedule (DMCS) contained in the Stipulation for Compromise Settlement. On December 2, 1981, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's Recommended Decision and ordered the recommended changes in the DMCS into effect on a permanent basis. The Board of Governors concurrently determined that those changes would become effective at 12:01 a.m. on December 6, 1981. (The Governors' decision, the record of the Commission's proceedings, and the Commission's Recommended Decision may be purchased from the Superintendent's of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following changes to the mail classification schedule become effective at 12:01 a.m., December 6, 1981.

(39 U.S.C. 3625).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Sections 100.011, 200.013, 200.042, 300.044, 300.045, 400.043, and 400.044 of the Domestic Mail Classification Schedule are amended to read as follows:

* * * * *

100.011 The following must be mailed as First-Class Mail, unless mailed as Express or exempt under title 39 United States Code or except as authorized under sections 200.0421, 300.0451 and 400.0441:

a. Mail sealed against postal inspection as set forth in section 5000 of the General Terms and Conditions;

b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 200.013, 300.010; 300.0101, 400.021, 400.022 and 400.043; and

c. Bills and statements of account.

* * * * *

200.013 Second class mail may contain enclosures and supplements as prescribed by the Postal Service. It may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 200.0421.

* * * * *

200.0421 First-Class Mail, as defined in section 100.011(b) and (c), may be attached to or enclosed with second-class mail, with postage paid on the combined piece at the applicable second-class rate. The attachment or enclosure must be incidental to the piece to which it is attached or with which it is enclosed.

200.0422 First-Class Mail, which is not included under section 200.0421, or third-class mail may be attached to or enclosed with second-class mail if additional postage is paid for the attachment or enclosure as if it had been mailed separately. If postage is not paid at the appropriate First-Class or third-class rate, the combined piece is subject to the next higher rate which can be applied to the attachment or enclosure. When First-Class or third-class mail is enclosed with or attached to second-class mail under this subsection, an appropriate marking must identify the presence and class of the enclosure or attachment.

300.044 Third-class mail may contain enclosures and attachments as authorized under section 300.0451 or as follows:

a. Books and catalogs mailed at the bulk rates reserved for items in Section 300.09bi may have no external attachments. Only the following items may be enclosed loose provided they related exclusively to the book or catalog they accompany.

i. A single reply envelope or reply post card, or both;

ii. A single order form;

iii. A printed calendar. Circulars fastened securely along the entire bound edge inside the book or catalog by paste, stitches, or staples are not loose enclosures;

iv. If no circular is enclosed, a printed price list listing only articles features in the catalog and showing only the same prices and discounted as the catalog;

v. An invoice; or

vi. Samples or merchandise attached to pages.

b. Except as provided in section 300.044a, all third-class mail may contain the following enclosures;

i. An invoice;

ii. Manuscripts accompaning related proof sheets.

* * * * *

300.0451 First-Class Mail, as defined in section 100.011 (b) and (c), may be attached to or enclosed with third-class merchandise, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable third-class rate. The attachment or enclosure must be incidental to the piece to which it is attached or with with it is enclosed.

* * * * *

300.0452 First-Class Mail, which is not included under section 300.0451, may be attached to or enclosed with third-class books, catalogs, and merchandise if additional postage is paid for the attachment or enclosure as if it had been mailed separately. If postage is not paid at the appropriate First-Class rate, the third-class piece is subject to the higher First-Class rate. When First-Class Mail is enclosed with or attached to third-class mail under this subsection, an appropriate marking must identify the presence and class of the enclosure or attachment.

* * * * *

400.043 Fourth-class mail may contain enclosures and attachments as authorized by the Postal Service or as described in 400.021 a & e or as authorized under section 400.0441.

* * * * *

400.0441 First-Class Mail, as defined in section 100.011 (b) and (c), may be attached to or enclosed with fourth-class mail, with postage paid on the combined piece at the applicable fourth-class rate. The attachment or enclosure must be incidental to the piece to which it is attached or with which it is enclosed.

400.0442 First-Class Mail, which is not included under section 400.0441, or third-class mail other than specified in section 400.043 may be attached to or enclosed with fourth-class mail if additional postage is paid for the attachment or enclosure as if it had been mailed saparately. If postage is not paid at the appropriate First-Class or third-class rate, the combined piece is subject to the next higher rate which can be applied to the attachment or enclosure. When First-Class or third-class mail is attached to or enclosed with fourth-class mail under this subsection, an appropriate marking must identify the presence and class of the enclosure or attachment.

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[FR Doc. 81-35069 Filed 12-7-81; 8:45 am]

BILLING CODE 7710-12-M

Change in Mail Classification Schedule; Express Mail Forwarding and Address Correction Service

On September 25, 1981, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on changes in the mail classification schedule allowing the nonlocal forwarding of Express Mail at no additional charge and the establishment of address correction service for Express Mail pursuant to Chapter 36 of Title 39, United States Code (Postal Rate Commission Docket No. MC81-5). Notice of this action was published in the **Federal Register** by the Postal Rate Commission on October 2, 1981, and participation was invited (46 FR 48805).

On November 4, 1981, a Stipulation and Agreement recommending the changes contained in the Postal Service's request was filed with the Postal Rate Commission by all the participants to the Express Mail Forwarding and Address Correction Service proceeding. The Stipulation and Agreement settled all the material issues in that proceeding.

On November 19, 1981, the Postal Rate Commission issued an Opinion and Recommended Decision in Docket No. MC81-5. The Commission recommended that the Governors adopt the changes in Express Mail forwarding and the establishment of address correction services as provided in the Stipulation and Agreement. On December 2, 1981, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's Recommended Decision and ordered the recommended changes in the mail classification schedule into effect on a permanent basis. The Board of Governors concurrently determined that those changes would become effective at 12:01 a.m. on December 6, 1981. (The Governors' Decision, the record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' Decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following changes to the mail classification schedule become effective at 12:01 a.m., December 6, 1981 (39 U.S.C. 3625).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Classification Schedule, 500, Express Mail, is amended to read as follows:

500.07 Forwarding and return: 500.070 When Express Mail is returned, or forwarded, as prescribed by the Postal Service, there will be no additional charge.

500.090 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees;

	Classification schedule
a. Address correction	SS-1.
b. Return receipts	SS-16.

[FR Doc. 35070 Filed 12-7-81; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12064; 812-4981]

Dreyfus Liquid Reserve Fund, Inc.; Filing of Application

December 1, 1981.

Notice is hereby given that Dreyfus Liquid Reserve Fund, Inc. ("Applicant"), 600 Madison Avenue, New York, New York 10022, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 30, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales and redemptions of its shares, using the amortized cost valuation method. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on September 29, 1981 as a "money market" fund designed to be an investment vehicle for investors who desire to place assets in "money market" instruments where the considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. Applicant seeks to provide a convenient means of investing short-term funds where the direct purchase of "money market" instruments may be undesirable market" instruments may be undesirable or impractical. Applicant states that its portfolio may be invested exclusively in a variety of "money market" obligations, including securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities (whether or not subject to repurchase agreements); time deposits and certificates of deposit issued by domestic banks or London branches of domestic banks; bankers' acceptances; and high grade commercial paper.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a-4 requires portfolio instruments of "money market" funds to be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio using the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes or persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested Applicant submits that as a result of the experience of its investment adviser in managing other funds, it has become apparent that two qualities are helpful in order to attract investment, namely (1) stability of principal and (2) steady flow of investment income. Applicant states that by utilizing high quality "money market" instruments of short maturities combined with a stable net asset value, preferably $1.00 per share, it would be possible to provide these features to a variety of investors. Applicant believes that investors are concerned that the daily income declared by Applicant reflect income as earned and that the sales and redemption prices not change. The application states that for this reason, Applicant would have a competitive advantage over "money market" funds which permit net asset value fluctuations to be reflected in the price or regularly include in their dividends realized or unrealized investment gains or losses. The application further states that Applicant's management has determined that an average portfolio maturity of 120 days combined with a stable price may accomplish both of the above aims of investors in that it somewhat obviates the possibility of a change in the price per share, while at the same time providing a yield on portfolio instruments more or less related to yields available in the general debt market, and which is otherwise not available with a portfolio having an average maturity of a shorter duration. Applicant asserts that experience in the management of other funds has further shown that, given the nature of Applicant's policies and operations, there will normally be a relatively negligible discrepancy between market value and amortized cost value of such securities.

Applicant submits that the request for the exemption specified herein is made based upon the existing management policies of Applicant set forth in the

application. In addition, as a condition to the granting of the exemption requested in the application, Applicant agrees that the following may be made conditions of the order:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Directors shall be the following:

(a) Review by Applicant's Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources;

(b) In the event such deviation from the Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board will promptly consider what action, if any, should be initiated; and

(c) Where Applicant's Board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its Board of Director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments that the Board of Directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Board.

6. Applicant will include as an attachment to each Form N–1Q it files, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Applicant submits that the standards of fairness expressed in Section 6(c) of the Act, "* * * appropriate in the public interest and consistent with the protection of investors and the purposes farily intended by the policy and provisions of the Act" are consistent with granting the requested exemption.

Notice is further given that any interested person may, not later than December 28, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-35078 Filed 12-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18296; File No. S7-916]

Submission of Report Evaluating Facilities Management Alternatives by the National Securities Clearing Corp.

December 1, 1981.

The National Securities Clearing Corporation ("NSCC") submitted, on November 23, 1981, a report by Arthur Andersen & Co. that evaluates alternative methods of conducting NSCC's clearing operations and recommends that NSCC renew its contract with Securities Industry Automation Corporation ("SIAC") as the sole facilities manager. This report was submitted to the Commission in response to the Commission's order affirming NSCC's temporary registration as a clearing agency, Release No. 17562 (February 20, 1981). Pursuant to that Order, the Commission intends to review the report and the

recommendation, together with public comment concerning that report.

An announcement of the submission is expected to be made in the **Federal Register** during the week of November 30, 1981. Interested persons are invited to submit written data, views and arguments concerning the submission on or before December 28, 1982. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. S7-916.

Copies of the submission and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the submission will also be available at the principal office of the above-mentioned self-regulatory organization.

For further information contact Colette D. Kimbrough, Staff Attorney (202-272-2904), Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-35076 Filed 12-7-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12063; 812-4944]

Variable Annuity Life Insurance Co., et al.; Filing of Application

December 1, 1981.

Notice is hereby given that The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("Account A") and The Variable Annuity Marketing Company ("VAMCO") (collectively, "Applicants"), 2727 Allen Parkway, Houston, Texas 77019, filed an application on August 11, 1981, and an amendment thereto on November 17, 1981, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants, to the extent requested, from sections 2(a)(32), 2(a)(35), 22(c), 22(e), 26(a), 26(a)(2)(C), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder and, pursuant to Section 11 of the Act, approving certain offers of exchange. VALIC is a Texas stock life insurance company. Account A, a separate account of VALIC, is registered under the Act as a unit investment trust. VALIC is the depositor of, and VAMCO, the principal underwriter for, Account A. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Account A will fund variable annuity contracts (the "Contracts") issued by VALIC. The Contracts are individual variable annuity contracts designed to establish retirement benefits under certain programs providing federal tax advantages. Three types of Contracts will be offered: (a) single payment immediate annuity contracts, under which only one purchase payment is made and annuity payments to the person entitled to receive them commence within two months; (b) single payment deferred annuity contracts, under which only one purchase payment is made, but the date on which annuity payments commence is deferred; and (c) flexible payment deferred annuity contracts, which contemplate a series of purchase payments and a deferred annuity date. There are minimum purchase payments required under the Contracts and if the value of a Contract falls below $300 at any time prior to the annuity date, VALIC may automatically redeem the Contract. Net purchase payments (the amount of a purchase payment less applicable premium taxes) with respect to the Contracts may be placed in Account A and allocated to one or more of its divisions or allocated to VALIC's general account. The assets of each division of Account A are invested solely in shares of an open-end management investment company (a "Fund"). Divisions one and two of Account A to be used in connection with the Contracts will be invested in High Yield Accumulation Fund, Inc. and American General Money Market Fund, Inc. During the accumulation and annuity periods, the terms of the Contracts permit contractowners and, in certain cases, beneficiaries under the Contracts, to make transfers between the divisions or among the divisions of Account A and VALIC's general account, subject to certain limitations. Transfers will be effected at net asset value and no transfer charge will be imposed. The privilege of making transfers during the accumulation and annuity periods may be suspended or terminated by VALIC at any time.

The Contracts will not provide that a front-end sales charge be deducted from purchase payments. Rather a withdrawal charge will be imposed on surrenders during the accumulation period, calculated as a percentage (5%) of the lesser of all purchase payments made during the 36 months preceding the surrender or the amount withdrawn. It is assumed that the most recent purchase payments are withdrawn first, and no withdrawal charge is ever imposed on any amount not actually withdrawn. The first partial surrender per contract year of 10% or less of the accumulation value will not be subject to a withdrawal charge. However, if the first partial surrender in a contract year exceeds 10%, the withdrawal charge will be imposed on the amount of such excess. The second or any subsequent surrender during a contract year will be subject in full to the withdrawal charge. If a withdrawal charge is assessed against any purchase payment, that purchase payment (or, if the withdrawal charge is assessed against less than the entire purchase payment, that portion against which such charge is assessed) will not be subject to any further withdrawal charge in the event of a subsequent surrender. If the accumulation value falls below $300 at any time, VALIC has the option to cause the Contract to be automatically surrendered, in which case the withdrawal charge would be imposed in the same amount as if the surrender had been voluntary. A surrender in lieu of annuitization will be treated as a total surrender during the accumulation period and will also be subject to any applicable withdrawal charge. Where an annuitant is receiving annuity payments under the annuity option which does not provide for a life contingency, the annuitant may elect at any time to receive the commuted value of the Contract, in which case any applicable withdrawal charge will be imposed on such commuted value as if it were a total surrender of the Contract. This withdrawal charge, though imposed on or after the annuity date, will be based on purchase payments during the accumulation period and Applicants assert no such charge could be imposed on any election of a commutation option occurring more than 36 months after the most recent purchase payment was made.

VALIC will charge Account A an amount (the "Asset Charge"), calculated daily, at an annual rate of 1% of the average daily net asset value of Account A assets allocable to the Contracts. VALIC will also receive reimbursement for administrative expenses from an annual contract maintenance charge in the amount of $30 per Contract, which will be assessed on the last day of the calendar quarter in which the first purchase payment is made and thereafter on the same day of each contract year during the accumulation period. The $30 charge will be divided

equally among each division being used in connection with the Contract and the fixed account, if the fixed account option has been elected. This charge is not guaranteed and may be raised or lowered in VALIC's discretion as to Contracts outstanding at any time and/or as to Contracts issued subsequently.

The Asset Charge is intended to cover additional anticipated administrative expenses and to compensate VALIC for assuming mortality risks. The Asset Charge is guaranteed and may not be increased by VALIC. Applicants estimate that approximately 93% of the Asset Charge is allocable to assumption of mortality risks and that anticipated administrative expenses constitute approximately 7% of the Asset Charge.

Certain states and localities impose a premium tax of up to 2.5% in connection with annuity premium payments. Local law normally provides that the tax must be paid at the annuity date, although in a few instances it may be required to be paid at the time a purchase payment is made. VALIC charges a Contract in the amount of any premium tax owed at the time such tax is owed under local law.

Exemptions for Withdrawal Charge

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants state that, because of the timing of the withdrawal charge, that charge may not be encompassed by the definition of sales load in section 2(a)(35). Although Applicants do not necessarily agree that the withdrawal charge is not a sales load within the meaning of section 2(a)(35), Applicants request an exemption from the provisions of that section to the extent necessary in order to permit the offer and sale of the Contracts with the withdrawal charge.

In general, section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive "approximately his proportionate share" of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) provides, in substance, that no issuer of a periodic payment plan certificate shall sell such certificate unless the certificate is a "redeemable security." Although section 2(a)(32) does not specifically contemplate the imposition of a sales charge at the time of redemption, Applicants assert that such a charge is not inconsistent with the definition of a redeemable security, and that Congress intended that a redemption charge be deemed consistent with the concept of "proportionate share" under section 2(a)(32). Therefore, although Applicants do not believe that the withdrawal charge would necessarily violate sections 2(a)(32) and 27(c)(1) of the Act, Applicants request an exemption from those sections, to the extent necessary to permit the imposition of the withdrawal charge under the Contracts.

Section 27(d) of the Act, in effect, requires that a holder of a periodic payment plan certificate who redeems the certificate within eighteen months of issuance receive (a) the value of his account and (b) an amount equal to the excess paid for sales expenses which is over 15% of the purchase payments made by the certificate holder. Applicants state that the first requirement under section 27(d), that is, that the holder receive the value of his account, is addressed above in connection with sections 2(a)(32) and 27(c)(1). As to the second requirement, Applicants assert that during the eighteen-month period addressed in section 27(d), the maximum rate for the withdrawal charge for sales expenses will be 5% of purchase payments as compared with the maximum rate of 15% under the section. Nevertheless, to eliminate any doubt as to the applicability of section 27(d), Applicants request an exemption from that section, to the extent necessary to permit the offer and sale of the Contracts with the withdrawal charge.

Section 22(c) and Rule 22c-1 under the Act, read together, prohibit a registered investment company which issues a redeemable security from redeeming such security except at a price based on the current net asset value of such security which is next computed after receipt of the tender of such security. Applicants contend that the aspect of Rule 22c-1 that addresses the amount to be redeemed upon withdrawal reflects the requirements of sections 2(a)(32) and 27(c)(1) discussed above. Regarding the timing requirement of Rule 22c-1, Applicants state that they will determine the value of any interest surrendered or commuted on behalf of an owner or annuitant on the basis of the current net asset value that is next computed after receipt of the withdrawal request. Applicants state that the proposal meets the policy and purposes of Rule 22c-1. Although Applicants, therefore, do not believe that the withdrawal charge would necessarily violate such provisions, Applicants request an exemption from section 22(c) and Rule 22c-1, to the extent necessary to permit the deduction of the withdrawal charge from the value of an individual account upon surrender or commutation.

Section 27(c)(2) of the Act provides, in substance, that a periodic payment plan certificate company or a depositor or underwriter for such a company is prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust(or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants state that the withdrawal charge to be imposed under the Contracts is designed to recover costs relating to the offer and sale of the Contracts. Applicants assert, therefore, that the withdrawal charge is wholly consistent with the Congress' intent in enacting section 27(c)(2). Although Applicants do not believe that the withdrawal charge would necessarily violate sections 26(a)(2)(C) and 27(c)(2) of the Act, Applicants request an exemption from the provisions of those sections to the extent necessary in order to permit the offer and sale of the Contracts with the withdrawal charge.

Exemptions Relating to Other Charges and Custodial Requirements

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates, unless the proceds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and held under an agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) of the Act. Applicants state that, except for Fund shares which will be maintained in an

open-account system. Account A's only assets will consist of amounts of cash from time to time. Such cash will be kept on deposit in the name of Account A with a bank meeting the requirements of section 26(a)(1). Sections 26(a)(2)(A), (B) and (C) require the assets of a unit investment trust to be held by a trustee or custodian pursuant to an agreement containing specified provisions with respect to charges and fees. The charges and fees relating to Account A include the Asset Charge, the annual maintenance charge for administrative expenses and any premium taxes. Section 26(a)(2)(D) of the Act requires, in part, that under the agreement with the trustee or custodian, such entity must have possession of all the securities and other property in which funds of a unit investment trust are invested. Applicants state that this has been interpreted to mean that the securities owned by the trust must be represented by share certificates physically in the custody of the custodian. Section 26(a)(2)(D) of the Act also requires that the agreement with the trustee or custodian provide that the securities and other property in which the funds of a unit investment trust are invested must be segregated and held in trust until distribution. Applicants assert that while the assets of Account A will be segregated, VALIC as a life insurance company, may not properly place assets of the Separate Account in trust, because the insurance laws of the State of Texas require VALIC to retain ownership and control of the disposition of its property.

Section 26(a)(3), in effect, requires that the agreement between a unit investment trust and its trustee or custodian prohibit the trustee or custodian from resigning until the assets of the unit investment trust have been completely distributed or until a successor trustee has been appointed. Applicants state VALIC will continue to hold in custody for safekeeping the assets of Account A until Account A has been completely liquidated and the proceeds of the liquidation distributed to persons entitled thereto under the Contracts or until a successor trustee or custodian is appointed. Section 26(a)(4) of the Act requires, in substance, that the custodial or trust agreement require the depositor of a unit investment trust to maintain records as to the identity of unit holders and to deliver notice to such unit holders in the case of substitution of securities held by the unit investment trust. The application states that VALIC will maintain a record of the names and addresses of all owners and annuitants and the amount of their interest in Account A, and that Applicants will comply with the notice requirement of section 26(a)(4).

Applicants request exemptions from sections 26(a) and 27(c)(2) of the Act in order that assets of the Separate Account may be held by the company under the terms and conditions, and subject to the fees and charges, set forth in the application. According to the application, VALIC is subject to extensive supervision and control by the insurance regulatory authorities of the State of Texas and of each other state in which it does business. Applicants represent that the administrative charges under the Contracts (*i.e.*, the $30 annual maintenance charge and the portion of the Asset Charge attributable to additional anticipated administrative expenses) are reasonable, in amounts not exceeding anticipated administrative expenses, and not properly chargeable to sales or promotional activities within the meaning of the Act. Applicants acknowledge that any increase of the annual maintenance charge above $30 will require additional exemptive relief.

Applicants consent to the requested exemptions from sections 26(a) and 27(c)(2) of the Act being granted subject to the following conditions:

(a) the charges pursuant to the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and

(b) the payment of sums and charges out of Account A shall not be deemed to be exempted from regulation by the Commission by reason of the requested order; provided, that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Exemptions Relating to Texas Optional Retirement Program

Texas institutions of higher education make available to certain of their employees an optional retirement program (the "Texas Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. Applicants state that, as interpreted by the Attorney General of Texas, Texas law, in effect, prohibits any participant in the Texas Program from receiving the redemption or surrender value of a variable annuity contract funding benefits under the Texas Program prior to termination of employment in Texas public institutions of higher education, retirement, death, or total disability. Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption, except in certain prescribed circumstances. Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (a) the value of his or her account, and (b) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is more than 15% of the purchase payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with § 51.358 as it pertains to the Contracts. Applicants assert that if such exemptions are not granted, adherence to the opinion of the Attorney General of Texas would effectively deny persons participating in the Texas Program an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Applicants state that appropriate disclosure will be made to persons who consider participation in the Texas Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take

the form of an appropriate reference in each prospectus to the restrictions on redemption of the Contracts. In addition, all sales literature that is to be used in conjunction with the sale of the Contracts will be reviewed for the existence of material representations that are inconsistent with the restrictions to be placed on the Contracts, and the salespeople involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of the potential participants.

Approvals Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants state that they do not believe that sections 11(a) or 11(c) should be interpreted to require Commission approval of transfers between divisions of Account A pursuant to the Contracts. Nevertheless, to remove any uncertainty, Applicants request Commission approval under those sections, to the extent necessary to permit owners, annuitants and beneficiaries to effect transfers between divisions one and two of Account A pursuant to Contracts. Applicants submit that such transfers will be effected at net asset value and will not generate any increased revenues or fees to VALIC or its affiliates. Therefore, Applicants believe the transfers between Account A's divisions contemplated by the Contracts are consistent with the purposes of sections 11(a) and (c) of the Act and the terms thereof should be approved by the Commission.

VALIC intends to offer annuitants under certain outstanding deferred annuity contracts issued by it (the "Old Contracts") which are in the accumulation period the opportunity to surrender such contracts and apply the proceeds of the purchase of a Contract. Some of the Old Contracts (the "Separate Account One Contracts") are funded through VALIC's Account One and some (the "Separate Account Two Contracts") are funded through VALIC's Separate Account Two. Separate Accounts One and Two are registered management investment companies under the Act. No partial conversions will be permitted and the decision to convert will be completely in the discretion of the annuitant. VALIC may decide to terminate or suspend the conversion offer at any time in its sole discretion. Applicants state that the conversion offer will be effected at the relative net asset values of the interests exchanged and no charge will be assessed by VALIC for the privilege of converting. Since purchasers of Old Contracts have already paid a front-end sales load on purchase payments made thereunder, amounts converted from an Old Contract will not be subject to the withdrawal charge which otherwise would be applicable under the Contracts.

Applicants request Commission approval under sections 11(a) and (c), to the extent necessary to permit the company to offer annuitants under Old Contracts the opportunity to convert to Contracts under the terms and conditions described herein. Applicants submit that the conversion offer will not generate any duplicative sales charges or any other type of duplicative revenues, but will offer annuitants under Old Contracts an opportunity to convert to the Contracts. Such annuitants will receive full disclosure of the terms of the conversion offer, including the differences in fees and charges, and the advantages and disadvantages of converting. Applicants emphasize that the decision to accept or reject the conversion offer, based on such information, is within the sole discretion of the annuitant. Therefore, Applicants believe the conversion offer is consistent with the purposes of sections 11(a) and (c) of the Act and the terms thereof should be approved by the Commission.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than December 22, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following December 22, 1981, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-35077 Filed 12-7-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2015; Amdt. No. 3]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 46 FR 55174), amendment No. 1 (See 46 FR 56533), and amendment No. 2 (See 46 FR 58240), are amended by adding the adjacent counties of Dallas and Denton as a result of damage caused by flooding which occurred on October 12–16, 1981. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on December 24, 1981 and for economic injury until the close of business July 23, 1982.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 10, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 35098 Filed 12-7-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 786]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1982 have been received from the Governments of the Union of Soviet Socialist Republics, Cuba, Spain, Italy, Japan, Korea, the Polish People's Republic, and Taiwan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634–7432).

Dated: November 25, 1981.

Larry L. Snead,

Deputy Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code and fishery	Regional council
ABS—Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean.
BSA—Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB—Crab (Bering Sea)	North Pacific.
GOA—Gulf of Alaska	North Pacific.
NWA—Northwest Atlantic	New England and Mid-Atlantic.
SMT—Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA—Snails (Bering Sea)	North Pacific.
WOC—Washington, Oregon, California Trawl.	Pacific.
PBS—Pacific Billfish and Sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

BILLING CODE 4710-09-M

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
CUBA			
LAS GUASIMAS TANKER FUEL/WATER	CU-82-0111	NWA	3
GOLFO DE TONKIN LARGE STERN TRAWLER	CU-82-0149	NWA	1
MAR OCEANO LARGE STERN TRAWLER	CU-82-0150	NWA	1
MAR CARIBE LARGE STERN TRAWLER	CU-82-0148	NWA	1
PLAYA GIRON LARGE STERN TRAWLER	CU-82-0114	NWA	1
PLAYA VARADERO LARGE STERN TRAWLER	CU-82-0115	NWA	1
U.S.S.R			
SULAK FACTORY/MOTHERSHIP	UR-82-0238	BSA,GOA	2
TALNIKI CARGO/TRANSPORT	UR-82-0741	BSA,GOA WOC	3
TOKAREVSK CARGO/TRANSPORT	UR-82-0742	BSA,GOA WOC	3
SPAIN			
ALTAMAR SIDE TRAWLER	SP-82-0042	NWA	1
ALTEAMAR UNO MEDIUM STERN TRAWLER	SP-82-0067	NWA	1
ANA MARIA GANDON MEDIUM STERN TRAWLER	SP-82-0057	NWA	1
ANCORA D'DURO MEDIUM TRAWLER	SP-82-0090	NWA	1
ANDES MEDIUM STERN TRAWLER	SP-82-0117	NWA	1
ANGUIACHO MEDIUM STERN TRAWLER	SP-82-0118	NWA	1
ANUSKA SIDE TRAWLER	SP-82-0012	NWA	1
AREA COVA SIDE TRAWLER	SP-82-0013	NWA	1
BRITANIA SIDE TRAWLER	SP-82-0074	NWA	1
CANTON DE CORA MEDIUM STERN TRAWLER	SP-82-0030	NWA	1
CAPITAN EMILIO SIDE TRAWLER	SP-82-0123	NWA	1
CAPITAN JORGE SEGUNDO SIDE TRAWLER	SP-82-0069	NWA	1
CHICHA TOUZA MEDIUM STERN TRAWLER	SP-82-0025	NWA	1
CIUDAD DE CRISTAL SIDE TRAWLER	SP-82-0092	NWA	1
CODESIDE MEDIUM STERN TRAWLER	SP-82-0165	NWA	1
CONBAROYA II MEDIUM STERN TRAWLER	SP-82-0015	NWA	1
CONBAROYA III MEDIUM STERN TRAWLER	SP-82-0047	NWA	1
CONGELAMAR PRIMERO MEDIUM STERN TRAWLER	SP-82-0174	NWA	1
CONGELAMAR SEGUNDO MEDIUM STERN TRAWLER	SP-82-0173	NWA	1
CORBA MEDIUM STERN TRAWLER	SP-82-0031	NWA	1
COSTA DEL CABO SIDE TRAWLER	SP-82-0159	NWA	1
CRUNA MEDIUM STERN TRAWLER	SP-82-0124	NWA	1
CUDILLERO MEDIUM STERN TRAWLER	SP-82-0111	NWA	1
EGUNSENTIA MEDIUM STERN TRAWLER	SP-82-0062	NWA	1
FARPESCA CUARTO MEDIUM STERN TRAWLER	SP-82-0093	NWA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
FLIPPER MEDIUM STERN TRAWLER	SP-82-0080	NWA	1
FRAGANA MEDIUM STERN TRAWLER	SP-82-0046	NWA	1
FREIRE LOPEZ MEDIUM STERN TRAWLER	SP-82-0106	NWA	1
GLACIAR SIDE TRAWLER	SP-82-0061	NWA	1
IBERIA SIDE TRAWLER	SP-82-0155	NWA	1
ISLA ALEGRANZA MEDIUM STERN TRAWLER	SP-82-0126	NWA	1
ISLA GRACIOSA MEDIUM STERN TRAWLER	SP-82-0127	NWA	1
ISLA MONTANA CLARA MEDIUM STERN TRAWLER	SP-82-0128	NWA	1
IZARRA MEDIUM STERN TRAWLER	SP-82-0064	NWA	1
JOSE PUERTA PRADO SIDE TRAWLER	SP-82-0094	NWA	1
KANTXOPE MEDIUM STERN TRAWLER	SP-82-0056	NWA	1
LAGO CASTINEIRAS SMALL STERN TRAWLER	SP-82-0169	NWA	1
LAXE DOS PICOS MEDIUM STERN TRAWLER	SP-82-0035	NWA	1
MADRDA SMALL STERN TRAWLER	SP-82-0024	NWA	1
MANUEL NORES MEDIUM STERN TRAWLER	SP-82-0107	NWA	1
MAPOSA CUARTO MEDIUM STERN TRAWLER	SP-82-0161	NWA	1
MAPOSA QUINTO MEDIUM STERN TRAWLER	SP-82-0072	NWA	1
MAPOSA OCTAVO MEDIUM STERN TRAWLER	SP-82-0163	NWA	1
MAPOSA PRIMERO SIDE TRAWLER	SP-82-0149	NWA	1
MAPOSA SEGUNDO SIDE TRAWLER	SP-82-0150	NWA	1
MAPOSA SEPTIMO MEDIUM STERN TRAWLER	SP-82-0164	NWA	1
MAPOSA SEXTO SIDE TRAWLER	SP-82-0085	NWA	1
MAPOSA TERCERO MEDIUM STERN TRAWLER	SP-82-0166	NWA	1
MARIA EUGENIA G MEDIUM STERN TRAWLER	SP-82-0170	NWA	1
MARIA TERESA RODRIGUES MEDIUM STERN TRAWLER	SP-82-0167	NWA	1
MAR DE GALILEA SMALL STERN TRAWLER	SP-82-0055	NWA	1
MARTIN PINZON PRIMERO MEDIUM STERN TRAWLER	SP-82-0172	NWA	1
MAYI CUATRO MEDIUM STERN TRAWLER	SP-82-0073	NWA	1
MIRADOR DEL FITO MEDIUM STERN TRAWLER	SP-82-0171	NWA	1
MONTE FURADO MEDIUM STERN TRAWLER	SP-82-0029	NWA	1
MOUTA MEDIUM STERN TRAWLER	SP-82-0040	NWA	1
NAVIJOSA NOVENO MEDIUM STERN TRAWLER	SP-82-0168	NWA	1
NAVIJOSA OCTAVO MEDIUM STERN TRAWLER	SP-82-0160	NWA	1
NAVIJOSA QUINTO SIDE TRAWLER	SP-82-0152	NWA	1
NAVIJOSA VII SIDE TRAWLER	SP-82-0154	NWA	1
NAVIJOSA SEXTO SIDE TRAWLER	SP-82-0153	NWA	1
NUSKA MEDIUM STERN TRAWLER	SP-82-0043	NWA	1
ORBALLO MEDIUM STERN TRAWLER	SP-82-0036	NWA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
PEGAGO CUARTO SIDE TRAWLER	SP-82-0151	NWA	1
PEGAGO SEGUNDO SIDE TRAWLER	SP-82-0098	NWA	1
PEGAGO TERCERO MEDIUM STERN TRAWLER	SP-82-0070	NWA	1
PEIXE DO MAR SIDE TRAWLER	SP-82-0005	NWA	1
PEXINO MEDIUM STERN TRAWLER	SP-82-0108	NWA	1
PERCA MEDIUM STERN TRAWLER	SP-82-0045	NWA	1
PESCAPUERTA PRIMERO SIDE TRAWLER	SP-82-0019	NWA	1
PESCAPUERTA SEGUNDO MEDIUM STERN TRAWLER	SP-82-0112	NWA	1
PESCAPUERTA TERCERO MEDIUM STERN TRAWLER	SP-82-0020	NWA	1
PEVEGASA SEGUNDO MEDIUM STERN TRAWLER	SP-82-0083	NWA	1
PINEIRO CORREA MEDIUM STERN TRAWLER	SP-82-0066	NWA	1
PLAYA DE CADIZ MEDIUM STERN TRAWLER	SP-82-0136	NWA	1
PLAYA DE MENDUIKA SMALL STERN TRAWLER	SP-82-0137	NWA	1
PLAYA DE MOGOR MEDIUM STERN TRAWLER	SP-82-0021	NWA	1
PLAYA DE PESMAR MEDIUM STERN TRAWLER	SP-82-0113	NWA	1
PUENTE DE GONDOMAR MEDIUM STERN TRAWLER	SP-82-0077	NWA	1
PUENTE DE LOURIDO MEDIUM STERN TRAWLER	SP-82-0109	NWA	1
PUENTE MINOR MEDIUM STERN TRAWLER	SP-82-0023	NWA	1
PUENTE TORALLA SMALL STERN TRAWLER	SP-82-0052	NWA	1
PUNTA DE ROBALEIRA SMALL STERN TRAWLER	SP-82-0148	NWA	1
PUXEIROS SIDE TRAWLER	SP-82-0028	NWA	1
RIO VERDUGO MEDIUM STERN TRAWLER	SP-82-0065	NWA	1
SUEMAR UNO MEDIUM STERN TRAWLER	SP-82-0059	NWA	1
TASARTE MEDIUM STERN TRAWLER	SP-82-0114	NWA	1
TITO MARQUEZ MEDIUM STERN TRAWLER	SP-82-0038	NWA	1
TORALLA MEDIUM STERN TRAWLER	SP-82-0016	NWA	1
ULIAMA SIDE TRAWLER	SP-82-0026	NWA	1
UR ERTZA MEDIUM STERN TRAWLER	SP-82-0110	NWA	1
VILACHAN MEDIUM STERN TRAWLER	SP-82-0078	NWA	1
VILLA ANA SIDE TRAWLER	SP-82-0145	NWA	1
VILLA DE MARIN MEDIUM STERN TRAWLER	SP-82-0051	NWA	1
VIXIADOR MEDIUM STERN TRAWLER	SP-82-0039	NWA	1
XEITOSINO MEDIUM STERN TRAWLER	SP-82-0022	NWA	1
ZAMANES SIDE TRAWLER	SP-82-0053	NWA	1
ITALY			
ASSUNTA TONTINI MADRE LARGE STERN TRAWLER	IT-82-0001	NWA	1
TONTINI PESCA TERZO MEDIUM STERN TRAWLER	IT-82-0002	NWA	1
TONTINI PESCA QUARTO LARGE STERN TRAWLER	IT-82-0003	NWA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
DE GIOSA T. MEDIUM STERN TRAWLER	IT-82-0004	NWA	1
AMORUSO SETTIMO MEDIUM STERN TRAWLER	IT-82-0005	NWA	1
MASCARETTI PRIMO MEDIUM STERN TRAWLER	IT-82-0006	NWA	1
SAGITTA MEDIUM STERN TRAWLER	IT-82-0007	NWA	1
AIRONE MEDIUM STERN TRAWLER	IT-82-0008	NWA	1
AMORUSO SESTO MEDIUM STERN TRAWLER	IT-82-0009	NWA	1
GABRIELLA C. MEDIUM STERN TRAWLER	IT-82-0010	NWA	1
ANTONIETTA MADRE MEDIUM STERN TRAWLER	IT-82-0013	NWA	1
CARLO DI FAZIO MEDIUM STERN TRAWLER	IT-82-0015	NWA	1
DE GIOSA GIUSEPPE MEDIUM STERN TRAWLER	IT-82-0016	NWA	1
STANISLAVA LARGE STERN TRAWLER	IT-82-0019	NWA	1
MARIA C. MEDIUM STERN TRAWLER	IT-82-0021	NWA	1
GIOVANNI CEFALU MEDIUM STERN TRAWLER	IT-82-0022	NWA	1
DE GIOSA L. MEDIUM STERN TRAWLER	IT-82-0023	NWA	1
MARIA MICHELA MEDIUM STERN TRAWLER	IT-82-0024	NWA	1
TAIWAN			
CHIN HWANG NO.72 LONGLINE FISHING VESSEL	TW-82-3090	PBS	1
CHYA SHENG LONGLINE FISHING VESSEL	TW-82-3014	PBS	1
HIGHLY NO. 707 CARGO/TRANSPORT VESSEL	TW-82-0061	BSA,GOA	3
SEA LIGHT MEDIUM STERN TRAWLER	TW-82-0001	BSA	1
HIGHLY NO. 301 MEDIUM STERN TRAWLER	TW-82-0002	BSA,GOA	1
HIGHLY NO. 302 MEDIUM STERN TRAWLER	TW-82-0003	BSA,GOA	1
GOLDEN DRAGON NO. 1 LARGE STERN TRAWLER	TW-82-0004	BSA,GOA	1
HIGHLY NO. 303 CARGO/TRANSPORT VESSEL	TW-82-0054	BSA,GOA	3
HORNG JIA LONGLINE FISHING VESSEL	TW-82-3102	PBS	1
CHYUAN NENG HONG NO.1 LONGLINE FISHING VESSEL	TW-82-3103	PBS	1
NO.31 TONG ANN LONGLINE FISHING VESSEL	TW-82-3097	PBS	1
NO. 3 MENG FUN LONGLINE FISHING VESSEL	TW-82-3096	PBS	1
PRENG SHING LONGLINE FISHING VESSEL	TW-82-3104	PBS	1
HONG SHING NO. 3 LONGLINE FISHING VESSEL	TW-82-3105	PBS	1
PENG MAO NO.6 LONGLINE FISHING VESSEL	TW-82-3099	PBS	1
CHIN MIN MAN NO.11 LONGLINE FISHING VESSEL	TW-82-3095	PBS	1
CHIN WOEI NO. 71 LONGLINE FISHING VESSEL	TW-82-3101	PBS	1
YUNG CHANG FU NO.1 LONGLINE FISHING VESSEL	TW-82-3094	PBS	1
LONG DER YIH NO.32 LONGLINE FISHING VESSEL	TW-82-3106	PBS	1
CHUAN CHIH YIH LONGLINE FISHING VESSEL	TW-82-3032	PBS	1
NO.12 TAH YUAN LONGLINE FISHING VESSEL	TW-82-3000	PBS	1
DER AN NO.1 LONGLINE FISHING VESSEL	TW-82-3001	PBS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
YU KUO NO.11 LONGLINE FISHING VESSEL	TW-82-3004	PBS	1
YEN HORNG NO.1 LONGLINE FISHING VESSEL	TW-82-3005	PBS	1
SHENG YU NO.7 LONGLINE FISHING VESSEL	TW-82-3011	PBS	1
YING KUO SHIANG NO.7 LONGLINE FISHING VESSEL	TW-82-3012	PBS	1
YING YIH SHIANG LONGLINE FISHING VESSEL	TW-82-3015	PBS	1
RUEY FONG NO.3 LONGLINE FISHING VESSEL	TW-82-3016	PBS	1
CHIAU LOONG NO. 11 LONGLINE FISHING VESSEL	TW-82-3017	PBS	1
RUEY TZENG NO.1 LONGLINE FISHING VESSEL	TW-82-3018	PBS	1
SUR TON NO.1 LONGLINE FISHING VESSEL	TW-82-3019	PBS	1
SUR TON NO.3 LONGLINE FISHING VESSEL	TW-82-3020	PBS	1
HAI HOU LONGLINE FISHING VESSEL	TW-82-3027	PBS	1
CHIN LONG CHENG LONGLINE FISHING VESSEL	TW-82-3034	PBS	1
NO.1 HUI CHING LONGLINE FISHING VESSEL	TW-82-3036	PBS	1
SWE HOANG NO.31 LONGLINE FISHING VESSEL	TW-82-3037	PBS	1
YIH-SHIN LONGLINE FISHING VESSEL	TW-82-3039	PBS	1
YUNG-HSING LONGLINE FISHING VESSEL	TW-82-3042	PBS	1
HUI FAH LONGLINE FISHING VESSEL	TW-82-3043	PBS	1
YIH HSING LONGLINE FISHING VESSEL	TW-82-3044	PBS	1
HORNG HSING LONGLINE FISHING VESSEL	TW-82-3045	PBS	1
YU HSING LONGLINE FISHING VESSEL	TW-82-3046	PBS	1
CHIN SHING NO.1 LONGLINE FISHING VESSEL	TW-82-3047	PBS	1
NO.3 I TA CHENG LONGLINE FISHING VESSEL	TW-82-3048	PBS	1
HAI I NO.1 LONGLINE FISHING VESSEL.	TW-82-3052	PBS	1
CHUNG SHA NO.1 LONGLINE FISHING VESSEL	TW-82-3053	PBS	1
CHIN GEN FOOD NO.3 LONGLINE FISHING VESSEL	TW-82-3054	PBS	1
TA SHEN NO.1 LONGLINE FISHING VESSEL	TW-82-3055	PBS	1
KUO ZONG NO.1 LONGLINE FISHING VESSEL	TW-82-3056	PBS	1
SHIN YUAN SENG NO.11 LONGLINE FISHING VESSEL	TW-82-3057	PBS	1
KUO ZONG NO.12 LONGLINE FISHING VESSEL	TW-82-3058	PBS	1
KUO ZONG NO.3 LONGLINE FISHING VESSEL	TW-82-3059	PBS	1
KUO YUON NO.72 LONGLINE FISHING VESSEL	TW-82-3060	PBS	1
YUNG CHANG FU NO.31 LONGLINE FISHING VESSEL	TW-82-3061	PBS	1
TONG SHENG LONGLINE FISHING VESSEL	TW-82-3062	PBS	1
TONG SHENG NO.11 LONGLINE FISHING VESSEL	TW-82-3063	PBS	1
TONG CHOU NO.7 LONGLINE FISHING VESSEL	TW-82-3064	PBS	1
TONG HUI NO.32 LONGLINE FISHING VESSEL	TW-82-3065	PBS	1
SHIN YUAN SENG NO.21 LONGLINE FISHING VESSEL	TW-82-3066	PBS	1
SHIN YUAN CHENG NO.22 LONGLINE FISHING VESSEL	TW-82-3067	PBS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
YUNG CHANG YU NO.11 LONGLINE FISHING VESSEL	TW-82-3068	PBS	1
HO TAI NO.11 LONGLINE FISHING VESSEL	TW-82-3069	PBS	1
CHIN WOEI NO.61 LONGLINE FISHING VESSEL	TW-82-3070	PBS	1
MIN HONG NO.31 LONGLINE FISHING VESSEL	TW-82-3071	PBS	1
CHIN HUEY NO.22 LONGLINE FISHING VESSEL	TW-82-3072	PBS	1
CHIN HUEY NO.21 LONGLINE FISHING VESSEL	TW-82-3073	PBS	1
CHIN MIN MAN LONGLINE FISHING VESSEL	TW-82-3074	PBS	1
NO.3 CHIEN JIA LONGLINE FISHING VESSEL	TW-82-3075	PBS	1
NO.11 KUO SWANG LONGLINE FISHING VESSEL	TW-82-3076	PBS	1
NO.31 FENG HWA LONGLINE FISHING VESSEL	TW-82-3077	PBS	1
NO.1 MAN SENG LONGLINE FISHING VESSEL	TW-82-3079	PBS	1
LIEN CHI TSAI LONGLINE FISHING VESSEL	TW-82-3080	PBS	1
TONG MONG NO.61 LONGLINE FISHING VESSEL	TW-82-3089	PBS	1
NO.51 FENG YUAN	TW-82-3098	PBS	1
POLAND			
BONITO STERN TRAWLER	PL-82-0096	WOC,GOA, BSA	1
AQUILA STERN TRAWLER	PL-82-0097	WOC,GOA, BSA	1
MAZURY REFRIGERATING-CARGO VESSEL	PL-82-0098	WOC,GOA, BSA,NWA	3
KORWIN LARGE STERN TRAWLER	PL-82-0026	NWA	1
RYBAK MORSKI LARGE STERN TRAWLER	PL-82-0064	NWA	1
ADMIRAL SRCISZEWSKI LARGE STERN TRAWLER	PL-82-0081	NWA	1
HALNIAK CARGO/TRANSPORT VESSEL	PL-82-0029	GOA,BSA WOC,NWA	3
LEWANTER CARGO/TRANSPORT VESSEL	PL-82-0030	GOA,BSA WOC,NWA	3
POMORZE CARGO/TRANSPORT VESSEL	PL-82-0031	GOA,BSA WOC,NWA	3
BURAN CARGO/TRANSPORT VESSEL	PL-82-0033	GOA,BSA WOC,NWA	3
KASIUBY 2 CARGO/TRANSPORT VESSEL	PL-82-0027	GOA,BSA WOC,NWA	3
ZULAWY CARGO/TRANSPORT VESSEL	PL-82-0041	GOA,BSA WOC,NWA	3
GRYF POMORSKI CARGO/TRANSPORT VESSEL	PL-82-0049	GOA,BSA WOC,NWA	3
WINETA CARGO/TRANSPORT VESSEL	PL-82-0061	GOA,BSA WOC,NWA	3
TERRAL CARGO/TRANSPORT VESSEL	PL-82-0086	GOA,BSA WOC,NWA	3
KAPITAN LEDOCHOWSKI CARGO/TRANSPORT VESSEL	PL-82-0087	GOA,BSA WOC,NWA	3
IYRARDOW CARGO/TRANSPORT VESSEL	PL-82-0089	GOA,BSA WOC,NWA	3
GDYNSKI KOSYNIER LONGLINE FISHING	PL-82-0090	GOA,BSA WOC,NWA	3
DZIECI POLSKIE CARGO/TRANSPORT VESSEL	PL-82-0091	GOA,BSA WOC,NWA	3
LEPUS LARGE STERN TRAWLER	PL-82-0001	BSA,GOA WOC	1
LYRA LARGE STERN TRAWLER	PL-82-0002	BSA,GOA WOC	1
PERSEUS LARGE STERN TRAWLER	PL-82-0004	GOA,BSA WOC	1
POLLUX LARGE STERN TRAWLER	PL-82-0006	WOC,GOA BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
GRINWAL LARGE STERN TRAWLER	PL-82-0007	WOC,GOA BSA	1
GARNELA LARGE STERN TRAWLER	PL-82-0009	WOC,GOA BSA	1
WALEN LARGE STERN TRAWLER	PL-82-0009	WOC,GOA BSA	1
OTOL LARGE STERN TRAWLER	PL-82-0011	WOC,GOA BSA	1
MUSIEL LARGE STERN TRAWLER	PL-82-0012	WOC,GOA BSA	1
BUMBAK LARGE STERN TRAWLER	PL-82-0019	WOC,GOA BSA	1
MARLIN LARGE STERN TRAWLER	PL-82-0034	WOC,GOA BSA	1
ANTARES LARGE STERN TRAWLER	PL-82-0037	WOC,GOA BSA	1
ARCTURUS LARGE STERN TRAWLER	PL-82-0038	WOC,GOA BSA	1
SAGITTA LARGE STERN TRAWLER	PL-82-0040	WOC,GOA BSA	1
TUNEK LARGE STERN TRAWLER	PL-82-0045	WOC,GOA BSA	1
AMAREL LARGE STERN TRAWLER	PL-82-0046	WOC,GOA BSA	1
GEMINI LARGE STERN TRAWLER	PL-82-0048	WOC,GOA BSA	1
KOLIAS LARGE STERN TRAWLER	PL-82-0050	WOC,GOA BSA	1
MANTA LARGE STERN TRAWLER	PL-82-0052	WOC,GOA BSA	1
TAZAR LARGE STERN TRAWLER	PL-82-0054	WOC,GOA BSA	1
VEGA LARGE STERN TRAWLER	PL-82-0055	WOC,GOA BSA	1
SATURN LARGE STERN TRAWLER	PL-82-0056	WOC,GOA BSA	1
AWIOR LARGE STERN TRAWLER	PL-82-0060	WOC,GOA BSA	1
SIRIUS LARGE STERN TRAWLER	PL-82-0062	WOC,GOA BSA	1
MORS LARGE STERN TRAWLER	PL-82-0063	WOC,GOA BSA	1
DELFIN LARGE STERN TRAWLER	PL-82-0065	WOC,GOA BSA	1
HAJDUK LARGE STERN TRAWLER	PL-82-0066	WOC,GOA BSA	1
DENEBOLA LARGE STERN TRAWLER	PL-82-0075	WOC,GOA BSA	1
LACERTA LARGE STERN TRAWLER	PL-82-0076	WOC,GOA BSA	1
ORCYN LARGE STERN TRAWLER	PL-82-0077	WOC,GOA BSA	1
ORLEN LARGE STERN TRAWLER	PL-82-0078	WOC,GOA BSA	1
REKIN LARGE STERN TRAWLER	PL-82-0080	WOC,GOA BSA	1
TAURUS LARGE STERN TRAWLER	PL-82-0082	WOC,GOA BSA	1
CARINA LARGE STERN TRAWLER	PL-82-0083	WOC,GOA BSA	1
PARMA LARGE STERN TRAWLER	PL-82-0084	WOC,GOA BSA	1
BOGAR LARGE STERN TRAWLER	PL-82-0085	WOC,GOA BSA	1
ANDROMEDA LARGE STERN TRAWLER	PL-82-0088	WOC,GOA BSA	1
TYWIEC CARGO SHIP	PL-82-0093	WOC,GOA BSA	3
INDUS STERN TRAWLER	PL-82-0094	WOC,GOA BSA	1
REGULUS STERN TRAWLER	PL-82-0095	WOC,GOA BSA	1
KOREA			
CHUNG YONG NO.3 LONGLINE FISHING VESSEL	KS-82-3031	PBS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
CHUNG YONG NO.6 LONGLINE FISHING VESSEL	KS-82-3003	PBS	1
CHUNG YONG NO.7 LONGLINE FISHING VESSEL	KS-82-3004	PBS	1
NO.8 ORYONG LONGLINE FISHING VESSEL	KS-82-3006	PBS	1
NO.71 ORYONG LONGLINE FISHING VESSEL	KS-82-3007	PBS	1
NO.72 ORYONG LONGLINE FISHING VESSEL	KS-82-3008	PBS	1
NO.73 ORYONG LONGLINE FISHING VESSEL	KS-82-3009	PBS	1
NO.81 ORYONG LONGLINE FISHING VESSEL	KS-82-3011	PBS	1
NO.82 ORYONG LONGLINE FISHING VESSEL	KS-82-3012	PBS	1
NO.78 ORYONG LONGLINE FISHING VESSEL	KS-82-3025	PBS	1
NO.72 WHA YANG LONGLINE FISHING VESSEL	KS-82-3023	PBS	1
NO.82 WHA YANG LONGLINE FISHING VESSEL	KS-82-3024	PBS	1
NAM PYUNG NO. 1 LONGLINE FISHING VESSEL	KS-82-3026	PBS	1
NAM PYUNG NO. 5 LONGLINE FISHING VESSEL	KS-82-3027	PBS	1
NAM PYUNG NO. 31 LONGLINE FISHING VESSEL	KS-82-3029	PBS	1
NAM PYUNG NO. 32 LONGLINE FISHING VESSEL	KS-82-3030	PBS	1
NO.31 ORYONG LONGLINE FISHING VESSEL	KS-82-3032	PBS	1
NO.33 ORYONG LONGLINE FISHING VESSEL	KS-82-3033	PBS	1
NO.52 ORYONG LONGLINE FISHING VESSEL	KS-82-3034	PBS	1
NO.55 ORYONG LONGLINE FISHING VESSEL	KS-82-3035	PBS	1
NO.77 ORYONG LONGLINE FISHING VESSEL	KS-82-3036	PBS	1
NO.16 TAE CHANG LONGLINE FISHING VESSEL	KS-82-3037	PBS	1
NO.25 TAE CHANG LONGLINE FISHING VESSEL	KS-82-3038	PBS	1
NO.15 SAM SONG LONGLINE FISHING VESSEL	KS-82-3039	PBS	1
NO.16 SAM SONG LONGLINE FISHING VESSEL	KS-82-3040	PBS	1
NO.301 DONGWON LONGLINE FISHING VESSEL	KS-82-3041	PBS	1
NO.101 DAE WANG LONGLINE FISHING VESSEL	KS-82-3042	PBS	1
GAE YANG HO LARGE STERN TRAWLER	KS-82-0001	BSA,GOA	1
SEO YANG HO LARGE STERN TRAWLER	KS-82-0002	BSA,GOA	1
CHEOG YANG HO LARGE STERN TRAWLER	KS-82-0003	BSA,GOA	1
PUNG YANG HO LARGE STERN TRAWLER	KS-82-0004	BSA,GOA	1
HEUNG YANG HO LARGE STERN TRAWLER	KS-82-0006	BSA,GOA	1
KYUNG YANG HO LARGE STERN TRAWLER	KS-82-0085	BSA,GOA	1
NAMBUG LARGE STERN TRAWLER	KS-82-0033	BSA,GOA	1
CRYSTAL DAHLIA LARGE STERN TRAWLER	KS-82-0034	BSA,GOA	1
SALVIA LARGE STERN TRAWLER	KS-82-0103	BSA,GOA	1
DAEJIN NO.52 LARGE STERN TRAWLER	KS-82-0037	BSA,GOA	1
NO.303 DAI HO LARGE STERN TRAWLER	KS-82-0095	BSA,GOA	1
NO.707 DAI HO LARGE STERN TRAWLER	KS-82-0123	BSA,GOA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
NO.71 DONG BANG MEDIUM STERN TRAWLER	KS-82-0121	BSA,GOA	1
DONGSAN-HO LARGE STERN TRAWLER	KS-82-0039	BSA,GOA	1
YUYANG HO LARGE STERN TRAWLER	KS-82-0104	BSA,GOA	1
SHIN YANG HO MEDIUM STERN TRAWLER	KS-82-0122	BSA,GOA	1
NO.7 SANG WON MEDIUM STERN TRAWLER	KS-82-0041	BSA,GOA	1
HAN KIL HO LARGE STERN TRAWLER	KS-82-0044	BSA,GOA	1
HAN JIN HO LARGE STERN TRAWLER	KS-82-0045	BSA,GOA	1
HANIL HO MEDIUM STERN TRAWLER	KS-82-0107	BSA,GOA	1
SHIN AN HO LARGE STERN TRAWLER	KS-82-0047	BSA,GOA	1
NO.70 OYANG HO LARGE STERN TRAWLER	KS-82-0048	BSA,GOA	1
SOO GONG NO.51 LARGE STERN TRAWLER	KS-82-0042	BSA,GOA	1
JINAM NO.308 MEDIUM STERN TRAWLER	KS-82-0117	BSA,GOA	1
NO.305 JINAM MEDIUM STERN TRAWLER	KS-82-0105	BSA,GOA	1
SOO GONG NO. 91 MEDIUM STERN TRAWLER	KS-82-0115	BSA,GOA	1
SOO GONG NO. 92 MEDIUM STERN TRAWLER	KS-82-0116	BSA,GOA	1
DAE SUNG HO LARGE STERN TRAWLER	KS-82-0051	BSA,GOA	1
NO.1 HAN SUNG LARGE STERN TRAWLER	KS-82-0106	BSA,GOA	1
NO.201 ODAEYANG LONGLINE FISHING VESSEL	KS-82-0128	BSA,GOA	1
NO.212 ODAEYANG LONGLINE FISHING VESSEL	KS-82-0129	BSA,GOA	1
NO.31 DONGWON LONGLINE FISHING VESSEL	KS-82-0053	BSA,GOA	1
SEO KWANG HO LONGLINE FISHING VESSEL	KS-82-0111	BSA,GOA	1
SEO KWANG 7 HO LONGLINE FISHING VESSEL	KS-82-0130	BSA,GOA	1
KWANG MYUNG NO.20 LONGLINE FISHING VESSEL	KS-82-0131	BSA,GOA	1
KWANG MYUNG NO.21 LONGLINE FISHING VESSEL	KS-82-0132	BSA,GOA	1
NO.1 CHIL BO SAN REEFER CARRIER	KS-82-0133	BSA,GOA	3
NO.2 CHIL BO SAN REEFER CARRIER	KS-82-0134	BSA,GOA	3
NO.3 CHIL BO SAN HO CARGO/TRANSPORT VESSEL	KS-82-0074	BSA,GOA	3
NO.5 CHIL BO SAN HO CARGO/TRANSPORT VESSEL	KS-82-0075	BSA,GOA	3
NO.6 CHIL BO SAN HO CARGO/TRANSPORT VESSEL	KS-82-0076	BSA,GOA	3
501 DONG SOO CARGO/TRANSPORT VESSEL	KS-82-0119	BSA,GOA	3
GAE CHEOG HO NO.2 CARGO/TRANSPORT VESSEL	KS-82-0090	BSA,GOA	3
GAE CHEOG HO FACTORY SHIP	KS-82-0112	BSA,GOA	3
NO.105 O DAE YANG CARGO/TRANSPORT VESSEL	KS-82-0094	BSA,GOA	3
106 O DAE YANG CARGO/TRANSPORT VESSEL	KS-82-0099	BSA,GOA	3
BOOK NEUNG FACTORY SHIP	KS-82-0079	BSA,GOA	3
TAE YANG NO.12 CARGO/TRANSPORT VESSEL	KS-82-0081	BSA,GOA	3
ILL WOO NO.58 CARGO/TRANSPORT VESSEL	KS-82-0091	BSA,GOA	3
NO.77 DONG BANG CARGO/TRANNSPORT VESSEL	KS-82-0118	BSA,GOA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
SHINWA MARU CARGO/TRANSPORT VESSEL	JA-82-0904	NWA,BSA, GOA,SMT	3
DAITO MARU NO. 58 MEDIUM STERN TRAWLER	JA-82-1176	BSA	1
HOKUYU MARU NO.68 MEDIUM STERN TRAWLER	JA-82-1177	BSA	1
EIHEI MARU FACTORY SHIP/MOTHER SHIP	JA-82-1039	CRB,BSA, GOA,SNA, SMT,NWA	2
EITAN MARU POT FISHING VESSEL	JA-82-0830	CRB,BSA, GOA,SNA, NWA,SMT	1
CHOSEI MARU NO. 38 POT FISHING VESSEL	JA-82-0843	SNA,CRB	1
KAIYO MARU NO.8 POT FISHING VESSEL	JA-82-1137	SNA,CRB	1
KYOWA MARU NO. 8 POT FISHING VESSEL	JA-82-0901	SNA,CRB	1
TAKASHIRO MARU NO.31 POT FISHING VESSEL	JA-82-0856	SNA,CRB	1
MARUNAKA MARU NO. 68 POT FISHING VESSEL	JA-82-0860	SNA,CRB	1
TAISAN MARU NO.1 POT FISHING VESSEL	JA-82-0851	SNA,CRB	1
EIWA MARU NO.28 POT FISHING VESSEL	JA-82-0820	SNA,CRB	1
CHOSEI MARU NO.78 POT FISHING VESSEL	JA-82-0838	SNA	1
KOHOKU MARU NO.18 POT FISHING VESSEL	JA-82-0839	SNA	1
HOYO MARU NO.68 POT FISHING VESSEL	JA-82-0840	SNA	1
NITTOH MARU NO.77 POT FISHING VESSEL	JA-82-0842	SNA	1
HOYO MARU NO.63 POT FISHING VESSEL	JA-82-0862	SNA	1
RYOUN MARU NO.2 POT FISHING VESSEL	JA-82-0877	SNA	1
RYUSHO MARU NO.1 POT FISHING VESSEL	JA-82-0878	SNA	1
TAKI MARU NO.2 POT FISHING VESSEL	JA-82-0879	SNA	1
HIZEN MARU POT FISHING VESSEL	JA-82-0844	SNA	1
HIGO MARU POT FISHING VESSEL	JA-82-0845	SNA	1
DAITO MARU NO.8 POT FISHING VESSEL	JA-82-0846	SNA	1
AZUMA MARU NO.11 POT FISHING VESSEL	JA-82-0871	SNA	1
EIKYU MARU POT FISHING VESSEL	JA-82-0817	CRB	1
MATSUEI MARU NO.72 POT FISHING VESSEL	JA-82-0821	CRB	1
EIKYU MARU NO.26 POT FISHING VESSEL	JA-82-0822	CRB	1
HAKUYO MARU POT FISHING VESSEL	JA-82-0837	CRB	1
KAISEI MARU NO.8 POT FISHING VESSEL	JA-82-0900	CRB	1
KOYO MARU NO.1 LONGLINER/POT	JA-82-0847	CRB	1
HOKUSEN MARU NO.2 POT FISHING VESSEL	JA-82-0841	CRB	1
KAIUN MARU NO.52 POT FISHING VESSEL	JA-82-0040	CRB	1
HOKKO MARU NO.12 POT FISHING VESSEL	JA-82-0704	CRB	1
RYOYO MARU CARGO/TRANSPORT VESSEL	JA-82-1024	BSA,CRB, GOA,NWA, SMT,SNA	3
FUKUYO MARU CARGO/TRANSPORT VESSEL	JA-82-1025	BSA,CRB, GOA,NWA, SMT,SNA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
KIYO MARU CARGO/TRANSPORT VESSEL	JA-82-1026	BSA,CRB, GOA,NWA, SMT,SNA	3
SHUYO MARU CARGO/TRANSPORT VESSEL	JA-82-1028	BSA,GRB, GOA,NWA, SMT,SNA	3
HOYO MARU CARGO/TRANSPORT VESSEL	JA-82-1029	BSA,CRB, GOA,NWA, SMT,SNA	3
TAMAGAWA MARU CARGO/TRANSPORT VESSEL	JA-82-1030	BSA,CRB, GOA,NWA, SMT,SNA	3
KAKOGAWA MARU CARGO/TRANSPORT VESSEL	JA-82-1031	BSA,CRB, GOA,NWA, SMT,SNA	3
UNO MARU NO.8 CARGO/TRANSPORT VESSEL	JA-82-1032	BSA,CRB, GOA,NWA, SMT,SNA	3
SEIKO MARU CARGO/TRANSPORT VESSEL	JA-82-1043	BSA,CRB, GOA,NWA, SMT,SNA	3
REIYO MARU CARGO/TRANSPORT VESSEL	JA-82-1067	BSA,CRB, GOA,NWA, SMT,SNA	3
JUYO MARU CARGO/TRANSPORT VESSEL	JA-82-1068	BSA,CRB, GOA,NWA, SMT,SNA	3
TOSA MARU CARGO/TRANSPORT VESSEL	JA-82-1071	BSA,CRB, GOA,NWA, SMT,SNA	3
ITOHAM MARU CARGO/TRANSPORT VESSEL	JA-82-1072	BSA,CRB, GOA,NWA, SMT,SNA	3
NIPPONHAM MARU NO.1 CARGO/TRANSPORT VESSEL	JA-82-1082	BSA,CRB, GOA,NWA, SMT,SNA	3
HAYASHIKANE MARU NO.1 CARGO/TRANSPORT VESSEL	JA-82-1102	BSA,CRB, GOA,NWA, SMT,SNA	3
HAYASHIKANE MARU NO. 2 CARGO/TRANSPORT VESSEL	JA-82-1103	BSA,CRB, GOA,NWA, SMT,SNA	3
TAIHJAKU MARU CARGO/TRANSPORT VESSEL	JA-82-1106	BSA,CRB, GOA,NWA, SMT,SNA	3
JINYO-MARU CARGO/TRANSPORT VESSEL	JA-82-1132	BSA,CRB, GOA,NWA, SMT,SNA	3
MEIYO-MARU CARGO/TRANSPORT VESSEL	JA-82-1133	BSA,CRB, GOA,NWA, SMT,SNA	3
TAKASHIRO MARU NO.51 CARGO/TRANSPORT VESSEL	JA-82-1151	BSA,CRB, GOA,NWA, SMT,SNA	3
KYOKUSHIN MARU CARGO/TRANSPORT VESSEL	JA-82-1161	BSA,CRB, GOA,NWA, SMT,SNA	3
HIYO MARU CARGO/TRANSPORT VESSEL	JA-82-2025	BSA,CRB, GOA,NWA, SMT,SNA	3
FUYO MARU CARGO/TRANSPORT VESSEL	JA-82-0925	BSA,CRB, GOA,NWA, SMT,SNA	3
SANYO MARU CARGO/TRANSPORT VESSEL	JA-82-0924	BSA,CRB, GOA,NWA, SMT,SNA	3
TENRYU MARU CARGO/TRANSPORT VESSEL	JA-82-1104	BSA,CRB, GOA,NWA, SMT,SNA	3
DAIHO MARU CARGO/TRANSPORT VESSEL	JA-82-1000	BSA,CRB, GOA,NWA, SMT,SNA	3
KOTOKU MARU CARGO/TRANSPORT VESSEL	JA-82-1035	BSA,CRB, GOA,NWA, SMT,SNA	3
TAKASHIRO MARU NO.53 CARGO/TRANSPORT VESSEL	JA-82-0916	BSA,CRB, GOA,NWA, SMT,SNA	3
TAISEI MARU NO.16 CARGO/TRANSPORT VESSEL	JA-82-1052	BSA,CRB, GOA,NWA, SMT,SNA	3
TAISEI MARU NO.87 CARGO/TRANSPORT VESSEL	JA-82-1053	NWA,BSA, SNA,GOA, CRB,SMT	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
TAISEI MARU NO. 98 CARGO/TRANNSPORT VESSEL/ TANKER	JA-82-1054	NWA,BSA, SNA,GOA, CRB,SMT	3
TAISEI MARU NO.52 CARGO/TRANSPORT VESSEL/ TANKER	JA-82-1055	NWA,BSA, SNA,GOA, CRB,SMT	3
TAISEI MARU NO. 101 CARGO/TRANSPORT VESSEL/ TANKER	JA-82-1144	NWA,BSA, SNA,GOA, CRB,SMT	3
MATSUKAZE MARU CARGO/TRANSPORT VESSEL	JA-82-1045	BSA,GOA, NWA,SNA, SMT,CRB	3
SOYOKAZE MARU CARGO/TRANSPORT VESSEL	JA-82-1040	BSA,GOA, NWA,SNA, SMT,CRB	3
ISOKAZE MARU CARGO/TRANSPORT VESSEL	JA-82-1038	BSA,GOA, NWA,SNA, SMT,CRB	3
MIYAJIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1101	BSA,GOA, NWA,SNA, SMT,CRB	3
MAKUBASAN MARU CARGO/TRANSPORT VESSEL	JA-82-1027	BSA,GOA, NWA,SNA, SMT,CRB	3
MARINE ACE CARGO/TRANSPORT VESSEL	JA-82-0002	BSA,GOA, NWA,SNA, SMT,CRB	3
BERING MARU CARGO/TRANSPORT VESSEL	JA-82-1159	BSA,GOA, NWA,SNA, SMT,CRB	3
MYCRIYO MARU CARGO/TRANSPORT VESSEL	JA-82-1167	BSA,GOA, NWA,SNA, SMT,CRB	3
HAKUYO MARU CARGO/TRANSPORT VESSEL	JA-82-0017	BSA,GOA, CRB,NWA, SMT,SNA	3
EIO MARU CARGO/TRANSPORT VESSEL	JA-82-1063	BSA,GOA, SNA,NWA, SMT	3
EIHEI MARU CARGO/TRANSPORT VESSEL	JA-82-1039	BSA,GOA, SNA,NWA, SMT	3
EIHO MARU CARGO/TRANSPORT VESSEL	JA-82-1062	BSA,GOA, SNA,NWA, SMT	3
HAKKO ARROW CARGO/TRANSPORT VESSEL	JA-82-0880	NWA,BSA, GOA,SMT	3
HAKKO BOOMERANG CARGO/TRANSPORT VESSEL	JA-82-0881	NWA,BSA, GOA,SMT	3
HAKKO CARDIOID CARGO/TRANSPORT VESSEL	JA-82-0882	NWA,BSA, GOA,SMT	3
SAKURA MARU CARGO/TRANSPORT VESSEL	JA-82-1001	NWA,BSA, GOA,SMT	3
DAIRYO MARU CARGO/TRANSPORT VESSEL	JA-82-1002	NWA,BSA, GOA,SMT	3
SATSUKI MARU CARGO/TRANSPORT VESSEL	JA-82-1004	NWA,BSA, GOA,SMT	3
MIHO MARU CARGO/TRANSPORT VESSEL	JA-82-1069	NWA,BSA, GOA,SMT	3
DAIEN MARU NO.18 CARGO/TRANSPORT VESSEL	JA-82-1074	NWA,BSA, GOA,SMT	3
SANTO MARU CARGO/TRANSPORT VESSEL	JA-82-1075	NWA,BSA, GOA,SMT	3
FUMIZUKI MARU CARGO/TRANSPORT VESSEL	JA-82-1145	NWA,BSA, GOA,SMT	3
HIROTSUKI MARU CARGO/TRANSPORT VESSEL	JA-82-1146	NWA,BSA, GOA,SMT	3
DAIGEN MARU CARGO/TRANSPORT VESSEL	JA-82-1147	NWA,BSA, GOA,SMT	3
WAKATSUKI MARU CARGO/TRANSPORT VESSEL	JA-82-1150	NWA,BSA, GOA,SMT	3
KOMESHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-2021	NWA,BSA, GOA,SMT	3
TAKATSUKI MARU CARGO/TRANSPORT VESSEL	JA-82-2022	NWA,BSA, GOA,SMT	3
AKIZUKI MARU CARGO/TRANSPORT VESSEL	JA-82-2023	NWA,BSA, GOA,SMT	3
SANUKI MARU CARGO/TRANSPORT VESSEL	JA-82-0915	NWA,BSA, GOA,SMT	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
MIYASHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-0919	NWA,BSA, GOA,SMT	3
MATSUSHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-0920	NWA,BSA, GOA,SMT	3
TAKESHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-0921	NWA,BSA, GOA,SMT	3
KENDRIC CARGO/TRANSPORT VESSEL	JA-82-0912	NWA,BSA, GOA,SMT	3
DAIEI MARU NO.52 CARGO/TRANSPORT VESSEL	JA-82-0913	NWA,BSA, GOA,SMT	3
NISSEI MARU CARGO/TRANSPORT VESSEL	JA-82-0914	NWA,BSA, GOA,SMT	3
DAITOKU MARU NO.31 CARGO/TRANSPORT VESSEL	JA-82-1092	NWA,BSA, GOA,SMT	3
PHOENIX CARGO/TRANSPORT VESSEL	JA-82-0917	NWA,BSA, GOA,SMT	3
FALCON CARGO/TRANSPORT VESSEL	JA-82-0918	NWA,BSA, GOA,SMT	3
KISARAGI MARU CARGO/TRANSPORT VESSEL	JA-82-0929	NWA,BSA, GOA,SMT	3
TAISEI MARU NO. 41 CARGO/TRANSPORT VESSEL/ TANKER	JA-82-1056	BSA,SNA, GOA,CRB, SMT	3
TANKANE MARU TANKER FUEL/WATER/FISH OIL	JA-82-0895	BSA,GOA SMT,CRB	3
TENRYO MARU TANKER FUEL/WATER/FISH OIL	JA-82-2024	BSA,GOA, SMT,CRB	3
FUKUJU MARU NO.57 CARGO/TRANSPORT VESSEL	JA-82-1050	BSA,SNA, GOA,CRB, SMT	3
SHOKEN MARU CARGO/TRANSPORT VESSEL	JA-82-0930	BSA,GOA, NWA	3
SETA MARU CARGO/TRANSPORT VESSEL	JA-82-1010	BSA,GOA, NWA	3
SHIGA MARU CARGO/TRANSPORT VESSEL	JA-82-1012	BSA,GOA, NWA	3
KUNISAKI CARGO/TRANSPORT VESSEL	JA-82-0899	BSA,GOA, NWA	3
TENSEI MARU CARGO/TRANSPORT VESSEL	JA-82-0896	BSA,GOA NWA	3
KAISEI MARU NO.5 CARGO/TRANSPORT VESSEL	JA-82-1015	BSA,GOA NWA	3
SHINSEI MARU CARGO/TRANSPORT VESSEL	JA-82-0890	BSA,GOA NWA	3
SHINRYU MARU NO. 18 CARGO/TRANSPORT VESSEL	JA-82-0906	BSA,GOA, NWA	3
OKITSU MARU CARGO/TRANSPORT VESSEL	JA-82-1098	BSA,GOA, NWA	3
EITOKU MARU CARGO/TRANSPORT VESSEL	JA-82-1094	BSA,GOA, NWA,SNA, CRB	3
ASAKAZE MARU CARGO/TRANSPORT VESSEL	JA-82-1089	BSA,GOA, NWA,SNA, CRB	3
HARUKAZE MARU CARGO/TRANSPORT VESSEL	JA-82-1049	BSA,GOA, NWA,SNA, CRB	3
NOJIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1096	BSA,GOA, NWA,SNA, CRB	3
SUOH CARGO/TRANSPORT VESSEL	JA-82-0893	BSA,GOA, NWA,SNA, CRB	3
SUN HAPPINESS CARGO/TRANSPORT VESSEL	JA-82-0891	BSA,GOA, NWA,SNA, CRB	3
AKASHIA MARU CARGO/TRANSPORT VESSEL	JA-82-1156	GOA,BSA, SNA,NWA	3
HOKKAI MARU CARGO/TRANSPORT VESSEL	JA-82-0922	GOA,BSA, SNA,NWA	3
SUZURAN MARU CARGO/TRANSPORT VESSEL	JA-82-1152	GOA,BSA, SNA,NWA	3
HAYATSUKI MARU CARGO/TRANSPORT VESSEL	JA-82-1037	GOA,BSA, SNA,NWA	3
HAMANASU MARU CARGO/TRANSPORT VESSEL	JA-82-0883	GOA,BSA, SNA,NWA	3
MARINE FELLOW CARGO/TRANSPORT VESSEL	JA-82-0003	GOA,BSA, SNA,NWA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
HOKO MARU NO.31 CARGO/TRANSPORT VESSEL	JA-82-1083	BSA,GOA, SNA,NWA	3
KARASAKI MARU CARGO/TRANSPORT VESSEL	JA-82-1011	BSA,GOA, SNA,NWA	3
SHIKISHIMA REEFER CARGO/TRANSPORT VESSEL	JA-82-0889	GOA,BSA, SNA,NWA	3
SEISHU MARU NO.2 CARGO/TRANSPORT VESSEL	JA-82-0928	BSA,GOA, NWA,SNA	3
SUNNY REEFER CARGO/TRANSPORT VESSEL	JA-82-0892	GOA,BSA, SNA,NWA	3
HAKODATE MARU NO.2 CARGO/TRANSPORT VESSEL	JA-82-1017	GOA,BSA, SNA,NWA	3
YOHO MARU CARGO/TRANSPORT VESSEL	JA-82-1018	GOA,BSA, SNA,NWA	3
KAIKO MARU CARGO/TRANSPORT VESSEL	JA-82-1019	GOA,BAS, SNA,NWA	3
KENTOKU MARU CARGO/TRANSPORT VESSEL	JA-82-1021	GOA,BSA, SNA,NWA	3
MISHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1023	GOA,BSA, SNA,NWA	3
NIKKO MARU CARGO/TRANSPORT VESSEL	JA-82-1077	GOA,BSA, SNA,NWA	3
SHINPRIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1081	GOA,BSA, SNA,NWA	3
TOKYO REEFER CARGO/TRANSPORT VESSEL	JA-82-1135	GOA,BSA, SNA,NWA	3
OSAKA REEFER CARGO/TRANSPORT VESSEL	JA-82-2011	GOA,BSA, SNA,NWA	3
YAMATO REEFER CARGO/TRANSPORT VESSEL	JA-82-2019	GOA,BSA, SNA,NWA	3
SKY REEFER CARGO/TRANSPORT VESSEL	JA-82-0907	GOA,BSA, SNA,NWA	3
FUJI REEFER CARGO/TRANSPORT VESSEL	JA-82-0908	GOA,BSA, SNA,NWA	3
SAKURA REEFER CARGO/TRANSPORT VESSEL	JA-82-0909	GOA,BSA, SNA,NWA	3
ARIAKE REEFER CARGO/TRANSPORT VESSEL	JA-82-0910	GOA,BSA, SNA,NWA	3
AKEBONO REEFER CARGO/TRANSPORT VESSEL	JA-82-0911	GOA,BSA, SNA,NWA	3
MIZUHO REEFER CARGO/TRANSPORT VESSEL	JA-82-0016	GOA,BSA, SNA,NWA	3
ASUKA MARU TANKER FUEL/WATER	JA-82-0009	CRB,BSA, GOA,SNA	3
TENYOSHI MARU TANKER FUEL/WATER	JA-82-0008	CRB,BSA, GOA,SNA	3
DAIEI MARU NO.5 TANKER FUEL/WATER	JA-82-0007	CRB,BSA, GOA,SNA	3
KYOKUYO MARU TANKER FUEL/WATER	JA-82-0885	CRB,BSA, GOA,SNA	3
RICH SEAGULL TANKER FUEL/WATER	JA-82-0888	CRB,BSA, GOA,SNA	3
TENKAI MARU TANKER FUEL/WATER	JA-82-0894	CRB,BSA, GOA,SNA	3
CHIGUSA MARU TANKER FUEL/WATER	JA-82-2002	CRB,BSA, GOA,SNA	3
YACHIYO MARU NO.26 CARGO/TRANSPORT VESSEL	JA-82-1079	GOA,BSA, SNA	3
WAKASHIO MARU NO.32 CARGO/TRANSPORT VESSEL	JA-82-1121	GOA,BSA, SNA	3
YACHIYO MARU NO.15 CARGO/TRANSPORT VESSEL	JA-82-1123	GOA,BSA, SNA	3
SANEI MARU CARGO/TRANSPORT VESSEL	JA-82-0568	BSA,CRB, GOA	3
NIKKA MARU CARGO/TRANSPORT VESSEL	JA-82-0927	BSA,CRB, GOA	3
TSURU MARU CARGO/TRANSPORT VESSEL	JA-82-1085	BSA,CRB, GOA	3
SUZUKAZE MARU CARGO/TRANSPORT VESSEL/ TANKER	JA-82-1058	BSA,GOA, CRB	3
SACHIKAZE MARU CARGO/TRANSPORT VESSEL/ TANKER	JA-82-1057	BSA,GOA, CRB	3
MIE MARU NO.7 CARGO/TRANNSPORT VESSEL	JA-82-1080	BSA,CRB, GOA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
UNOMARU NO.1 CARGO/TRANSPORT VESSEL	JA-82-1120	BSA,CRB, GOA	3
YUWASU MARU CARGO/TRANSPORT VESSEL	JA-82-0005	BSA,CRB, GOA	3
FUJISAN MARU NO.28 CARGO/TRANSPORT VESSEL	JA-82-0006	BSA,CRB, GOA	3
KYOHO MARU CARGO/TRANSPORT VESSEL	JA-82-1034	BSA,GOA	3
KURUSHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1128	BSA,GOA	3
NAGISA MARU CARGO/TRANSPORT VESSEL	JA-82-1061	BSA,GOA	3
AWASHIMA MARU CARGO/TRANSPORT VESSEL	JA-82-1060	BSA,GOA	3
KASHIWAHANA MARU NO.1 CARGO/TRANSPORT VESSEL	JA-82-0884	BSA,GOA	3
KINEI MARU NO.3 LONGLINE FISHING VESSEL	JA-82-3079	PBS	1
TOYOTOMI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-3886	PBS	1
ANYO MARU NO. 8 MEDIUM STERN TRAWLER	JA-82-0283	BSA	1
JIN PO MARU NO. 65 CARGO/TRANSPORT VESSEL	JA-82-1142	CRB,BSA, GOA,NWA, ABS,PBS, SMT,SNA	3
EIKYU MARU NO. 3 MEDIUM STERN TRAWLER	JA-82-1174	BSA	1
ANYO MARU NO.18 MEDIUM STERN TRAWLER	JA-82-1175	BSA	1
AKEBONO MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0306	BSA,GOA	1
KOYO MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0292	BSA,GOA	1
KOYO MARU NO. 2 LARGE STERN TRAWLER	JA-82-0297	BSA,GOA	1
KOYO MARU NO.3 LARGE STERN TRAWLER	JA-82-0343	BSA,GOA	1
TENYO MARU LARGE STERN TRAWLER	JA-82-0352	BSA,GOA	1
TENYO MARU NO.2 LARGE STERN TRAWLER	JA-82-0332	BSA,GOA	1
TENYO MARU NO.3 LARGE STERN TRAWLER	JA-82-0333	BSA,GOA	1
TENYO MARU NO.5 LARGE STERN TRAWLER	JA-82-0334	BSA,GOA	1
AKEBONO MARU NO.1 MEDIUM STERN TRAWLER	JA-82-1153	BSA,GOA	1
AKEBONO MARU NO.2 MEDIUM STERN TRAWLER	JA-82-1154	BSA,GOA	1
AKEBONO MARU NO. 72 LARGE STERN TRAWLER	JA-82-0338	BSA,GOA	1
AKEBONO MARU NO. 32 MEDIUM STERN TRAWLER	JA-82-0307	BSA,GOA	1
AKEBONO MARU NO. 27 MEDIUM STERN TRAWLER	JA-82-0308	BSA,GOA	1
AKEBONO MARU NO. 28 MEDIUM STERN TRAWLER	JA-82-0309	BSA,GOA	1
AKEBONO MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0310	BSA,GOA	1
AKEBONO MARU NO. 18 MEDIUM STERN TRAWLER	JA-82-0315	BSA	1
AKEBONO MARU NO.15 MEDIUM STERN TRAWLER	JA-82-0312	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
AKEBONO MARU NO. 16 MEDIUM STERN TRAWLER	JA-82-0313	BSA,GOA	1
AKEBONO MARU NO.17 MEDIUM STERN TRAWLER	JA-82-0314	BSA	1
AKEBONO MARU NO. 21 MEDIUM STERN TRAWLER	JA-82-0316	BSA	1
YAMATO MARU LARGE STERN TRAWLER	JA-82-0339	BSA,GOA	1
RIKUZEN MARU LARGE STERN TRAWLER	JA-82-0340	BSA,GOA	1
HARUNA MARU LARGE STERN TRAWLER	JA-82-0350	BSA,GOA	1
KONGO MARU LARGE STERN TRAWLER	JA-82-0341	BSA,GOA	1
NIITAKA MARU LARGE STERN TRAWLER	JA-82-0289	BSA,GOA	1
AKEBONO MARU NO.22 MEDIUM STERN TRAWLER	JA-82-0317	BSA,GOA	1
ZUIHOO MARU NO.28 MEDIUM STERN TRAWLER	JA-82-0565	BSA	1
SHIZUOKA MARU MEDIUM STERN TRAWLER	JA-82-0318	BSA,GOA	1
SHINNICHI MARU NO.36 MEDIUM STERN TRAWLER	JA-82-0563	BSA	1
SHUNYOO MARU NO.118 MEDIUM STERN TRAWLER	JA-82-0564	BSA	1
DAIAN MARU NO. 188 MEDIUM STERN TRAWLER	JA-82-0553	BSA	1
KAIYO MARU NO.12 MEDIUM STERN TRAWLER	JA-82-0724	BSA	1
CHIKUBU MARU LARGE STERN TRAWLER	JA-82-0336	BSA,GOA	1
TSUDA MARU LARGE STERN TRAWLER	JA-82-0337	BSA,GOA	1
OHTORI MARU LARGE STERN TRAWLER	JA-82-0342	BSA,GOA	1
ANYO MARU NO. 11 MEDIUM STERN TRAWLER	JA-82-0541	BSA,GOA	1
ANYO MARU NO.12 MEDIUM STERN TRAWLER	JA-82-0500	BSA	1
SUIYO MARU NO.2 LARGE STERN TRAWLER	JA-82-0351	BSA,GOA	1
ZUIYO MARU NO.3 LARGE STERN TRAWLER	JA-82-0331	BSA,GOA	1
KYOWA MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0566	BSA,GOA	1
KOSHIN MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0303	BSA,GOA	1
EIKYU MARU NO.2 MEDIUM STERN TRAWLER	JA-82-0299	BSA	1
EIKYU MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0300	BSA	1
EIKYU MARU NO.12 MEDIUM STERN TRAWLER	JA-82-0411	BSA	1
TOMI MARU NO.85 MEDIUM STERN TRAWLER	JA-82-0282	BSA,GOA	1
TOMI MARU NO.83 MEDIUM STERN TRAWLER	JA-82-1170	BSA,GOA	1
FUKUYOSHI MARU NO.38 MEDIUM STERN TRAWLER	JA-82-0304	BSA,GOA	1
DAISHIN MARU NO.28 LARGE STERN TRAWLER	JA-82-0569	BSA,GOA	1
TOKACHI MARU STERN TRAWLER	JA-82-0360	NWA	1
SUZUKA MARU STERN TRAWLER	JA-82-0363	NWA	1
SHIRANE MARU STERN TRAWLER	JA-82-0362	NWA	1
ZAO MARU STERN TRAWLER	JA-82-0361	NWA	1
TESHIO MARU STERN TRAWLER	JA-82-1169	NWA	1
KOYO MARU STERN TRAWLER	JA-82-0365	NWA	1
BANSHU MARU NO.6 LARGE STERN TRAWLER	JA-82-0373	NWA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
BANSHU MARU NO.7 LARGE STERN TRAWLER	JA-82-0374	NWA	1
TAIYO MARU NO.83 MEDIUM STERN TRAWLER	JA-82-0380	NWA	1
ENIWA MARU LARGE STERN TRAWLER	JA-82-0898	NWA	1
MIKAMI MARU LARGE STERN TRAWLER	JA-82-0368	NWA	1
NIHONKAI MARU MEDIUM STERN TRAWLER	JA-82-0369	NWA	1
DAISHIN MARU NO.16 LARGE STERN TRAWLER	JA-82-0376	NWA	1
ZUIYO MARU LARGE STERN TRAWLER	JA-82-0335	BSA,GOA, SMT	1
RYUYO MARU LARGE STERN TRAWLER	JA-82-0280	BSA,GOA, SMT	1
DAISHIN MARU NO.12 LARGE STERN TRAWLER	JA-82-0285	BSA,GOA, SMT	1
DAISHIN MARU NO.22 LARGE STERN TRAWLER	JA-82-0286	BSA,GOA, SMT	1
KITAKAMI MARU MEDIUM STERN TRAWLER	JA-82-0321	BSA,GOA, SMT	1
ASO MARU LARGE STERN TRAWLER	JA-82-0288	BSA,GOA, SMT	1
TAKACHIHO MARU LARGE STERN TRAWLER	JA-82-0291	BSA,GOA, SMT	1
MINESHIMA MARU FACTORY SHIP	JA-82-0080	BSA	2
KAIKO MARU NO.8 DANISH SEINER	JA-82-0090	BSA	1
EBISU MARU NO.21 DANISH SEINER	JA-82-0091	BSA	1
KAIUN MARU NO.78 DANISH SEINER	JA-82-0092	BSA	1
SHOSEI MARU NO.30 DANISH SEINER	JA-82-0556	BSA	1
MITSU MARU NO.50 DANISH SEINER	JA-82-0095	BSA	1
SHUYO MARU PAIR TRAWLER	JA-82-0110	BSA	1
EIYO MARU PAIR TRAWLER	JA-82-0111	BSA	1
KOYO MARU PAIR TRAWLER	JA-82-0112	BSA	1
FUKUYO MARU PAIR TRAWLER	JA-82-0113	BSA	1
KATORI MARU PAIR TRAWLER	JA-82-0114	BSA	1
KATSUKI MARU PAIR TRAWLER	JA-82-0115	BSA	1
AOBA MARU PAIR TRAWLER	JA-82-0116	BSA	1
WAKABA MARU PAIR TRAWLER	JA-82-0117	BSA	1
WASHIMA MARU PAIR TRAWLER	JA-82-0122	BSA	1
TOYOSHIMA MARU PAIR TRAWLER	JA-82-0123	BSA	1
TATEYAMA MARU PAIR TRAWLER	JA-82-0835	BSA	1
NISHIYAMA MARU PAIR TRAWLER	JA-82-0836	BSA	1
KATSUYAMA MARU PAIR TRAWLER	JA-82-0833	BSA	1
MATSUYAMA MARU PAIR TRAWLER	JA-82-1157	BSA	1
HEIKYU MARU NO.35 DANISH SEINER (STERN CHUTE)	JA-82-0567	BSA	1
SHIKISHIMA MARU FACTORY SHIP	JA-82-0030	BSA	2
EBISU MARU NO.11 DANISH SEINER	JA-82-0042	BSA	1
SEIHO MARU NO.15 DANISH SEINER	JA-82-0043	BSA	1
HOKKO MARU NO.17 DANISH SEINER	JA-82-0050	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
MIZUHO MARU PAIR TRAWLER	JA-82-0060	BSA	1
AKIHO MARU PAIR TRAWLER	JA-82-0061	BSA	1
SYUNYO MARU PAIR TRAWLER	JA-82-0062	BSA	1
RAKUYO MARU PAIR TRAWLER	JA-82-0063	BSA	1
WAYO MARU PAIR TRAWLER	JA-82-0064	BSA	1
JUNYO MARU PAIR TRAWLER	JA-82-0065	BSA	1
YASHIMA MARU PAIR TRAWLER	JA-82-0070	BSA	1
TSUSHIMA MARU PAIR TRAWLER	JA-82-0071	BSA	1
KAIUN MARU NO.62 DANISH SEINER	JA-82-1482	BSA	1
OYO MARU PAIR TRAWLER	JA-82-0120	BSA	1
EIYO MARU PAIR TRAWLER	JA-82-0121	BSA	1
OTOHA MARU PAIR TRAWLER	JA-82-0010	BSA	1
KUREHA MARU PAIR TRAWLER	JA-82-0011	BSA	1
HOKKAI MARU PAIR TRAWLER	JA-82-0012	BSA	1
HAKUREI MARU PAIR TRAWLER	JA-82-0013	BSA	1
HOKUSHIN MARU PAIR TRAWLER	JA-82-0014	BSA	1
HOKUTO MARU PAIR TRAWLER	JA-82-0015	BSA	1
NITTO MARU NO.75 MEDIUM STERN TRAWLER	JA-82-0406	BSA	1
HOYO MARU FACTORY SHIP	JA-82-0190	BSA	2
YURYO MARU NO.35 DANISH SEINER	JA-82-0201	BSA	1
SOHO MARU NO.32 DANISH SEINER	JA-82-2007	BSA	1
SOHO MARU NO.68 DANISH SEINER	JA-82-0204	BSA	1
KAKUYO MARU NO.1 PAIR TRAWLER	JA-82-0210	BSA	1
KAKUYO MARU NO.2 PAIR TRAWLER	JA-82-0211	BSA	1
KAKUYO MARU NO.3 PAIR TRAWLER	JA-82-0212	BSA	1
KAKUYO MARU NO.5 PAIR TRAWLER	JA-82-0213	BSA	1
KAKUYO MARU NO.7 PAIR TRAWLER	JA-82-0214	BSA	1
KAKUYO MARU NO.8 PAIR TRAWLER	JA-82-0215	BSA	1
KAKUYO MARU NO.11 PAIR TRAWLER	JA-82-2008	BSA	1
KAKUYO MARU NO.12 PAIR TRAWLER	JA-82-2009	BSA	1
NITTO MARU NO.31 PAIR TRAWLER	JA-82-0218	BSA	1
NITTO MARU NO.32 PAIR TRAWLER	JA-82-0219	BSA	1
NITTO MARU NO.35 PAIR TRAWLER	JA-82-0220	BSA	1
NITTO MARU NO.36 PAIR TRAWLER	JA-82-0221	BSA	1
TENYU MARU NO.28 DANISH SEINER	JA-82-1483	BSA	1
NISSHIN MARU NO.2 FACTORY SHIP	JA-82-0140	BSA	2
AKATSUKI MARU NO.1 DANISH SEINER (STERN CHUTE)	JA-82-1129	BSA	1
SHOKEI MARU NO.8 DANISH SEINER	JA-82-1160	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
AKASHI MARU NO.16 PAIR TRAWLER	JA-82-0160	BSA	1
AKASHI MARU NO.17 PAIR TRAWLER	JA-82-0161	BSA	1
AKASHI MARU NO.51 PAIR TRAWLER	JA-82-0162	BSA	1
AKASHI MARU NO.52 PAIR TRAWLER	JA-82-0163	BSA	1
AKASHI MARU NO.58 PAIR TRAWLER	JA-82-0164	BSA	1
AKASHI MARU NO.59 PAIR TRAWLER	JA-82-0165	BSA	1
AKASHI MARU NO.63 PAIR TRAWLER	JA-82-0166	BSA	1
AKASHI MARU NO.65 PAIR TRAWLER	JA-82-0167	BSA	1
AKASHI MARU NO.66 PAIR TRAWLER	JA-82-0168	BSA	1
AKASHI MARU NO.67 PAIR TRAWLER	JA-82-0169	BSA	1
AKASHI MARU NO.68 PAIR TRAWLER	JA-82-0170	BSA	1
AKASHI MARU NO.69 PAIR TRAWLER	JA-82-0171	BSA	1
AKASHI MARU NO.71 PAIR TRAWLER	JA-82-0172	BSA	1
AKASHI MARU NO.72 PAIR TRAWLER	JA-82-0173	BSA	1
AKASHI MARU NO.73 PAIR TRAWLER	JA-82-0174	BSA	1
AKASHI MARU NO.75 PAIR TRAWLER	JA-82-0175	BSA	1
AKASHI MARU NO.76 PAIR TRAWLER	JA-82-0176	BSA	1
AKASHI MARU NO.77 PAIR TRAWLER	JA-82-0177	BSA	1
AKASHI MARU NO.18 PAIR TRAWLER	JA-82-0178	BSA	1
SOYO MARU FACTORY SHIP	JA-82-0240	BSA	2
TAISEI MARU NO.51 MEDIUM STERN TRAWLER	JA-82-0250	BSA	1
MUTSU MARU NO.52 MEDIUM STERN TRAWLER	JA-82-0251	BSA	1
TOBA MARU NO.18 MEDIUM STERN TRAWLER	JA-82-0252	BSA	1
ZENPO MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0253	BSA	1
KAKUDAI MARU NO.25 MEDIUM STERN TRAWLER	JA-82-0254	BSA	1
FUJI MARU NO.1 MEDIUM STERN TRAWLER	JA-82-0255	BSA	1
HOKEN MARU NO.38 MEDIUM STERN TRAWLER	JA-82-1164	BSA	1
KAIKO MARU NO.5 MEDIUM STERN TRAWLER	JA-82-0404	BSA	1
KAIKO MARU NO.3 MEDIUM STERN TRAWLER	JA-82-0258	BSA	1
AKASHI MARU NO.19 PAIR TRAWLER	JA-82-1136	BSA	1
KASHIMA MARU FACTORY SHIP	JA-82-0001	BSA,NWA, GOA,SNA, CRB	2
EIKYU MARU NO.16 MEDIUM STERN TRAWLER	JA-82-0420	BSA	1
KORYO MARU NO.108 MEDIUM STERN TRAWLER	JA-82-0421	BSA	1
TAISEI MARU NO.66 MEDIUM STERN TRAWLER	JA-82-0428	BSA	1
TOMI MARU NO.53 MEDIUM STERN TRAWLER	JA-82-0433	BSA	1
TOMI MARU NO.55 MEDIUM STERN TRAWLER	JA-82-0437	BSA	1
TOMI MARU NO.51 MEDIUM STERN TRAWLER	JA-82-0897	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
NO.8 MITOMARU MEDIUM STERN TRAWLER	JA-82-0435	BSA	1
YAHATA MARU NO.56 MEDIUM STERN TRAWLER	JA-82-0441	BSA	1
YAHATA MARU NO.53 MEDIUM STERN TRAWLER	JA-82-0440	BSA	1
KOHOKU MARU NO.16 MEDIUM STERN TRAWLER	JA-82-0442	BSA	1
KOHOKU MARU NO.17 MEDIUM STERN TRAWLER	JA-82-0443	BSA	1
SEITOKU MARU NO. 105 MEDIUM STERN TRAWLER	JA-82-0447	BSA	1
JUKYU MARU NO.18 MEDIUM STERN TRAWLER	JA-82-0402	BSA	1
YAMASAN MARU NO.81 MEDIUM STERN TRAWLER	JA-82-0409	BSA	1
YAMASAN MARU NO.85 MEDIUM STERN TRAWLER	JA-82-0410	BSA	1
DAITO MARU NO.38 MEDIUM STERN TRAWLER	JA-82-0413	BSA	1
SHOYO MARU MEDIUM STERN TRAWLER	JA-82-1394	BSA	1
KAIYO MARU NO.7 MEDIUM STERN TRAWLER	JA-82-0431	BSA	1
KAIYO MARU NO.8 MEDIUM STERN TRAWLER	JA-82-0432	BSA	1
KYOYO MARU NO.2 MEDIUM STERN TRAWLER	JA-82-0424	BSA	1
MANRYO MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0445	BSA	1
MANRYO MARU NO.32 MEDIUM STERN TRAWLER	JA-82-0446	BSA	1
SHOTOKU MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0438	BSA	1
HOKKO MARU NO.57 MEDIUM STERN TRAWLER	JA-82-0407	BSA	1
HOKKO MARU NO.77 MEDIUM STERN TRAWLER	JA-82-0100	BSA	1
TORA MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0422	BSA	1
KAIUN MARU NO.65 MEDIUM STERN TRAWLER	JA-82-2010	BSA	1
HATSUE MARU NO.62 MEDIUM STERN TRAWLER	JA-82-0403	BSA	1
HOKEN MARU NO.8 MEDIUM STERN TRAWLER	JA-82-0425	BSA	1
CHUYO MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0418	BSA	1
CHUYO MARU NO.22 MEDIUM STERN TRAWLER	JA-82-0419	BSA	1
TOMI MARU NO.82 MEDIUM STERN TRAWLER	JA-82-0434	BSA	1
TAISEI MARU NO.3 MEDIUM STERN TRAWLER	JA-82-0449	BSA	1
TAISEI MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0451	BSA	1
TAISEI MARU NO.16 MEDIUM STERN TRAWLER	JA-82-0450	BSA	1
YASHIO MARU NO.11 MEDIUM STERN TRAWLER	JA-82-0452	BSA	1
SHOSHIN MARU NO.18 MEDIUM STERN TRAWLER	JA-82-0454	BSA	1
SHOSHIN MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0453	BSA	1
NARITA MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0456	BSA	1
HOKUO MARU NO.25 MEDIUM STERN TRAWLER	JA-82-0457	BSA	1
HAMAZEN MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0461	BSA	1
YURYO MARU NO.8 MEDIUM STERN TRAWLER	JA-82-0463	BSA	1
KAIYO MARU NO.53 MEDIUM STERN TRAWLER	JA-82-0464	BSA	1
SEIJU MARU NO.28 MEDIUM STERN TRAWLER	JA-82-0465	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
YAHATA MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0467	BSA	1
SOHOMARU NO.52 MEDIUM STERN TRAWLER	JA-82-0466	BSA	1
FUKUYOSHI MARU NO.28 MEDIUM STERN TRAWLER	JA-82-0472	BSA	1
RYOAN MARU NO.25 MEDIUM STERN TRAWLER	JA-82-0475	BSA	1
RYOAN MARU NO.28 MEDIUM STERN TRAWLER	JA-82-0426	BSA	1
SACHI MARU NO.22 MEDIUM STERN TRAWLER	JA-82-0477	BSA	1
RYUHO MARU NO.37 MEDIUM STERN TRAWLER	JA-82-0480	BSA	1
GINRYU MARU NO.5 MEDIUM STERN TRAWLER	JA-82-1171	BSA	1
DAIKICHI MARU NO.32 MEDIUM STERN TRAWLER	JA-82-0554	BSA	1
DAIKICHI MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0494	BSA	1
DAIKICHI MARU NO.37 MEDIUM STERN TRAWLER	JA-82-0483	BSA	1
DAIKICHI MARU NO.51 MEDIUM STERN TRAWLER	JA-82-0484	BSA	1
RYUJIN MARU NO.8 MEDIUM STERN TRAWLER	JA-82-0486	BSA	1
KOEI MARU NO.15 MEDIUM STERN TRAWLER	JA-82-1396	BSA	1
KOEI MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0489	BSA	1
KOEI MARU NO.51 MEDIUM STERN TRAWLER	JA-82-0488	BSA	1
YAKUSHI MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0491	BSA	1
YAKUSHI MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0496	BSA	1
FUKUCHO MARU NO.23 MEDIUM STERN TRAWLER	JA-82-0495	BSA	1
TENYU MARU NO.3 MEDIUM STERN TRAWLER	JA-82-0497	BSA	1
RUYJIN MARU NO.11 MEDIUM STERN TRAWLER	JA-82-1172	BSA	1
KOTOBUKI MARU NO.25 MEDIUM STERN TRAWLER	JA-82-0502	BSA	1
RYUHO MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0506	BSA	1
KASHIMA MARU NO.23 MEDIUM STERN TRAWLER	JA-82-0508	BSA	1
EIKYU MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0511	BSA	1
DAINICHI MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0514	BSA	1
RYOEI MARU NNO. 38 MEDIUM STERN TRAWLER	JA-82-0517	BSA	1
CHOUN MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0519	BSA	1
DAITOKU MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0516	BSA	1
MEISHO MARU NO.35 MEDIUM STERN TRAWLER	JA-82-0522	BSA	1
DAIRIN MARU NO.28 MEDIUM STERN TRAWLER	JA-82-0524	BSA	1
KOSHIN MARU NO.21 MEDIUM STERN TRAWLER	JA-82-0525	BSA	1
KAHURYU MARU NO.51 MEDIUM STERN TRAWLER	JA-82-0505	BSA	1
SHINEI MARU NO.53 MEDIUM STERN TRAWLER	JA-82-0487	BSA	1
RYOAN MARU NO.31 MEDIUM STERN TRAWLER	JA-82-0459	BSA	1
MEISBO MARU NO. 81 MEDIUM STERN TRAWLER	JA-82-0550	BSA	1
RYUJIN MARU NO.52 MEDIUM STERN TRAWLER	JA-82-0548	BSA	1
DAIKICHI MARU NO. 23 MEDIUM STERN TRAWLER	JA-82-0423	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
FUKUHO MARU NO.16 MEDIUM STERN TRAWLER	JA-82-0528	BSA	1
TEISHO MARU NO.18 MEDIUM STERN TRAWLER	JA-82-0535	BSA	1
KAIUN MARU NO.38 MEDIUM STERN TRAWLER	JA-82-0533	BSA	1
KUMANO MARU NO.15 MEDIUM STERN TRAWLER	JA-82-0534	BSA	1
KYOWA MARU NO.15 MEDIUM STERN TRAWLER	JA-82-0305	BSA	1
SHINEI MARU NO.?1 MEDIUM STERN TRAWLER	JA-82-0537	BSA	1
YOSHI MARU NO.81 MEDIUM STERN TRAWLER	JA-82-0555	BSA	1
FUKUSHIN MARU NO.5 MEDIUM STERN TRAWLER	JA-82-0531	BSA	1
FUKUI MARU NO.8 MEDIUM STERN TRAWLER	JA-82-0542	BSA	1
FUKUI MARU NO.10 MEDIUM STERN TRAWLER	JA-82-0543	BSA	1
SHOEI MARU NO.2 MEDIUM STERN TRAWLER	JA-82-0539	BSA	1
ANYO MARU NO.15 MEDIUM STERN TRAWLER	JA-82-0504	BSA	1
ORIENT MARU NO.3 MEDIUM STERN TRAWLER	JA-82-0551	BSA	1
DAIEI MARU NO.2 MEDIUM STERN TRAWLER	JA-82-0544	BSA	1
FUKUI MARU NO.18 MEDIUM STERN TRAWLER	JA-82-1173	BSA	1
TOMI MARU NO.31 LONGLINE FISHING VESSEL	JA-82-3025	PBS	1
KIKU MARU NO.8 LONGLINE FISHING VESSEL	JA-82-3037	PBS	1
SAKAE MARU NO.33 LONGLINE FISHING VESSEL	JA-82-3043	PBS	1
MINATO MARU NO.80 LONGLINE FISHING VESSEL	JA-82-3046	PBS	1
MINATO MARU NO.102 LONGLINE FISHING VESSEL	JA-82-3047	PBS	1
MINATO MARU NO.103 LONGLINE FISHING VESSEL	JA-82-3048	PBS	1
MINATO MARU NO.25 LONGLINE FISHING VESSEL	JA-82-3052	PBS	1
YURYO MARU NO.38 LONGLINER	JA-82-3883	PBS	1
KIKU MARU NO.51 LONGLINER	JA-82-3884	PBS	1
KAIYO MARU NO.55 LONGLINER	JA-82-3885	PBS	1
KINSEI MARU NO.53 LONGLINE FISHING VESSEL	JA-82-3818	PBS	1
KINSEI MARU NO.32 LONGLINE FISHING VESSEL	JA-82-3070	PBS	1
CHIYO MARU NO.71 LONGLINE FISHING VESSEL	JA-82-3815	PBS	1
MATU MARU NO.35 LONGLINE FISHING VESSEL	JA-82-3076	PBS	1
KUROMORI MARU NO.32 LONGLINE FISHING VESSEL	JA-82-3075	PBS	1
KINEI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-3084	PBS	1
KINEI MARU NO.88 LONGLINE FISHING VESSEL	JA-82-3078	PBS	1
KINEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-3081	PBS	1
KINEI MARU NO.58 LONGLINER	JA-82-3887	PBS	1
KINEI MARU NO.118 LONGLINE FISHING VESSEL	JA-82-3077	PBS	1
KINEI MARU NO.128 LONGLINE FISHING VESSEL	JA-82-3083	PBS	1
TARAYA MARU NO.1 LONGLINE FISHING VESSEL	JA-82-3663	PBS	1
KONPIRA MARU NO.37 LONGLINE FISHING VESSEL	JA-82-3057	PBS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
KONPIRA MARU NO.1 LONGLINE FISHING VESSEL	JA-82-3056	PBS	1
CHIDORI MARU NO.82 LONGLINE FISHING VESSEL	JA-82-3102	PBS	1
CHIDORI MARU NO.7 LONGLINE FISHING VESSEL	JA-82-3103	PBS	1
CHIDORI MARU NO.86 LONGLINE FISHING VESSEL	JA-82-3104	PBS	1
EBISU MARU NO.78 LONGLINE FISHING VESSEL	JA-82-3109	PBS	1
CHIDORI MARU NO.8 LONGLINE FISHING VESSEL	JA-82-3809	PBS	1
EBISU MARU NO.71 LONGLINE FISHING VESSEL	JA-82-3813	PBS	1
CHIDORI MARU NO.81 LONGLINE FISHING VESSEL	JA-82-3838	PBS	1
SHOFUKU MARU NO.88 LONGLINE FISHING VESSEL	JA-82-3090	PBS	1
TENYU MARU NO.81 LONGLINE FISHING VESSEL	JA-82-3112	PBS	1
TAIHEI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-3124	PBS	1
RYOEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-3129	PBS	1
NARITA MARU NO.81 LONGLINE FISHING VESSEL	JA-82-3830	PBS	1
RYUHO MARU NO.81 LONGLINE FISHING VESSEL	JA-82-3144	PBS	1
TENYO MARU NO.21 LONGLINE FISHING VESSEL	JA-82-3149	PBS	1
CHOJU MARU NO.20 LONGLINE FISHING VESSEL	JA-82-3146	PBS	1
TOKA MARU NO.2 LONGLINE FISHING VESSEL	JA-82-3131	PBS	1
KOYO MARU NO.31 LONGLINE FISHING VESSEL	JA-82-1305	PBS	1
TOEI MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1312	PBS	1
EIKYU MARU NO.22 LONGLINE FISHING VESSEL	JA-82-3320	PBS	1
EIKYU MARU NO.23 LONGLINE FISHING VESSEL	JA-82-3321	PBS	1
SEIKO MARU NO.16 LONGLINE FISHING VESSEL	JA-82-3827	PBS	1
SUMIYOSHI MARU NO.65 LONGLINE FISHING VESSEL	JA-82-1246	PBS	1
EIKYU MARU NO.21 LONGLINE FISHING VESSEL	JA-82-3319	PBS	1
EIKYU MARU NO.31 LONGLINE FISHING VESSEL	JA-82-3823	PBS	1
EIKYU MARU NO.32 LONGLINE FISHING VESSEL	JA-82-3824	PBS	1
TSUNE MARU NO.31 LONGLINER/GILLNET	JA-82-0601	GOA,BSA	1
KIYO MARU NO.55 LONGLINER/GILLNET	JA-82-0602	GOA,BSA	1
FUKUYOSHI MARU NO.85 LONGLINER/GILLNET	JA-82-0603	GOA,BSA	1
FUKUYOSHI MARU NO.8 LONGLINER/GILLNET	JA-82-0624	GOA,BSA	1
HATSUE MARU NO.38 LONGLINER/GILLNET	JA-82-0605	GOA,BSA	1
HATSUE MARU NO.68 LONGLINER/GILLNET	JA-82-0562	GOA,BSA	1
EIKYU MARU NO.82 LONGLINER/GILLNET	JA-82-0607	GOA,BSA	1
SUMIYOSHI MARU NO.53 LONGLINER/GILLNET	JA-82-0608	GOA,BSA	1
MATSUEI MARU NO.88 LONGLINER/GILLNET	JA-82-0609	GOA,BSA	1
EBISU MARU NO.88 LONGLINER/GILLNET	JA-82-0610	GOA,BSA	1
MITO MARU NO.82 LONGLINER/GILLNET	JA-82-0611	GOA,BSA	1
TOMI MARU NO.88 LONGLINER/GILLNET	JA-82-0612	GOA,BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
SHINTOKU MARU NO.25 LONGLINER/GILLNET	JA-82-0613	GOA,BSA	1
SHINKO MARU NO.3 LONGLINER/GILLNET	JA-82-0614	GOA,BSA	1
CHOYO MARU NO.81 LONGLINER/GILLNET	JA-82-0615	GOA,BSA	1
TENYU MARU NO.37 LONGLINER/GILLNET	JA-82-0616	GOA,BSA	1
RYUSO MARU NO.38 LONGLINER/GILLNET	JA-82-0557	GOA,BSA	1
TENYO MARU NO.25 LONGLINER/GILLNET	JA-82-0618	GOA,BSA	1
RYUSHO MARU NO.15 LONGLINER/GILLNET	JA-82-0619	GOA,BSA	1
RYUSHO MARU NO.18 LONGLINER/GILLNET	JA-82-0620	GOA,BSA	1
ANYO MARU NO.21 LONGLINER/GILLNET	JA-82-0621	GOA,BSA	1
ANYO MARU NO.22 LONGLINER/GILLNET	JA-82-0622	GOA,BSA	1
TATSU MARU NO.28 LONGLINE FISHING VESSEL	JA-82-3496	PBS	1
MEISHO MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1521	ABS	1
YUSHO MARU NO.5 LONGLINE FISHING VESSEL	JA-82-1522	ABS	1
HOYO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1477	ABS	1
TOMI MARU NO.21 LONGLINE FISHING VESSEL	JA-82-1476	ABS	1
MITO MARU 3 GO LONGLINE FISHING VESSEL	JA-82-1478	ABS	1
EISHIN MARU NO.78 LONGLINER	JA-82-1523	ABS	1
SHOSHIN MARU NO.82 LONGLINE FISHING VESSEL	JA-82-1308	ABS	1
SHOSHIN MARU NO.85 LONGLINE FISHING VESSEL	JA-82-1475	ABS	1
SHOSHIN MARU NO.83 LONGLINE FISHING VESSEL	JA-82-1328	ABS	1
SHINSAN MARU NO.3 LONGLINE FISHING VESSEL	JA-82-3667	ABS	1
SHINSAN MARU NO.2 LONGLINE FISHING VESSEL	JA-82-3666	ABS	1
SHINSAN MARU LONGLINE FISHING VESSEL	JA-82-3665	ABS	1
TAIKO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1262	ABS	1
TAIKO MARU NO.68 LONGLINE FISHING VESSEL	JA-82-1263	ABS	1
TAIKO MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1330	ABS	1
TAIKO MARU NO.7 LONGLINE FISHING VESSEL	JA-82-1350	ABS	1
TAIKO MARU NO.17 LONGLINE FISHING VESSEL	JA-82-1351	ABS	1
TAIKO MARU NO.78 LONGLINE FISHING VESSEL	JA-82-1352	ABS	1
TAIKO MARU NO.88 LONGLINE FISHING VESSEL	JA-82-1353	ABS	1
SHOFUKU MARU NO.78 LONGLINE FISHING VESSEL	JA-82-1360	ABS	1
SHOFUKU MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1398	ABS	1
KENSHO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1417	ABS	1
KOMINE MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1422	ABS	1
TENYU MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1425	ABS	1
TENYU MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1426	ABS	1
FUKUTOKU MARU NO.88 LONGLINE FISHING VESSEL	JA-82-1432	ABS	1
SHOEI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1434	ABS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
SHOFUKU MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1474	ABS	1
SHINMEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1481	ABS	1
CHIYO MARU NO.7 LONGLINE FISHING VESSEL	JA-82-1484	ABS	1
ANEI MARU NO.68 LONGLINE FISHING VESSEL	JA-82-1502	ABS	1
SHOFUKU MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1504	ABS	1
SHOEI MARU NO.7 LONGLINE FISHING VESSEL	JA-82-3881	ABS	1
YAMATO MARU NO.88 LONGLINE FISHING VESSEL	JA-82-1524	ABS	1
KAIGATA MARU NO.20 LONGLINE FISHING VESSEL	JA-82-1525	ABS	1
KAIGATA MARU NO.31 LONGLINE FISHING VESSEL	JA-82-3680	ABS	1
EBISU MARU NO.75 LONGLINE FISHING VESSEL	JA-82-1472	ABS	1
HOYO MARU NO.78 LONGLINE FISHING VESSEL	JA-82-1527	ABS	1
MYOJIN MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1501	ABS	1
RYOEI MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1415	ABS	1
DAIKICHI MARU NO.78 LONGLINE FISHING VESSEL	JA-82-1518	ABS	1
RYUHO MARU NO.18 LONGLINE FISHING VESSEL	JA-82-3142	ABS	1
DAITOKU MARU NO.51 LONGLINE FISHING VESSEL	JA-82-3126	ABS	1
SUMIYOSHI MARU NO.16 LONGLINE FISHING VESSEL	JA-82-1244	ABS	1
SUMIYOSHI MARU NO.71 LONGLINE FISHING VESSEL	JA-82-1242	ABS	1
SUMIYOSHI MARU NO.75 LONGLINE FISHING VESSEL	JA-82-1243	ABS	1
SEIKO MARU NO.86 LONGLINE FISHING VESSEL	JA-82-1414	ABS	1
KOYO MARU NO.6 LONGLINE FISHING VESSEL	JA-82-1251	ABS	1
KOYO MARU NO.65 LONGLINE FISHING VESSEL	JA-82-1250	ABS	1
SUMIYOSHI MARU NO.3 LONGLINE FISHING VESSEL	JA-82-1248	ABS	1
SUMIYOSHI MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1249	ABS	1
KOYO MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1256	ABS	1
TOEI MARU NO.6 LONGLINE FISHING VESSEL	JA-82-1311	ABS	1
KORYO MARU NO.6 LONGLINE FISHING VESSEL	JA-82-1241	ABS	1
KORYO MARU NO.11 LONGLINE FISHING VESSEL	JA-82-1255	ABS	1
KORYO MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1469	ABS	1
KORYO MARU NO.18 LONGLINER	JA-82-1529	ABS	1
SUMIYOSHI MARU NO.86 LONGLINE FISHING VESSEL	JA-82-1236	ABS	1
SUMIYOSHI MARU NO.81 LONGLINE FISHING VESSEL	JA-82-1245	ABS	1
SUMIYOSHI MARU NO.73 LONGLINE FISHING VESSEL	JA-82-1238	ABS	1
SUMIYOSHI MARU NO.55 LONGLINE FISHING VESSEL	JA-82-1240	ABS	1
KORYO MARU NO.5 LONGLINE FISHING VESSEL	JA-82-1234	ABS	1
KAISEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1269	ABS	1
YUKO MARU NO.52 LONGLINE FISHING VESSEL	JA-82-1467	ABS	1
YUKO MARU NO.68 LONGLINE FISHING VESSEL	JA-82-1466	ABS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
DAIEI MARU NO.32 LONGLINE FISHING VESSEL	JA-82-3826	ABS	1
JUNKO MARU NO.8 LONGLINER	JA-82-1267	ABS	1
KOTOSHIRO MARU NO.7 LONGLINER	JA-82-1355	ABS	1
KOTOSHIRO MARU NO.28 LONGLINER	JA-82-1532	ABS	1
KOTOSHIRO MARU NO.58 LONGLINER	JA-82-1533	ABS	1
TAISEI MARU NO.5 LONGLINE FISHING VESSEL	JA-82-1485	ABS	1
TAISEI MARU NO.21 LONGLINE FISHING VESSEL	JA-82-1505	ABS	1
MEISEI MARU NO.1 LONGLINE FISHING VESSEL	JA-82-1468	ABS	1
KOEI MARU NO.18 LONGLINER	JA-82-1534	ABS	1
KOEI MARU NO.38 LONGLINER	JA-82-1535	ABS	1
KOHO MARU NO.12 LONGLINER	JA-82-1367	ABS	1
ZENKO MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1201	ABS	1
ZENKO MARU NO.68 LONGLINE FISHING VESSEL	JA-82-1365	ABS	1
ZENKO MARU NO.26 LONGLINER	JA-82-1364	ABS	1
ZENKO MARU NO.36 LONGLINER	JA-82-1366	ABS	1
ZENKO MARU NO.83 LONGLINER	JA-82-1315	ABS	1
ZENKO MARU NO.85 LONGLINER	JA-82-1354	ABS	1
TAIYO MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1488	ABS	1
FUJISEI MARU NO.6 LONGLINE FISHING VESSEL	JA-82-1497	ABS	1
FUJISEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1496	ABS	1
TAIYO MARU NO.1 LONGLINER	JA-82-1204	ABS	1
TAIYO MARU NO.2 LONGLINER	JA-82-1542	ABS	1
KAIHO MARU NO.55 LONGLINER	JA-82-1543	ABS	1
SHOYU MARU NO.28 LONGLINER	JA-82-1465	ABS	1
SEISYU MARU NO.17 LONGLINE FISHING VESSEL	JA-82-1281	ABS	1
SEISHU MARU NO.5 LONGLINE FISHING VESSEL	JA-82-1369	ABS	1
SEISHU MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1506	ABS	1
KOTOSHIRO MARU NO.11 LONGLINE FISHING VESSEL	JA-82-1339	ABS	1
KOTOSHIRO MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1295	ABS	1
OTOSHIRO MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1209	ABS	1
KAIO MARU NO.51 LONGLINE FISHING VESSEL	JA-82-1464	ABS	1
KAIO MARU NO.18 LONGLINER	JA-82-1545	ABS	1
CHOKYU MARU NO.1 LONGLINE FISHING VESSEL	JA-82-1359	ABS	1
CHOKYU MARU NO.2 LONGLINER	JA-82-1293	ABS	1
KYOWA MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1463	ABS	1
TAISHIN MARU NO.25 LONGLINE FISHING VESSEL	JA-82-1489	ABS	1
SHINYO MARU NO.11 LONGLINE FISHING VESSEL	JA-82-1213	ABS	1
SHINYO MARU NO.18 LONGLINER	JA-82-1498	ABS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
RYOEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1462	ABS	1
MATSUEI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1215	ABS	1
MATSUEI MARU NO.88 LONGLINE FISHING VESSEL	JA-82-1372	ABS	1
TAGA MARU NO.35 LONGLINER	JA-82-1500	ABS	1
KOHO MARU NO.58 LONGLINER	JA-82-1387	ABS	1
OTORI MARU NO.18 LONGLINER	JA-82-1519	ABS	1
OJU MARU NO.2 LONGLINE FISHING VESSEL	JA-82-1370	ABS	1
KOKEI MARU NO.18 LONGLINER	JA-82-1551	ABS	1
OTORI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1210	ABS	1
MASA MARU NO.31 LONGLINER	JA-82-1499	ABS	1
MASA MARU NO.21 LONGLINE FISHING VESSEL	JA-82-1279	ABS	1
DAI MARU NO.37 LONGLINE FISHING VESSEL	JA-82-1220	ABS	1
DAI MARU NO.31 LONGLINE FISHING VESSEL	JA-82-1371	ABS	1
DAIROKU MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1492	ABS	1
KORYO MARU NO.36 LONGLINE FISHING VESSEL	JA-82-1324	ABS	1
HOMARE MARU NO.22 LONGLINE FISHING VESSEL	JA-82-1405	ABS	1
HANEI MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1378	ABS	1
KUROSHIO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1403	ABS	1
RYUO MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1373	ABS	1
TAISEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1379	ABS	1
TAIKAN MARU NO.15 LONGLINER	JA-82-1490	ABS	1
KENKYU MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1460	ABS	1
MANRYO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1404	ABS	1
TAKATOYO MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1331	ABS	1
YASU MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1277	ABS	1
SUMI MARU NO.18 LONGLINER	JA-82-1491	ABS	1
SUMI MARU NO.15 LONGLINE FISHING VESSEL	JA-82-1329	ABS	1
KASHO MARU NO.31 LONGLINE FISHING VESSEL	JA-82-1452	ABS	1
SEISHIN MARU NO.25 LONGLINE FISHING VESSEL	JA-82-1450	ABS	1
ZUIRYO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1386	ABS	1
TAKE MARU NO.31 LONGLINE FISHING VESSEL	JA-82-1278	ABS	1
CHOKYU MARU NO.18 LONGLINER	JA-82-1381	ABS	1
GOEI MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1376	ABS	1
GOEI MARU NO.36 LONGLINE FISHING VESSEL	JA-82-1461	ABS	1
SHINEI MARU NO.88 LONGLINE FISHING VESSEL	JA-82-1458	ABS	1
SHINEI MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1382	ABS	1
SHINEI MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1459	ABS	1
SHINEI MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1444	ABS	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
HIME MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1375	ABS	1
KINSHO MARU NO.28 LONGLINER	JA-82-1556	ABS	1
ASAHI MARU NO.2 LONGLINER	JA-82-1509	ABS	1
KOSHIN MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1494	ABS	1
KOSHIN MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1218	ABS	1
NANKAI MARU NO.118 LONGLINE FISHING VESSEL	JA-82-1225	ABS	1
KOEI MARU NO.11 LONGLINE FISHING VESSEL	JA-82-1390	ABS	1
KAEI MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1558	ABS	1
KOYO MARU NO.10 LONGLINE FISHING VESSEL	JA-82-3302	ABS	1
KOYO MARU NO.11 LONGLINE FISHING VESSEL	JA-82-1318	ABS	1
KOYO MARU NO.12 LONGLINE FISHING VESSEL	JA-82-1438	ABS	1
AZUMA MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1291	ABS	1
AZUMA MARU NO.58 LONGLINE FISHING VESSEL	JA-82-1412	ABS	1
DAITO MARU NO.5 LONGLINE FISHING VESSEL	JA-82-1229	ABS	1
DAITO MARU NO.8 LONGLINE FISHING VESSEL	JA-82-1228	ABS	1
DAITO MARU NO.18 LONGLINE FISHING VESSEL	JA-82-1227	ABS	1
DAITO MARU NO.28 LONGLINE FISHING VESSEL	JA-82-1283	ABS	1
DAITO MARU NO.38 LONGLINE FISHING VESSEL	JA-82-1391	ABS	1

[FR Doc. 81-35042 Filed 12-7-81; 8:45 am]
BILLING CODE 4710-09-C

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
U.S.S.R.			
*SULAK FACTORY/MOTHERSHIP	UR-82-0238	BSA,GOA	2
*TALNIKI CARGO/TRANSPORT	UR-82-0741	BSA,GOA WOC	3
*TOKAREVSK CARGO/TRANSPORT	UR-82-0742	BSA,GOA WOC	3

*These Soviet vessels have applied to operate in the continuing joint venture fishery with Marine Resources Company, 192 Nickerson, Suite 307, Seattle, Washington 98109.

[Public Notice 785]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting its August, September, and October 1981 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article iv(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

John W. Kimball,

Director, Office of International Conferences.

November 13, 1981.

U.S. Delegation to the Twenty-Seventh Session Group of Rapporteurs, Committee of Experts on Transport of Dangerous Goods, United Nations Economic and Social Council (ECOSOC), Geneva, Aug. 3–14, 1981

Representative

Alan I. Roberts
Associates Director for Hazardous Materials Regulation
Research and Special Programs Administration

Alternate Representative

Edward A. Altemos
Chief, International Standards Staff
Research and Special Programs Administration
Department of Transportation

Advisers

Lt. Kevin J. Eldridge
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard

George W. Tenley, Jr.
Office of the Chief Counsel
Research and Special Programs Administration
Department of Transportation

Private Sector Advisers

Charles E. Garrison
Hedwin Corporation
New York, New York

Ronald C. Klein
E. I. du Pont de Nemours and Company
Wilmington, Delaware

Robert B. Schaefer
Pennwalt Corporation
Philadelphia, Pennsylvania

C. Jack Smith
Steel Shipping Container Institute
Union, New Jersey

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Twenty-Seventh Session Group of Rapporteurs, Committee of Experts on Transport of Dangerous Goods, United Nations Economic and Social Council (ECOSOC), Geneva, Aug. 3–14, 1981

Representative

Alan I. Roberts Associate Director for Hazardous Materials Regulation
Research and Special Programs Administration
Department of Transportation

Alternate Representative

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Research and Special Programs Administration
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Advisers

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Office of Merchant Marine Safety
United States Coast Guard

George W. Tenley, Jr.
Office of the Chief Counsel
Research and Special Programs Administration
Department of Transportation

Private Sector Advisers

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Wilmington, Delaware

Robert B. Schaefer
Pennwalt Corporation
Philadelphia, Pennsylvania

C. Jack Smith
Steel Shipping Container Institute
Union, New Jersey

Office of International Conferences
Department of State
November 12, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR); Study Group 8, International Telecommunications Union (ITU); Geneva, Aug. 17 to Sept. 18, 1981

Chairman

Herbert T. Blaker
International and Government Relations
Rockwell International
Arlington, Virginia

Vice Chairman

Lawrence M. Palmer
International Division
Office of Science and Technology
Federal Communications Commission
Washington, D.C.

Advisers

Jack T. Blackwell
C-E Services Division
Army Communications Command
Department of the Army
Alexandria, Virginia

James R. Carroll
Frequency Management Office
Department of the Navy
Washington, D.C.

Thijs de Haas
Institute for Telecommunications Sciences
National Telecommunications and Information Administration
Department of Commerce
Boulder, Colorado

Richard P. Dupre
Spectrum Management Branch
Federal Aviation Administration
Department of Transportation

John T. Gilsenan
International and Satellite Division
Common Carrier Bureau
Federal Communications Commission
Washington, D.C.

Wendell R. Harris
Common Carrier Bureau
Federal Communications Commission
Washington, D.C.

Gordon F. Hampton
Special Assistant
Private Radio Bureau
Federal Communications Commission
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U.S. Coast Guard
Department of Transportation

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National Telecommunications and Information Administration
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National Aeronautics and Space Administration
Washington, D.C.

Walter A. Pappas
Frequency Staff
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Department of Transportation

Frank L. Rose
Technical Standards Branch
Office of Science and Technology
Federal Communications Commission
Washington, D.C.

Michael S. Singer
Chief, Plans and Policies
Spectrum Management
Federal Aviation Administration
Department of Transportation

Thomas M. Sullivan
Electromagnetic Compatibility Analysis Center
Department of Defense
North Severn
Annapolis, Maryland

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Spectrum Plans/Policy
National Telecommunications and Information Administration
Department of Commerce

Private Sector Advisers

William Borman

Program Corridinator
Motorola, Inc.
Washington, D.C.

Charles Dorian
Maritime Operations
ComSat General Corporation
Washington, D.C.

E. Merle Glunt
American Radio Relay League
Mount Union, Pennsylvania

Timothy A. Heisel
Overseas Cables and Radio
Long Line Department
American Telephone and Telegraph Company
Morris Plains, New Jersey

Yaroslav Kaminsky
Technical Staff
Metrek Division
The Mitre Corporation
McLean, Virginia

Neal H. Shepherd
Mobile Radio Products
General Electric Company
Lynchbury, Virginia

Franklin L. Shilling
Deputy Director, External Affairs
Aeronautical Radio, Inc.
Annapolis, Maryland

Office of International Conferences
Department of State
October 5, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR); Study Group Six; International Telecommunications Union (ITU); Geneva, Aug. 24–Sept. 8, 1981

Chairman

Charles M. Rush
Institute for Telecommunication Sciences
National Telecommunications and Information Administration
Department of Commerce
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Advisors

Jo Ann Joselyn
National Oceanic and Atmospheric Administration
Department of Commerce
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ComSat Laboratories
Communications Satellite Corporation
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Office of International Conferences
Department of State
October 22, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR); International Telecommunications Union (ITU); Study Group Five; Geneva, Aug. 24–Sept. 11, 1981

Chairman

Harold T. Dougherty
Institute for Telecommunication Sciences
National Telecommunications and Information Administration
Department of Commerce
Boulder, Colorado

Advisors

John F. Cavanagh
Dahlgren Laboratory
Naval Surface Weapons Center
Department of Navy
Dahlgren, Virginia

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Federal Communications Commission

Willam E. Frazier
Federal Systems and Spectrum Management
National Telecommunications and Information Administration
Department of Commerce
Annapolis, Maryland

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Space Communications Division
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, Maryland

Private Sector Advisors

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Atmospheric Science Section
Environmental Research and Technology, Inc.
Concord, Massachusetts

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Comunications Satellite Corporation
Clarksburg, Maryland

Howard J. Sartori
Communications Engineering
ARCO Coal and Oil Company
Dallas, Texas

Enrest K. Smith
Spectrum Management Group
Jet Propulsion Laboratory
California Institute of Technology
Pasadena, California

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR), Study Group 7, International Telecommunications Union (ITU), Geneva, Sept. 7–16, 1981

Chairman

Hugh S. Fosque
Chief of Advanced Systems
Office of Tracking and Data
National Aeronautics and Space Administration

Advisers

Roger E. Beehler
Chief, Time/Frequency Services Group
National Bureau of Standards
Department of Commerce
Boulder, Colorado

Andrew R. Chi
Network Engineering Division
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, Maryland

P. Kenneth Seidelmann
Director, Nautical Almanac Office
U.S. Naval Observatory
Department of the Navy

Harris Stover
Communications Engineering Center
Defense Communications Agency
Department of Defense
Reston, Virginia

Gernot M. R. Winkler
Director, Time Service Division
U.S. Naval Observatory
Department of the Navy

Private Sector Adviser

Lauren J. Rueger
Space Electronics Branch
Applied Physics Laboratory
The Johns Hopkins University
Johns Hopkins Road
Laurel, Maryland

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR), Study Group 8, International Telecommunications Union (ITU), Geneva, Sept. 9–18, 1981

Chairman

Jean E. Adams
Institiute for Telecommunication Sciences
National Telecommunications and Information Administration
Department of Commerce
Boulder, Colorado

Advisers

Thijs de Haas
Institute for Telecommunication Sciences
National Telecommunication Sciences
National Telecommunications and Information Administration
Department of Commerce
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James R. Carroll
Navy Frequency Management Office
Department of the Navy

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Private Sector Advisers

Herbert T. Blaker
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Arlington, Virginia

Lloyd M. Luke
RF Communications Division
Harris Corporation
Rochester, New York

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Committee on Housing, Building and Planning, Forth-Second Session, Economic Commission for Europe (ECE), Geneva, Sept. 14–18, 1981

Representative

Benjamin F. Bobo
Deputy Assistant Secretary for Policy Development and Research
Department of Housing and Urban Development

Alternate Representative

John M. Geraghty
ECE Coordinator
Office of International Affairs
Department of Housing and Urban Development

Private Sector Adviser

Thomas T. Shealy
President
Mortgage Bankers Association
Washington, D.C.

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Ninth Session, Subcommittee on Bulk Chemicals; Intergovernmental Maritime Consultative Organization (IMCO); London, Sept. 14–18, 1981

Representative

K. B. Schumacher, Captain, USCG
Chief, Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

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Frits Wybenga
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Advisers

Harvey Clew
Shipping Attache
United States Embassy
London

J. F. McGowan, Lt. Commander, USCG
Merchant Marine Technical Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Michael D. Morrissette
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Emanuel P. Pfersich
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Private Sector Adviser

Frederick R. Adamchak
Marathon Oil Company
Findlay, Ohio

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Fourth General Assembly and Meetings of the Executive Council and Commission of the Americas; World Tourism Organization (WTO); Rome, Sept. 14–25, 1981

Representative

Constantine Warvariv
Director, Transportation and Communications
Bureau of International Organization Affairs
Department of State

Alternate Representatives

Frederick M. Bush
Assistant Secretary for Tourism
Department of Commerce

Jean G. O'Brien
United States Travel Service
Department of Commerce

Advisers

David L. Edgell
Special Assistant to the Assistant Secretary for Tourism
Department of Commerce

Norman C. LaBrie
Commercial Attache
United States Embassy
Madrid

Private Sector Adviser

Chuck Y. Gee
Dean, School of Travel Industry Management
University of Hawaii
Honolulu, Hawaii

Donald Hawkins
Professor of Human Kinetics and Leisure Studies and Research Professor of Medicine
George Washington University
Washington, D.C.

David G. Elmore
First Family of Travel, Ltd.
Oak Brook, Illinois

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR); Study Group CMTT of the International Telecommunications Union (ITU); Geneva, Sept. 17–Oct. 7, 1981

Chairman

Joseph M. McNulty
Staff Manager, Network Services
American Telephone and Telegraph Company
Basking Ridge, New Jersey

Adviser

Neal K. McNaughten
International Staff
Office of Science and Technology
Federal Communications Commission

Private Sector Advisers

Milton A. Gerdine
Head, Broadcast Transmission Department
Bell Telephone Laboratories
Holmdel, New Jersey

Ronald Gnidziejko
Director, On-Air Operations
NBC Television Network
New York, New York

Abraham A. Goldberg
Manager, Digital Television
CBS Technology Center, CBS, Inc.
Stamford, Connecticut

Robert A. O'Connor
Director, Transmission Engineering
CBS Television Network, CBS Inc.
New York, New York

John Serafin
Manager, TV Quality Control
Engineering Department
American Broadcasting Company
New York, New York

Paul R. Wickliffe
Supervisor
Broadcast Systems Group
Bell Telephone Laboratories
Holmdel, New Jersey

Roman Z. Zaputowycz
Director, Analog Plans
Western Union Telegraph Company
Upper Saddle River, New Jersey

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR); Study Group CMTT of the International Telecommunications Union (ITU); Geneva, Sept. 17–Oct. 7, 1981

Chairman

Joseph M. McNulty
Staff Manager, Network Services
American Telephone and Telegraph Company
Basking Ridge, New Jersey

Adviser

Neal K. McNaughten
International Staff
Office of Science and Technology
Federal Communications Commission

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Bell Telephone Laboratories
Holmdel, New Jersey

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Director, On-Air Operations
NBC Television Network
New York, New York

Abraham A. Goldberg
Manager, Digital Television
CBS Technology Center, CBS, Inc.

Stamford, Connecticut

Robert A. O'Connor
Director, Transmission Engineering
CBS Television Network, CBS Inc.
New York, New York

John Serafin
Manager, TV Quality Control
Engineering Department
American Broadcasting Company
New York, New York

Paul R. Wickliffe
Supervisor
Broadcast Systems Group
Bell Telephone Laboratories
Holmdel, New Jersey

Roman Z. Zaputowycz
Director, Analog Plans
Western Union Telegraph Company
Upper Saddle River, New Jersey

Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Committee on Buffer Stock Operations International Natural Rubber Organization, Kuala Lumpur, Sept. 21–22, 1981

Representative

Fred W. Siesseger
Director
Resources Policy Division
Department of Commerce

Alternate Representative

James C. Todd
Chief
Industrial and Strategic Materials Division
Bureau for Economic and Business Affairs
Department of State

Advisers

Geogory F. Christopulos
Office of Agricultural Affairs and Commodity Policy
Office of the U.S. Trade Representative
Executive Office of the President

Elizabeth Shelton
U.S. Embassy
Kuala Lumpur

Private Sector Advisers

Howard Chapel
Managing Director
Goodyear Orient Private Ltd.
Republic of Singapore

Harold Ross Miller
Managing Director
Goodrich Company Private Ltd.
Republic of Singapore

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Forty-Sixth Session of the Legal Committee Intergovernmental Maritime Consultative Organization (IMCO), London, Sept. 21–25, 1981

Representative

Paul E. Versaw, Commander, USCG
Chief, Maritime and International Law Division
United States Coast Guard
Department of Transportation

Alternate Representative

Robert J. Reining, Lt. Commander, USCG
Office of the Chief Counsel
Maritime and International Law Division
United States Coast Guard
Department of Transportation

Advisers

Peter Bernhardt, Office of Oceans and Polar Affairs
Office of Oceans and International Environmental and Scientific Affairs
Department of State

Michael D. Morrissette
Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Harvey Clew
Shipping Attache
American Embassy
London

Private Sector Adviser

Earnest J. Corrado
Assistant to the President
American Institute of Merchant Shipping
Washington, D.C.

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegtion to the Committee for Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCOP), Economic and Social Commission for Asia and the Pacific (ESCAP), Seoul, Sept. 21–Oct. 2, 1981

Representative

John A. Reinemund
Chief
Office of International Geology
U.S. Geological Survey
Department of Interior

Alternate Representative

Maurice J. Terman
Deputy Chairman for Circum-Pacific Map Project
Office of International Geology
U.S. Geological Survey
Department of Interior

Adviser

George R. Lorentzen
Director, Magnetics Division
Naval Oceanographic Office
Bay Saint Louis, Mississippi

Private Sector Adviser

Dennis E. Hayes
Deputy Director
Lamont—Doherty Geological Observatory
Columbia University
Palisades, New York

Office of International Conferences
Department of State
October 23, 1981

U.S. Delegation to the Joint Meeting of the RID Safety Committee and Group of Experts on the Transport of Dangerous Goods, Berne, Sept. 21–Oct. 2, 1981

Representative

Edward A. Altemos
International Standards Coordinator
Materials Transportation Bureau
Department of Transportation

Private Sector Adviser

William C. Nissen, Jr.
Business Manager, Intermediates
Agricultural Products Company, Inc.
Union Carbide Corporation
New York City, New York

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Joint Meeting of the International Radio Consultative Committee (CCIR), Study Groups 10 and 11 of the International telecommunications Union (ITU), Geneva, Sept. 21 to Oct. 9, 1981

Chairman

Neal K. McNaughten
Office of Science and Technology
Federal Communications Commission

Advisers

Lewis L. Bradley
Spectrum Plans and Policies
National Telecommunications and Information Administration
Department of Commerce

Howard H. Hupe
Office of Telecommunications Applications
National Telecommunications and Information Administration
Department of Commerce

Edward R. Jacobs
Office of Science and Technology
Federal Communications Commission

Edward F. Miller
Lewis Research Center
National Aeronautics and Space Administration
Cleveland, Ohio

John E. Miller
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Washington, D.C.

Warren G. Richards
Voice of America
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RCA Corporation
Princeton, New Jersey

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George Jacobs
Board for International Broadcasting
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Robert N. Hurst
Broadcasting Technology Center
RCA, Incorporated
Camden, New Jersey

Martin H. Meaney
Allocations Engineering

National Broadcasting Company
New York, New York

Robert A. O'Connor
Transmission Engineering
CBS Television Network
CBS, Incorporated
New York, New York

Edward F. Perry, Jr.
Educational FM Associated
Duxbury, Massachusetts

Kerns H. Powers
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Satellite Television Corporation
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Peter H. Sawitz
Operations Research Incorporated
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American Broadcasting Company
New York, New York

Emil L. Torick
CBS Technology Center
CBS, Incorporated
Stamford, Connecticut

James E. Whitworth
Telecommunications
Satellite Television Corporation
Washington, D.C.

Roman Z. Zaputowycz
Analog Plans
Western Union Telegraph Company
Upper Saddle River, New Jersey

Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Joint Meeting of the International Radio Consultative Committee (CCIR), Study Groups 10 and 11 of the International Telecommunications Union (ITU), Geneva, Sept. 21–Oct. 9, 1981

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Office of Science and Technology
Federal Communications Commission

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National Telecommunications and Information Administration
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Roman Z. Zaputowycz
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Western Union Telegraph Company
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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Special Session of the International Natural Rubber Organization, Kuala Lumpur, Sept. 23–25, 1981

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Chief
Industrial and Strategic Materials Division
Bureau of Economic and Business Affairs
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Office of the U.S. Trade Representative
Executive Office of the President

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Managing Director
Goodrich Company Private Ltd.
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Office of International Conferences
Department of State
October 21, 1981

U.S. Delegation to the Meeting of the International Telephone and Telegraph Consultative Committee (CCITT), Study Group 3 of the International Telecommunications Union (ITU), Geneva, Sept. 24 to Oct. 2, 1981

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Phillip Onstad
Control Data Corporation

Greenwich, Connecticut
Denis O'Shea
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U.S. Delegation to the Meeting of the International Telephone and Telegraph Consultative Committee (CCITT), Study Group 3 of the International Telecommunications Union (ITU), Geneva, Sept. 24 to October 2, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Ninth Meeting of the Working Group on Radiobroadcasting of the Organization of American States (OAS/Citel), Mexico City, Sept. 28 to October 2, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Diplomatic Conference on the Revision of the Paris Industrial Property Convention, World Intellectual Property Organization (WIPO), Nairobi, Sept. 28–Oct. 24, 1981

Representative

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Patent and Trademark Office
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Office of International Conferences
Department of State
October 28, 1981

U.S. Delegation to the Meeting of the International Telephone & Telegraph Consultative Committee (CCITT), Study Group 8, of the International Telecommunications Union (ITU), Geneva, Oct. 5–16, 1981

Representative

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR), Study Group 2 of the International Telecommunications Union (ITU), Geneva, Oct. 6 to 23, 1981

Chairman

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National Aeronautics and Space Administration

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the 8th Session of the Administrative and Legal Committee of the Union for the Protection of New Plant Varieties (UPOV), Geneva, Oct. 12–14, 1981

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Department of Commerce

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American Seed Trade Association
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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Twenty-Fourth Session Subcommittee on Ship Design and Equipment Maritime Safety Committee (MSC) Intergovernmental Maritime Consultative Organization (IMCO) London, Oct. 12–16, 1981

Representative

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Chief, Merchant Marine Technical Division
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Department of Transportation

Alternate Representative

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Timber Committee Meeting Economic Commission for Europe (ECE) Geneva, Oct. 12–16, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Working Group on International Plutonium Storage and Safeguards, International Atomic Energy Agency, Vienna, Oct. 12–16, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Group of Experts on Explosives on the Transport of Dangerous Goods (21st Session), Economic and Social Council (ECOSOC), Geneva, Oct. 12–16, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR), Study Group 9 of the International Telecommunication Union (ITU), Geneva, Oct. 12–28, 1981

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National Telecommunications and Information Administration
Department of Commerce

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR), Study Group 4 of the International Telecommunication Union (ITU), Geneva, Oct. 12–30, 1981

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National Telecommunications and Information Administration
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Defense Communications Agency
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Stamford, Connecticut

Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Eighth Session Working Group on International Shipping Legislation, United Nations Conference on Trade and Development an (UNCTAD), Geneva, Oct. 12–30, 1981

Representative

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Adviser

John Berlin
U.S. Mission
Geneva

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Second Session of the Working Group for the Western Pacific (WESTPAC), Intergovernmental Oceanographic Commission, United Nations Educational, Scientific, and Cultural Organization (UNESCO/IOC), Jakarta, Oct. 19–24, 1981

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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Meeting of the International Radio Consultative Committee (CCIR) Study Group 1 of the International Telecommunication Union (ITU) Geneva, Oct. 19 to Nov. 3, 1981

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Department of Commerce
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Field Operations Bureau
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James A. Reed
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McLean, Virginia

Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Conference of National Armament Directors (CNAD) North Atlantic Treaty Organization (NATO), Brussels, Oct. 20–21, 1981

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Department of Defense

Alternate Representative

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Deputy Under Secretary of Defense for International Programs and Technology

Department of Defense

Advisers

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European and NATO Affairs
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Department of Defense
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Acting Deputy Under Secretary of Defense for International Programs and Technology
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Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Committee on International Investment and Multinational Enterprises, Working Group on Accounting Standards and Information Disclosure, Organization for Economic Cooperation and Development (OECD), Paris, Oct. 20–22, 1981

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Bureau of Economic and Business Affairs
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Price Waterhouse International

U.S. Delegation to the General Assembly Meeting of the International Institute for Cotton and the Plenary Meeting or the International Cotton Advisory Committee, Lisbon, Oct. 24–31, 1981

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American Cotton Shippers Association
Dallas, Texas
Robert H. Squires
President
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Washington, D.C.
Wilber Wuertz
Supima Association
Casa Grade, Arizona

Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Fifteenth Pan American Railway Association Congress (PARCA) Organization of American States (OAS), Mexico City, Mexico, Oct. 25 to 31, 1981

Representative

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Federal Railway Administration
Department of Transportation
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Mexico City

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Demon McNear
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San Francisco, California
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Senior Vice President
Portec, Inc. and Chairman
Railway Progress Institute
Alexandria, Virginia

Office of International Conferences
Department of State
October 30, 1981

U.S. Delegation to the Expert Group on International Spent Fuel Management, International Atomic Energy Agency (IAEA), Vienna, Oct. 26–30, 1981

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Office of International Conferences
Department of State
October 30, 1981

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BILLING CODE 4710-19-M

VETERANS ADMINISTRATION

Policies and Procedures for Processing Graduated Payment Mortgage Loans

AGENCY: Veterans Administration.

ACTION: Notice of final policies.

SUMMARY: The VA (Veterans Administration) is issuing final policies on the processing of graduated payment mortgage loans.

EFFECTIVE DATE: October 17, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–3042.

SUPPLEMENTARY INFORMATION: The Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 (Pub. L. 97–66, 95 Stat. 1026) revised chapter 37 of title 38, United States Code, to authorize the Administrator of Veterans Affairs to guarantee graduated payment mortgage loans (GPM's). A graduated payment mortgage is based on the concept of a lower monthly payment in the early years with annual increases until the mortgage payment reaches a level which will remain constant for the remaining term of the loan.

VA has adopted a plan which has been the most popular authorized by HUD (Department of Housing and Urban Development). This plan allows an increase in payments of 7.5 percent each year for 5 years. The mortgage payment will then level off and remain constant during the remaining term of the loan.

The processing of a GPM requires that certain requirements be met in connection with the submission of such

loans to VA for guaranty. The policy statement will be issued as a Department of Veterans Benefits Circular. The policy statement will be administered by the 50 VA Regional Offices and Centers with home loan operations.

Interested persons may submit written comments, suggestions, or objections to the Administrator of Veterans Affairs (264), 810 Vermont Avenue, N.W., Washington, D.C. 20420 on or before January 7, 1982. Material submitted will be evaluated and considered in any future revision.

Accordingly, DVB Circular 26–81–36, Graduated Payment Mortgage Loans is adopted as stated below.

Approved: December 1, 1981.

By direction of the Administrator.

John P. Murphy,

Acting Administrator.

[DVB Circular 26–81–36]

Graduated Payment Mortgage Loans

1. General

Section 1803(d)(2) of title 38, United States Code has been amended by Pub. L. 97–66 to permit the guaranty of loans with graduated payment features. GPM's (Graduated Payment Mortgages) are amortized in a manner which allows lower initial monthly payments than traditional fixed payment mortgages. The monthly payment is scheduled to increase periodically (annually in most plans) by a fixed percentage for a stated "graduation period." After the graduation period, the monthly payment levels off and stays the same for the remainder of the loan. The reduction in the initial monthly payments is accomplished by deferring a portion of the interest due on the loan each month and by adding that interest to the principal balance. This causes the outstanding loan balance to increase during the graudation period, an effect known as "negative amortization." Although compared to a fixed payment mortgage, the monthly payments are higher on a GPM after the leveling off period has been reached, the lower initial payments are of benefit to those veterans who otherwise could not afford to finance suitable housing. Specific provisions of the new law relative to VA GPM's are as follows:

a. The initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made;

b. The principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property;

c. For this purpose, the projected value of the property may be calculated by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event to exceed 115 percent of such reasonable value. However, implementation of this provision will be deferred for the present time (see par. 2a);

d. GPM's are limited to the acquisition of single-family dwelling units. This includes the purchase of new or existing homes, condominium units in VA-approved projects, and existing homes in which the loan will also include funds for energy conservation improvements. GPM's are not eligible for guaranty if made for the purchase of more than one-family dwellings, refinancing, or for alteration, repair, or improvement only purposes, and for the present time, mobile home and/or lot loans may not be made with graduated payment features; and

e. The State usuary exemptions under 38 U.S.C. 1828 are extended to apply to GPM's (see par. 5).

2. Additional Provisions

a. *Eligible Amortization Plan.* For the time being, only one method of graduated payment amortization will be authorized. This plan will be identical (except for the "minimum cash investment" requirement) to HUD's (Department of Housing and Urban Development) Plan III under section 245 of the National Housing Act, which provides for increasing loan payments at a rate of 7½ percent per year for the first 5 years. The rate increases occur at annual intervals. At the beginning of the sixth year, the payments become level and remain so for the remaining term. The maximum loan amount may not exceed the VA-established reasonable value for the property. Because the outstanding loan balance will be increasing during the graduation period (see par. 1), a downpayment will be required to prevent the loan balance from exceeding the CRV (certificate of reasonable value). The amount of downpayment required is equal to the highest amount of "negative amortization" that occurs during the graduation period. The "minimun cash investment" required under HUD programs (i.e., 3 percent of the first $25,000 of value and closing costs, plus 5 percent of the remainder, etc.) will not be applicable to VA GPM's, although a veteran-borrower may, of course, offer a higher downpayment than that needed to offset the negative amortization if he or she wishes. For the present, implementation of an amortization plan recognizing a projected increase in the reasonable value of the property by 2½ percent annually (as described in par 1c) will be deferred.

b. *Cash Downpayment.* The downpayment required under the plan must be paid in cash from the veteran's own resources.

c. *Minimum Economic Life.* To be eligible for guaranty with a GPM, the property to secure the loan must have a remaining economic life of at least 30 years as shown on the CRV.

d. *Credit Underwriting.* In determining whether a veteran-applicant meets statutory requirements with respect to the relationship between the veteran's present and anticipated income and the payment amounts for a GPM, the loan analysis will be based on the first year's payment amount, provided nothing would preclude a reasonable expectation that the veteran's income will increase to cover the yearly increases in loan payments required by the amortization plan. GPM cases in which both the veteran's present income is marginal and some doubt exists as to whether his or her income will keep pace with the graduation schedule will not be approved.

e. *Charge to Entitlement and Maximum Guaranty.* As is presently the case for fixed payment loans, both the charge to the veteran's entitlement and the maximum percent of guaranty will be based on a division of the maximum entitlement of $27,500 (or lesser amount available to the veteran) by the original loan amount at the time the loan closed, with 60 percent being the upper limit of guaranty. The maximum claim under guaranty as of the cutoff date (i.e., date of publication or decree) will be the percent of guaranty (not to exceed 60%) multiplied by the total eligible indebtedness as of such date. The percent of guaranty applicable to the negative amortization portion of the loan balance will be the same as that applicable to the original loan amount. Incident to the termination of a loan, when a holder submits a claim under guaranty, the holder will be required to report the principal balance on the date interest was last paid by the obligor on line 12A of VA Form 26–1874, Claim Under Loan Guaranty.

f. *Interest Rate.* The maximum interest rate allowable for GPM loans will be the same as for VA-guaranteed home acquisition loans with fixed payment terms.

g. *Refinancing of GPM.* Although a GPM may not initially be made for refinancing purposes, an existing VA-guaranteed GPM may be refinanced at any time with a level payment VA-guaranteed loan made with a lesser rate of interest as authorized under 38 U.S.C. 1810(a)(8).

3. Processing Procedures

VA GPM loans may be processed on a prior approval basis or on an automatic basis by authorized lenders. Existing application forms and procedures will be applicable, with the following exceptions:

a. *Case Number Prefix.* For identification purposes, the case number shown on VA GPM prior approval applications, certificates of commitment, reports of loan disbursement, automatic loan reports, and guaranty certificates will bear the prefix "GPM" instead of "LH" or "LHC."

b. *Computing Maximum Loan Amount and Amortization Schedule.* Since the VA GPM plan is identical to HUD's Plan III section 245 GPM, HUD tables for that plan showing outstanding principal balance factors and monthly installment amounts per $1,000 of original loan proceeds may be used to compute maximum VA GPM loan amounts and required principal and interest payments. These tables, which are available through HUD offices as appendixes to HUD Handbook 4240.2 Rev. provide computation factors for a range of interest rates (progressions for both outstanding balance and principal and interest payments vary according to the interest rate to be charged). Use of the HUD tables will not entail an adjustment for either the ½ percent mortgage insurance premium or the minimum cash investment required by HUD, since the tables are computed without consideration for these

items. Should a lender be unable to obtain these tables from other sources, VA offices will have a limited supply available.

c. *Use of Table To Compute Maximum Loan Amount.* As set forth in paragraph 2a, the maximum VA GPM loan is limited to the CRV less the highest amount of negative amortization. The outstanding principal balance on a GPM will usually increase until the end of the graduation period and then begin to decline. Thus, for VA's 5-year graduation plan at current interest rates, the highest amount of negative amortization occurs at the 60th month. To determine the maximum VA GPM loan amount, the reasonable value of the property is divided by the highest outstanding principal balance factor per $1,000 of original loan proceeds for the particular interest rate and then multiplied by 1,000. For example, for a $60,000 CRV, the maximum GPM loan at 17½ percent is determined by dividing $60,000 by $1,131.6268 (see HUD tables) and multiplying by 1,000, resulting in a maximum loan of $53,021 (rounded down to the nearest dollar); i.e., a minimum downpayment of $6,979 is required in this case.

d. *Computation of Monthly Installment.* Monthly principal and interest installments are computed by multiplying the number of thousands of dollars in the original loan amount (e.g. 53.021 in the above example) by the monthly installment per $1,000 shown in the table for the particular interest rate (i.e., 53.021×11.6485 yields the first year's monthly payments of $617.51 for the above example, $53.021 \times 12.5200 = \$663.83$ payments for the second year, and so on until the sixth and remaining years' payments are determined by multiplying 53.021×16.7201 to equal $886.52).

e. *APR Tables.* Tables for lenders' use in computing APR's (annual percentage rates) for a VA GPM are available from VA on request. HUD's GPM APR tables may not be used for VA purposes since they include an adjustment for the HUD mortgage insurance premium.

f. *Veteran's Statement.* The following statement must be appropriately completed, signed by the veteran, and submitted with each application or automatic loan report involving a VA GPM:

"I fully understand that because of the graduated-payment loan obligation I am undertaking, my mortgage payment excluding taxes and insurance will start at $——— and will increase by 7.5 percent each year for 5 years to a maximum payment of $——— and the mortgage balance will increase to no more than $——— at the end of the ——— year. The maximum total amount by which the deferred interest will increase the principal is $———. Monthly installments will be due according to the following schedule:

$——— during the 1st year of the loan
$——— during the 2nd year of the loan
$——— during the 3rd year of the loan
$——— during the 4th year of the loan
$——— during the 5th year of the loan
$——— during the 6th year of the loan and every year thereafter."

For prior approval GPM loans to be closed at a higher interest rate than shown in the loan application (see par. 4), it will be necessary for the lender to prepare an amended veteran's statement to reflect the new loan terms. The amended statement must be signed by the veteran and submitted as a required exhibit with VA Form 26–1876, Certification of Loan Disbursement.

4. Effect of Interest Rate Increase on Loans in Process

Because the maximum GPM loan amount varies by the interest rate to be charged, any increase in the interest rate after the maximum loan is determined will require a recomutation of both the loan and payment schedule to assure that they conform to maximum permissible amounts and required amortization methods as set forth in paragraphs 2a and 3b. It will be the lender's responsibility to make certain that the loan which is actually closed complies fully with these required terms and limitations.

5. State Usury Exemptions.

a. Title 38 U.S.C. 1828 previously provided that if loans and mortgages insured under titles I and II of the National Housing Act are exempt "from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, then loans guaranteed or insured under this chapter are also exempt from the application of such provisions." Currently, title II, section 245(c) of the National Housing Act (12 U.S.C. 1715z–10) provides that a HUD-insured graduated payment mortgage is not subject to State usury provisions (statute, constitutional provision, court decree, etc.), such as prohibitions against the charging of interest on interest, if the State usury provision would not apply except for the mortgage's graduation provisions. In addition, the provision exempts HUD GPM's from any State requirement concerning minimum amortization of principal of the mortgage or loan.

b. Section 529 of the National Housing Act (12 U.S.C. 1735f–7) exempts title I and title II lonas under the Act from the usury provisions of any State constitution or law unless the State reenacts a usury provision after December 21, 1979. These two provisions have been made applicable to the VA program by section 1828 of title 38, U.S.C., as amended by Pub. L. 97–66. Lenders should note, however, that it is their responsibility to determine the effect of this provision on their lending operations.

6. Tables for Stations' Use

Stations are provided copies of tables showing HUD Plan III, section 245 GPM outstanding principal balance and monthly installment factors, for their use.

7. Erroneous Loan Terms

Stations receiving closed GPM loan submissions in which lender error has resulted in the loan exceeding the maximum permissible amount should request that the lender take appropriate corrective action. If the error cannot be corrected, guaranty should be issued based on the eligible portion of the loan only, in accordance with VA Regulation 4303(H). (38 CFR 36.4303(h))

8. Release of Liability/Substitution of Entitlement

In processing release of liability or substitution of entitlement cases involving a GPM in which the assumption will take place during the graduation period (first 5 years of the loan at current interest rates), stations will obtain from the assumer a signed statement as described in paragraph 3f, modified to reflect the payment information as of the year in the schedule that the assumption occurs.

9. Processing of Claim

a. Upon receipt of a claim, stations will verify the accuracy of the unpaid principal balance by referring to HUD tables which can be used as a "negative amortization" schedules to verify the unpaid principal balance as reported by the holder.

b. If there is a variance between the unpaid principal balance as reported by the holder and VA's calculation, VA's calculation will be used in the manual computation of the claim (see M26–4, par. 3.04). Upon receipt of a holder's claim, TT 536–KE (Date Claim Received) will be coded into LCS (Liquidation and Claims System). After LCS's claim has been reviewed and authorized for payment, TT 536–KG (Date Claim Vouchered) will be coded into LCS. It is important to note that TT 530 (Claim Analysis) will *not* be coded.

c. Interest will be allowed in the holder's final accounting to the Administrator at the contract rate computed on the principal balance existing at the date interest was last paid by the borrower. Such interest will accrue in the holder's claim from the date interest was last paid to the date of sale or confirmation of sale.

10. Coding

Coding of graduated payment loans into the GIL (Guaranteed/Insured Loan) System will require the addition of a new field, Graduated Payment Mortgage Indicator, on transaction 01 (Application Received) submissions. Values will be 0 (Regular Fixed Payment) or 1 (Graduated Payment). This field need only be coded for GPM loans in the upper right corner of the Remarks section (item 19) on Va Form 26–1807, Docket Progress, DPC copy 2, or in item 20 on VA Form 26–1804, Utility Code Sheet, for transaction 05 (Change Application Information Only) and transaction 01 corrections.

Dorothy L. Starbuck,

Chief Benefits Director.

[FR Doc. 81-35087 Filed 12-7-81; 8:45 am]
BILLING CODE 8320-01-M

Availability of Report of Health Services Research and Development Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Health Services Research and Development Program has been completed.

Single copies of the Health Services Research and Development Report are

available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: December 1, 1981.

John P. Murphy,

Acting Administration.

[FR Doc. 81-35088 Filed 12-7-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 235
Tuesday, December 8, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:00 a.m.–12 noon; 1:30–4 p.m., Monday, December 7, 1981.

CHANGES IN THE MEETING:

MATTERS TO BE CONSIDERED:

IX. Civil Rights Developments in the Northwest Region

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera and Barbara Brooks, Press and Communications Division, (202) 254–6697.

[S-1831-81 Filed 12-4-81; 3:09 pm]

BILLING CODE 6335-01-M

2

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, December 14, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report concerning changes in bank supervision.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

James McAfee,

Assistant Secretary of the Board.

Dated: December 4, 1981.

[S-1832-81 Filed 12-4-81; 4:14 pm]

BILLING CODE 6210-01-M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR-81-41]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 58392, December 1, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, December 8, 1981.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

The first three items are open to the public; the fourth is closed under exemption B of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report:* The United States Air Trafffic Control System and *Recommendations* to the Federal Aviation Administration.

2. *Marine Accident Report:* Grounding of the U.S. Sailboat MR. B. near Punta Chivata, Mexico, November 25, 1980, and *Recommendations* to Vision Quest National, Ltd.; the U.S. Coast Guard; and the National Association of the State Boating Law Administrators.

3. *Marine Accident Report:* Explosion and Fire on Board the U.S. Tankship MONTICELLO VICTORY at Port Arthur, Texas, May 31, 1981, and *Recommendations* to the U.S. Coast Guard and Victory Carriers, Inc.

4. *Opinion and Order:* Commandant v. Amoury, Docket ME-90; disposition of appellant's appeal.

CONTACT PERSON FOR INFORMATION: Sharon Flemming 202–382–6525.

December 3, 1981.

[S-1830-81 Filed 12-4-81; 3:09 pm]

BILLING CODE 4910-58-M

federal register

Tuesday
December 8, 1981

Part II

Department of Health and Human Services

Office of the Secretary

Privacy Act of 1974; Systems of Records, Table of Contents/Index for the Annual Republication

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974; Systems of Records, Table of Contents/Index for the Annual Republication

AGENCY: Department of Health and Human Services (HHS), Office of the Secretary (OS), Office of the Assistant Secretary for Public Affairs (OASPA).

ACTION: Publication of the Table of Contents/Index for the Department's annual republication of notices of systems of records.

SUMMARY: On October 27, 1981 the Department made its annual republication of notices of systems of records to meet the requirements of 5 U.S.C. 552a(e)(4). In order to assist the public, the Department publishes this consolidated list of systems numbers, names, and **Federal Register** page numbers for the October 27 issue.

SUPPLEMENTARY INFORMATION: The **Federal Register** publication for our notices is Vol. 46, No. 207, Book 2: Pages 52601–53020. This document included more than 400 notices of systems of records for the following organizations of the Department:

- Office of the Assistant Secretary for Management and Budget (OASMB).
- Office of Inspector General (OIG).
- Office of the Assistant Secretary for Legislation (OASL).
- Office of the Assistant Secretary for Public Affairs (OASPA).
- Executive Secretariat (ES).
- Office of Consumer Affairs (OCA).
- Office for Civil Rights (OCR).
- Office of the General Counsel (OGC).
- Office of Child Support Enforcement (OCSE).
- Office of the Assistant Secretary for Planning and Evaluation (OASP&E).
- Region 1, Administrative Support Center (ASC).
- Office of the Assistant Secretary for Personnel Administration (OASPER).
- Office of Human Development Services (OHDS).
- Health Care Financing Administration (HCFA).
- Office of the Assistant Secretary for Health (OASH).
- Health Resources Administration (HRA).
- Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).
- National Institutes of Health (NIH).
- Center for Disease Control (CDC).
- Health Services Administration (HSA).
- Food and Drug Administration (FDA).
- Social Security Administration (SSA).

In order to inform the public of the Privacy Act restrictions on the disclosure of records contained in systems of records, we have set forth the "Conditions of Disclosure" section of the Privacy Act (October 27 issue *FR* page 52604).

In addition we have set forth the following sections of the Department's Privacy Act Regulation 45 CFR Part 5b (October 27 issue *FR* pages 52602–4):

- 5b.5 Notification of or access to records
- 5b.6 Special procedures for notification of or access to medical records
- 5b.7 Procedures for correction or amendment of records, and
- 5b.10 Parents and guardians

This will assist an individual by giving him or her the following information:

- How to find out if HHS has a record about him or her, and how to get a copy of that record.
- Special procedures for finding out about medical records.
- Special procedures for finding out about his or her child's medical records.
- Correcting mistakes in his or her record.
- Special procedures pertaining to parents and guardians of minors and incompetent persons.

An individual should consult the Department's systems notices to determine which systems of records are likely to contain records pertaining to him or her, to whom his or her requests should be addressed, and the degree of specificity with which he or she should make these requests. An individual's requests should then be addressed to the appropriate Department officials listed in the systems notices.

The format for the Table of Contents/Index is as follows: system number/system name/October 27, **Federal Register** page number.

Dated: November 20, 1981.

Pamela G. Bailey,

Assistant Secretary for Public Affairs.

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Part III

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Certifying Residents of Shelters for Battered Women and Children

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274 and 278

[Amdt. No. 205]

Food Stamp Program; Certifying Residents of Shelters for Battered Women and Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule exempts shelters for battered women and children which provide meals to their residents from being considered institutions and permits shelter residents, who are otherwise eligible for Program participation, to receive food stamps. The rulemaking is necessary to establish some special procedures for permitting shelter residents to use food stamps to purchase meals prepared by shelters in accordance with Public Law 96-249, the 1980 Amendments to the Food Stamp Act of 1977.

EFFECTIVE DATE: This rule is effective January 7, 1982, and shall be fully implemented no later than April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447-9075.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in relation to the requirements of Executive Order 12291, and it has been determined that the action is not a major rule as defined by that Order. It will not result in an annual effect on the economy of $100 million or more. Although the Department anticipates that the annual increased cost to the Food Stamp Program of this rule will be approximately $2 million, the rule is not likely to result in a major increase in costs or prices for consumers, individual industries, other Federal, State, or local government agencies, or geographic regions. Because the rule will not directly affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Public Law 96-354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that this action does not have a significant economic impact on a substantial number of small entities. The action will implement Section 101 of the 1980 Amendments to the Food Stamp Act of 1977, by permitting residents of shelters for battered women and children to use food stamps to purchase meals prepared by shelters. It affects only residents of shelters which provide meals to their residents and there are not a large number of such shelters. The effect on these shelters will be to increase the shelters' resources since the rule permits residents to use food stamps to purchase meals prepared for them.

Note.—The reporting and recordkeeping requirements contained in this regulation are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

Background

The Department, on January 16, 1981, at 46 FR 4642, issued proposed regulations relative to certifying residents of shelters for battered women and children as a part of its proposed rulemaking to implement certain segments of the 1980 Amendments to the Food Stamp Act of 1977 (Public Law 96-249, 94 Stat. 357, May 26, 1980). Due to the number of comments received concerning the shelter provisions, as well as the range of issues involved, a determination was made to treat this matter separately from the other amendments contained in the January 16 proposal. Therefore, this final action addresses only those provisions in the January 16 proposed rulemaking which relate to shelters for battered women and children.

The other segments of the 1980 Amendments to the Food Stamp Act for which the Department proposed regulations in the January 16 proposal and which are not dealt with in this final action, include: referring illegal aliens to the Immigration and Naturalization Service (INS); prorating income and counting resources of ineligible aliens; making administrative fraud determination hearings optional; and eliminating depreciation as a cost of doing business for self-employed households. In addition, that action proposed to incorporate into regulations a series of policy interpretations and technical amendments to clarify provisions published on October 17, 1978 (43 FR 47846). The Department is currently taking action to issue final regulations on these other matters.

A total of 68 letters containing comments on the provisions extending eligibility to residents of shelters for battered women and children were received as a part of the comment process on the January 16 proposed regulations. Comments on the shelter provisions were received from one member of Congress, 18 State welfare agencies, two local welfare agencies, six Regional Offices and one internal division of the Food and Nutrition Service, 26 shelters for battered women and children, 11 public interest groups, and three members of the general public. All of the comments received relating to the shelter provisions were reviewed and considered during the development of the final provisions contained in this action.

In order to avoid confusion, the reader is advised to keep certain distinctions in mind regarding the various types of shelters discussed in this final rule. The 1980 Amendments to the Food Stamp Act of 1977 extended eligiblity to residents of shelters for battered women and children which provide meals to their residents. This extension was necessary in order for residents of shelters that provide meals to become eligible because the 1977 Act limits participation in the Program to individuals and groups of individuals constituting households and excludes from eligibility those people who reside in an institution. Residents of shelters for battered women and children which do not provide meals, however, may already participate (if otherwise eligible) because under program regulations at 7 CFR 273.1(e) they are not considered as residing in institutions. Also, under Program regulations at 7 CFR 273.1(a) such shelter residents are either considered as individual household units or as part of a household unit comprised of a group of individuals, depending on whether they customarily purchase and prepare food separately or together, respectively. While these shelter residents who are eligible under existing regulations will continue to be eligible to participate, the facility will need to meet the definition of shelter for battered women and children contained in this final rule in order for its residents to be eligible for most of the special procedures established by this rulemaking. (Shelters with residents that are already permitted to participate need not take any specific measures in order for their residents to continue to be eligible. If, however, such a shelter wishes for its residents to be eligible for the special procedures established by this rulemaking or decides to provide

meals to its residents, the shelter may need to take measures to meet the definition of shelter for battered women and children contained in this final rule. It should then contact the local project area office so a determination can be made as to whether it qualifies under the new definition. This will facilitate the prompt certification of eligible residents under these final rules.) The definition of shelter for battered women and children contained in this final rule specifies that it must be a public or private nonprofit residential facility. If such a facility serves persons other than battered women and their children, it must have a wing or rooms set aside on a long-term basis to shelter victims of abuse.

Definitions

a. *"Eligible foods"*—The Department received only one comment on the proposed change to this definition, and that comment was an expression of support. Since the intended result is mandated by the statute and commenters did not raise any objections to the proposed wording, the provision has been adopted, unchanged, in this final action. The definition, therefore, includes meals prepared by and served by a shelter for battered women and children to its residents as eligible foods that can be purchased by residents with their food stamp coupons. (See 7 CFR 271.2.)

b. *"Retail food store"*—The proposed rule revised the definition of retail food store contained in current Program regulations to include shelters for battered women and children. The Department did not receive any comments on the change to this definition and has, therefore, adopted the proposed wording in this final rule. (See 7 CFR 271.2.)

c. *"Shelter for battered women and children"*—The proposed rule introduced an additional definition to clarify what is meant by the term "shelter for battered women and children", and to establish some criteria for identifying such shelters. According to the proposed definition, a shelter means a public or private nonprofit residential facility that serves battered women and their children. The proposal also specified that if such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. This definition limits the criteria for determining those facilities whose residents would be eligible for the special procedures established by these final rules to the criteria in the statute and the legislative history (Public Law 96-249, Section 101; H.R. Rep. No. 96-788, 96th Cong., 2nd Sess. (1980), pp. 148-149).

Fourteen commenters expressed support for the proposed definition, numerous other commenters raised concerns regarding various aspects of the definition which need clarification, and one commenter opposed the definition because it creates a separate set of participants that must be given special consideration. The Department does not concur with the latter comment, but rather believes that special treatment of persons residing in shelters is especially warranted due to the serious physical and mental abuse to which they have been subjected. In addition, the statute contemplates special rules to apply to residents of these shelters and provides a basis to distinguish these cases from other participants.

Most of the concerns raised by commenters centered around the need to clarify exactly which facilities would qualify under the definition. Six commenters requested that the definition be expanded to include any place of refuge to which a battered family flees when leaving the abusive household. These commenters argued that the important consideration in such cases should be that the battered persons were forced to leave their prior residence, and not where the persons go when fleeing an abusive situation, particularly in those situations where abused persons must find alternative dwellings until space is available in a shelter. While the Department is sympathetic to these arguments, it does not believe that the special procedures established by these final rules should be made available to nonshelter residents for two reasons. First, the legislation which mandated this change in Program eligibility specifically limited its scope of applicability to residents of shelters for battered women and children. And second, there is nothing in current Program rules to prevent battered persons who temporarily reside with family or friends from applying for benefits under the Program.

One commenter asked that nonprofit be clarified to mean having Internal Revenue Service (IRS) tax-exempt status. The Department, however, prefers to leave determinations of nonprofit status to the discretion of State agencies and does not want to hamper their efforts in this regard by imposing any unnecessary requirements. While tax-exempt status under the Internal Revenue Code of 1954 may be appropriate for shelters which possess certification of such status, other methods of demonstrating nonprofit status may be available to them, such as State tax-exempt status. In addition, the Department is reluctant to regulate any one method of determining nonprofit status because doing so could unnecessarily impose additional requirements, not required by statute, on facilities (i.e., shelters) which do not directly receive assistance under the Program.

Similarly, several commenters raised concerns about the criterion of the definition which specified that, if a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. These commenters either opposed allowing facilities which serve other individuals to qualify under these provisions, or sought to have further clarified the purpose of the phrase "set aside." As mentioned earlier, the proposed criteria for determining those shelters whose otherwise eligible residents may participate in the Program were developed by reference to the statute and legislative history. Committee Report No. 96-788 indicates that Congress intended "* * * only shelters that function exclusively to serve battered women with or without their children * * *" to qualify as exempted institutions. The report further states that "* * * any place of abode that takes care of such women from time to time in addition to serving as a regular residence for others * * * unless a portion of such place were reserved and set aside on a long-term basis to shelter such women * * *" should not be included under this exemption. (H.R. Report No. 96-788, p. 149.) Therefore, the Department believes that if a facility, such as a YWCA, serves persons other than battered women and their children, its otherwise eligible residents who are victims of abuse can participate if the facility has a wing or rooms set aside on a long-term basis to shelter them. Based on the information currently available, this approach does not seem to present any major problems. However, should problems arise in the future the Department is prepared to reassess its position regarding facilities which serve other persons in addition to battered women and children.

The other concerns raised by commenters centered around the need to clarify exactly who is eligible to be served under the definition. Two commenters requested that the definition be clarified to include any persons (i.e., male or female) who are forced to leave their primary residence, another commenter asked that it include women seeking shelter when the

children have been abused but the wives have not, another suggested including any group of individuals admitted to a shelter without reference to their relationship to one another, and another commenter asked simply that clarification be provided as to who is being served. Since the statute and legislative history refer specifically to battered women and children, the Department is unable to extend eligibility for the special procedures established in this final action to battered men. However, the Department believes that the relationship between the women and children admitted to the shelter and whether the children have been abused but the women have not are irrelevant to Program eligibility. Therefore, the sole consideration for determining eligibility of otherwise eligible household units for the special procedures established by these final rules is that the women and children seek refuge in a facility which meets the Program's definition of a shelter for battered women and children. (See 7 CFR 271.2.)

No Aid Reduction

The proposed rule contained provisions which would prohibit the reduction of assistance to food stamp recipients by any participating State or political subdivision because of the receipt of food stamp benefits and specified the types of governmental action which would be considered reductions in aid. As a part of this larger prohibition against decreasing the established benefit level of any food stamp recipient, the proposed rule specifically prohibited the reduction of assistance to shelter residents, and exempted funding provided to the shelter itself from this prohibition. Since the discussion of the aid reduction prohibition was inadvertently omitted from the preamble to the proposed rule, however, nearly all the comments received on these provisions were in terms of their effect on shelters and shelter residents alone. The Department has determined that it would be unwise to issue final rules in this regard without first having brought the matter to the public's attention through a proposed explanatory preamble and, thereby, affording interested parties the opportunity to submit comment. Therefore, the provision of the proposed rule which prohibited reductions of assistance to shelter residents because of receipt of food stamps does not appear in this final rule. The Department intends to assess its position on this issue and, if a change is determined to still be necessary, the provision will be reproposed at a later date.

In the absence of any change, the Department would like to point out that its current policy still applies. The prohibition against reduction of assistance to food stamp recipients because of the receipt of food stamps under current Program regulations at 7 CFR 272.1(b) will continue to be applied to the individual's benefits and not to the operation of the facility itself. Any funding given to individual shelter residents or to the shelter which is earmarked for an individual's expenses, such as per diem payments, cannot be reduced due to receipt of food stamps.

Individual Household Units

The Department proposed that residents of shelters be certified as individual household units. A single woman or a woman with her children, for example, would be considered an individual household unit rather than part of a household unit comprised of a group of shelter residents. This provision was proposed in response to the Conference Report on the 1980 Amendments which states that residents of shelters for battered women and children shall "* * * be considered for eligibility as individual (parent/child) units, rather than considered as part of a single household consisting of all shelter residents." (See H.R. Rep. No. 96-957, 96th Cong., 2nd Sess., (1980), p. 11.)

Twenty-four comments were received in support of this provision, and only one commenter opposed it. The Department believes that the proposal is both consistent with Congressional intent, as revealed in the legislative history, and should help ease the transition for residents from the shelter to new places of residence. In addition, the short stay of most residents makes it advantageous to certify the women/children as a household, and makes on-going certification simpler. Upon leaving the shelter the women/children will have ready access to their coupon allotment, and will not need to divide the allotment between those remaining in the shelter and those leaving. Therefore, the provision has been retained in this final rulemaking. (See 7 CFR 273.1(e)(4)).

Expedited Service

The proposed rule provided that the shorter 2 or 3 day standard for expedited service would apply to shelter residents who are otherwise entitled to expedited service. This shorter standard is already provided by Program regulations for zero net income and destitute households. The regulations also provide a 7 day service standard which is used for residents of treatment centers and group living arrangements who are otherwise eligible for expedited service. (See 7 CFR 273.2(i)). Twenty-three comments were received in favor of this provision. Three commenters suggested that the 7 day service standard would be more appropriate.

The Department believes that the 7 day limit in effect for residents of other facilities would not adequately meet the needs of shelter residents because of the short periods of time such residents normally stay in a shelter. Making coupons available to them as soon as possible will provide for their immediate needs. In addition, relatively few shelters provide meals without charge as do treatment centers or group living arrangements. Therefore, the final rule retains the proposed provision for the shorter 2 or 3 day standard for expedited service to shelter residents who are otherwise entitled to expedited service. This provision may apply to residents of any shelter for battered women and children, regardless of whether the facility meets the definition of a shelter for battered women and children contained in this final rule. For instance, residents of shelters not meeting the Program's definition may participate as individual household units or as part of a group of individuals if their shelters do not provide meals. Those residents of such shelters who participate as individual household units and who are otherwise entitled to expedited service will be processed using this provision. Residents of such shelters who participate as part of a group of individuals already participating, however, will be processed as a reported household change. (See 7 CFR 273.2(i)(3)(v)).

Residency

The proposed rule would exempt residents of shelters for battered women and children from the current regulatory prohibition against participation in more than one project area, in any month. This provision would apply only to women and children leaving the household containing the person who had subjected them to abuse. The Department proposed this provision because the limited number of these facilities results in shelter residents often having to locate in a different project area from where they formerly participated in the Program. Also, the Department intends that the eligibility of such shelter residents be determined based on their current circumstances as a separate household, regardless of past participation. A more detailed discussion of this issue is provided below, under the subject heading "Separate Households". Only one

comment was received on this provision, and that comment was a suggestion to allow the new project area time to notify the shelter resident's former project area prior to certifying the applicant to participate in the Program. The Department believes that such a provision could result in unnecessary delays in the delivery of Program benefits to shelter residents and further complicate the administrative responsibilities of State agencies. Therefore, the Department has not adopted the commenter's suggestion and the proposed provision is retained in the final rule. This provision applies only to residents of facilities that meet the definition of shelters for battered women and children contained in this final rule. Residents of facilities that do not meet this definition will continue to be prohibited from participating in more than one project area, in any month. (See 7 CFR 273.3).

Resources

The Department proposed that any resources jointly owned by shelter residents and members of their former household be automatically considered inaccessible to the shelter residents. This proposal was made in order to be responsive to the abused person's possible need for protection and to speed-up processing of the case as the inaccessibility of resources would not have to be determined. Although eighteen comments were received in favor of this proposal, four other comments were received from State agencies raising various concerns about jointly held resources which are not, in fact, totally inaccessible to shelter residents and urging that determinations of inaccessibility be made on a case-by-case basis. The Department agrees with the point that not all jointly held resources may be inaccessible to shelter residents, and realizes that as a result determinations on a case-by-case basis are necessary.

The proposal was intended to protect abused persons from the possible danger which could result from revealing their whereabouts, and to ensure that resources which are in practicality inaccessible to them due to joint ownership are not considered when determining their resources. For example, an abused person would be forced to leave the shelter in order to obtain her share of a passbook savings account at a bank, and access to the funds in such an account sometimes requires the signatures of all joint owners. However, access to the funds in jointly held draft accounts at banks (i.e., checking accounts) can be obtained by issuing drafts to third parties, thereby precluding the need for the shelter resident to leave the shelter. Resources may also be jointly held with a non-abusing member of the former household who has fled with the battered person and these resources would not be inaccessible. Therefore, the Department has decided to further stipulate that in order to consider resources jointly held with members of the former household of shelter residents inaccessible to such residents, access to the value of the resources must be dependent on the agreement of a person who still resides in the former household. This provision applies only to residents of facilities that meet the Program's definition of shelters for battered women and children contained in this final rule. (See 7 CFR 273.8(d)).

Shelter Status

In the proposed rulemaking, the Department required State agencies to verify that a facility meets the Program's definition of "shelter for battered women and children" and outlined the procedure for shelters to obtain a determination of shelter status through their local project area office. The proposal exempted, from the verification requirement, shelters which have Food and Nutrition Service (FNS) authorization to redeem coupons through wholesalers. The comments received on these provisions indicated confusion about the intended purpose, and signaled the need to both revise the subject provisions and provide further clarification in this explanatory preamble.

One commenter requested that we clarify what verification would be required and suggested that State agencies determine rather than verify that a facility meets the Program's definition. The Department agrees with this suggestion and has, therefore, revised the provision to require a State agency determination of shelter status. In addition, the final rule stipulates that State agencies must document the basis of this determination. Use of the term "verification" unavoidably implies efforts on the part of State agencies, such as their verification responsibilities for certification of households, which were unintended. The Department only requires that State agencies apply the criteria established in the Program's definition of a shelter for battered women and children in order to arrive at their determinations, and that the relevant facts are documented for future reference.

Another commenter objected to requiring shelters to contact their local project area office to determine that they meet the Program's definition. Although the proposed rule contained a suggestion that shelters should contact their local office for such a determination in order to expedite certification of eligible residents, the Department understands that such a suggestion placed within the body of a regulation could imply a requirement. Therefore, this suggestion has been deleted from the final rule. The Department would like to point out, however, that shelters may want to contact their local project area office in order to initiate the State agency's determination process.

Two other commenters suggested elimination of the requirement that local project area offices maintain a list of shelters meeting this definition. The Department agrees with these commenters but would like to provide State agencies with the authority to utilize such a list in order to facilitate prompt certification of eligible shelter residents. Therefore, the provision of the proposed rule requiring local project area offices to maintain a list of shelters meeting the definition has been revised for this final rule to provide State agencies the option of requiring their local project area offices to maintain such a list. The final rule also retains the exemption of shelters having FNS authorization to redeem coupons through wholesalers from the requirement that State agencies determine whether these shelters meet the Program's definition. Shelters wishing to obtain such FNS authorization should contact the FNS Regional Office in their area; this authorization substitutes for a State agency determination. The FNS Regional Office will provide the names of any shelters it authorizes to the State agency for dissemination to the local project areas. (See 7 CFR 273.11(g)(1)).

Separate Households

The proposed rule would allow shelter residents who are included in other certified households to participate in the Program as separate households if the household which includes them contains the person who subjected them to abuse. It further stipulated that shelter residents who are included in other certified households may receive an additional allotment as a separate household only once a month. Although twenty-one commenters supported these provisions, two commenters opposed them on the grounds that they were contrary to the intent of Congress and/or they would discriminate against other households. The Department, however, believes that the legislation contemplates special rules for only

residents of these shelters, and not for other persons who leave a participating household during a certification period.

Numerous other commenters suggested ways to expand these provisions to include either those victims staying with family or friends, or those victims who were included in certified households that did not include the persons who subjected them to abuse. The Department rejected the first recommendation because it believes Congress intended special rules to apply to only residents of shelters for battered women and children, and because Congress itself created this distinction by passing legislation which specifically extended eligibility to residents of such shelters. The second recommendation was not accepted because the Department believes that individuals leaving a certified household not containing the person who subjected them to abuse are capable of retaining their share of the household's coupon allotment for the month in which they were included in the certified household. Therefore, the final rule limits use of these provisions to those shelter residents who were actually forced to leave their prior place of residence.

Several other commenters were either concerned about the once a month limitation or felt that shelter residents should not be allowed to participate twice in the same month. The Department, however, does not view allowing shelter residents who have left the household containing the person who had abused them as dual participation because it assumes that such persons would not normally retain access to their current coupon allotment. The once a month limitation has been retained in the final rule to prevent the duplication of benefits to shelter residents who return to the former household and are forced to take refuge in a shelter for the second time in one month. This provision applies only to residents of facilities that meet the Program's definition of shelters for battered women and children contained in this final rule. (See 7 CFR 273.11(g) (1) and (2)).

Action on Changes to Former Households

In the proposed rulemaking, the Department required State agencies to provide the former household of shelter residents a notice of expiration in accordance with § 273.14(b) and Policy Interpretation 79–108. Current Program regulations at 7 CFR 273.14(b) specify the timeframes and contents of notices of expiration. Policy Interpretation Response Number 79–108 interpreted the Program's regulations to allow State agencies to shorten the certification period of a nonassistance household based on a reported change.

Two commenters suggested requiring the use of a notice of adverse action rather than a notice of expiration, unless the certification period ends the month in which the household divides. Two other commenters suggested providing State agencies with the flexibility to use either a notice of adverse action or notice of expiration. And, one of these commenters requested that the procedure for terminating or reducing the benefits of the former household be clarified without reference to Policy Interpretation Response Number 79–108. The Department recognizes the validity of each of these comments and has decided, therefore, to revise the proposed provision to allow State agencies either to use a notice of adverse action to reduce benefits or to shorten the certification period through a notice of expiration. This provides State agencies with the maximum amount of administrative flexibility. It also clarifies that the intended result is to reduce the benefits of the former household to reflect the change in its composition and not, necessarily, to terminate the former household, unless the change itself makes the former household ineligible. The Department believes that State agencies will ensure that the former household's benefits are promptly reduced by whichever method they deem appropriate in view of the household's circumstances. (See 7 CFR 273.11(g)(5)).

Coupon Issuance

Current Program regulations at 7 CFR 278.2(c) prohibit retailers from accepting loose $5 or $10 coupons without coupon books. Since residents often stay in a shelter for a short period of time and the shelter only provides them with a few meals, many shelters would be forced to accept loose $5 or $10 coupons which they could not redeem at retailers without the coupon books. A possible recourse would be to obtain FNS authorization to redeem through wholesalers, even though many shelters are small operations for which volume purchases are impractical. Alternatively, shelters could attempt to spend the coupon allotments of individual residents at retailers with the residents' coupon books, which would necessitate prorating an appropriate amount of coupons according to each individual resident's share of the particular purchases so that any unused coupons could be returned to departing residents.

The preamble to the proposed rule solicited comments on how to resolve this issue and suggested as a possible option allowing shelters wishing to redeem loose $5 and $10 coupons at retailers to do so through the use of a specially annotated identification card. Thirteen comments were received in favor of this possible option, and three other commenters expressed support for allowing shelters to redeem loose coupons at retailers but opposed the use of special identification cards. Seven commenters opposed the inclusion of such a procedure and several other commenters suggested alternative approaches to avoid the problem of loose $5 and $10 coupons. The Department has determined that allowing only shelters to redeem loose coupons could be viewed as discriminating against other group living arrangements and treatment centers whose short term residents could also benefit from such a policy. The likelihood also exists that retailers would become confused over who may and may not redeem loose coupons, and this confusion could weaken the current regulatory ban on redeeming loose coupons at retailers.

The Department has decided, therefore, to allow residents of shelters which are not authorized by FNS to redeem coupons through wholesalers to request that they receive all or part of their coupon allotment in one dollar denomination coupons. Current Program regulations at 7 CFR 274.2(h) already allow a similar request to be made by blind and visually handicapped participants who can receive their allotment in coupons of all one denomination. This approach avoids all of the already mentioned problems associated with special procedures allowing shelters to redeem loose $5 and $10 coupons. In addition, since one dollar denomination coupons are exempted from the regulatory ban on redeeming loose coupons at retailers under current Program regulations at 7 CFR 278.2(c), the ban designed to discourage the use of illegally obtained coupons will not be weakened. State agencies should explain the availability of this alternative to shelters which do not have FNS authorization to redeem through wholesalers and to residents of such shelters who are certified to participate in the Program. State agencies should also ensure that such shelters are aware of the need for their participating households to designate the shelter as an authorized representative for coupon use so that the shelter can purchase food in authorized retail food stores. (See 7 CFR 274.2(h)).

Meals in Shelters

The proposed rule allowed residents of shelters to use their coupons to purchase meals prepared especially for them at the shelter. Only one comment was received on this proposal, which expressed concern that use of the word "especially" prohibited the use of coupons for purchasing meals by residents of facilities which serve persons other than battered women and children. The Department views the provision as applying to any facility which meets the Program's definition of a shelter for battered women and children. Therefore, the provision has been retained without change in this final rule. (See 7 CFR 274.10(d)).

Authorization for Shelters to Redeem Through Wholesalers

The proposed rule provided for FNS authorization of shelters as retail food stores in accordance with normal Program rules governing such authorization at 7 CFR 278.1(a) and (b), thereby enabling these shelters to redeem coupons directly through wholesalers. The availability of this authorization was limited to those facilities which meet the Program's definition of a shelter for battered women and children, and which serve meals or provide food to their residents. Thirteen comments were received in favor of this provision. One commenter suggested revising the language of the first sentence because it implies that all shelters will be authorized by FNS as retail food stores. The Department agrees with this commenter and has, therefore, revised the first sentence to clarify that FNS shall authorize as retail food stores those shelters wishing to redeem coupons directly through wholesalers. The remainder of the provision has been adopted without change. (See 7 CFR 278.1(g)).

Shelters as Authorized Representatives for Purchasing Food and Bank Redemption Prohibition

The proposed rule allows a shelter to purchase food in authorized retail food stores as the authorized representative of its participating households. It also prohibits shelters from presenting coupons directly to a bank for redemption. The Department received very few comments on these proposals, and those received generally supported them. Therefore the provisions have been adopted without change in this final rule. (See 7 CFR 278.2(g)).

Other Comments

The Department would like to address the following additional comments:

A. One commenter suggested revising the first sentence of 7 CFR 278.2(g) to clarify that retail food concerns may exchange coupons through wholesalers which are *authorized* to accept coupons from that retailer. The Department agrees with this comment and has revised that subject provision accordingly. (See 7 CFR 278.2(g)).

B. One commenter suggested allowing shelter residents the option of making food stamp application on their own behalf or naming the shelter as an authorized representative. The Department does not, however, believe that shelters should be acting as the authorized representative of their participating households for making applications for participation in the Program. Unlike the procedures provided under current Program regulations at 7 CFR 273.1(f) regarding addict/alcoholic treatment centers and some group living arrangements, the Department intends for shelter residents to apply on their own behalf. Drug addict and alcoholic treatment centers automatically act as the authorized representative of their residents for application and certification under the Program, and group living arrangements determine if any of their residents may apply and be certified on his/her own behalf. Where these facilities act as authorized representatives for their residents through a designated employee, they exercise control over the use of the residents' coupon allotments. The Department believes that residents of shelters for battered women and children should control the use of their own coupon allotments.
Shelter residents are, however, free to name a shelter staff member or volunteer as an authorized representative for application and certification purposes. This procedure may be necessary in cases where shelter residents would be endangered if they left the shelter and they are unable to appoint another authorized representative of their choice.

C. And, one commenter suggested the Department require State agencies to provide the alternative of phone interviews for shelter residents. The Department does not believe that such a requirement is necessary because current Program regulations at 7 CFR 273.2(e) already provide for the waiving of office interviews on a case-by-case basis. However, when making the determination of hardship conditions for waiving office interviews, State agencies are encouraged to consider the possibility that shelter residents could be endangered should they leave the shelter.

Implementation

The preamble to the Januray 16 proposed rule provided for implementation of the provisions extending eligibility to residents of shelters for battered women and children, along with all the other provisions of that proposed rulemaking, by State agencies on the first day of the month 120 days after publication as a final rule. The Department received five comments on the proposed implementation schedule which made specific reference to the shelter provisions. One commenter suggested that we allow 180 days for implementation, while another commenter asked that we require implementation within 60 days of publication. Three other commenters expressed the hope that these provisions would be implemented as soon as possible or without further delay. Also, several State agencies have requested on a number of occasions that the Department provide for implementation of regulations on the first day of yearly quarters, whenever possible, in order to facilitate making changes to their administrative procedures. The Department has decided to provide for implementation of the shelter provisions contained in this final rule no later than April 1, 1982, so that State agencies may implement them as soon as it is practicable or to take advantage of quarterly implementation should they choose to do so. (See 7 CFR 272.1(g)(37)).

Accordingly, 7 CFR Parts 271, 272, 273, 274, and 278 are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.2, the definitions of "eligible foods" and "retail food store" are revised, and a definition of "shelter for battered women and children" is added in alphabetical order, to read as follows:

§ 271.2 Definitions.

* * * * *

"Eligible foods" means (1) any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; (2) seeds and plants to grow foods for the personal consumption of eligible households; (3) meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals; or meals served by an authorized communal dining facility for the elderly, for SSI households or both, to households eligible to use coupons for communal dining; (4) meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to eligible households; (5) meals prepared and

served by a group living arrangement facility to residents who are blind or disabled recipients of benefits under title II or title XVI of the Social Security Act; (6) meals prepared by and served by a shelter for battered women and children to its eligible residents; and (7) in the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing or shelter, nor firearms, ammunition or other explosives.

* * * * *

"Retail food store" means (1) an establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) public or private communal dining facilities and meal delivery services; private nonprofit drug addict or alcoholic treatment and rehabilitation programs; public or private nonprofit group living arrangements; or public or private nonprofit shelters for battered women and children; (3) any stores selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible food; (4) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and (5) a farmers' market.

* * * * *

"Shelter for battered women and childern" means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (37) is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(37) *Amendment 205.* The procedures extending eligibility to otherwise eligible residents of shelters for battered women and children contained in Amendment 205 shall be implemented by State agencies no later than April 1, 1982.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.1, a new paragraph (4) is added to paragraph (e) to read as follows:

§ 273.1 Household concept.

* * * * *

(e) *Residents of institutions.* * * *

(4) Women or women with their children temporarily residing in a shelter for battered women and children as defined in § 271.2. Such persons temporarily residing in shelters for battered women and children shall be considered individual household units for the purposes of applying for and participating in the Program.

* * * * *

4. In § 273.2, paragraph (i)(3), a new paragraph (v) is added to read as follows:

§ 273.2 Application processing.

* * * * *

(i) Expedited service. * * *

(3) Processing standards. * * *

(v) *Residents of shelters for battered women and children.* Residents of shelters for battered women and children who are otherwise entitled to expedited service shall be handled in accordance with the time limits in paragraph (i)(3)(i) of this section.

* * * * *

5. Section 273.3 is revised to read as follows:

§ 273.3 Residency.

Households must be living in the project areas in which they file applications for participation unless the State agency has made arrangements, in accordance with the provisions of § 272.5, to allow particular households to file applications for participation in nearby specified project areas. No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in § 271.2 and was a member of a household containing the person who had abused him or her. Residents of shelters for battered women and children shall be handled in accordance with § 273.11(g). The State agency shall not impose any durational residency requirements. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement. Nor shall residency require an intent to reside permanently in the State of project area. Persons in a project area solely for vacation purposes shall not be considered residents.

6. In § 273.8, a new sentence is added to the end of paragraph (d) to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(d) * * * Resources shall be considered inaccessible to persons residing in shelters for battered women and children, as defined in § 271.2, if (1) the resources are jointly owned by such persons and by members of their former household; and (2) the shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

* * * * *

7. In § 273.11, paragraph (g) is redesignated as (h) and a new paragraph (g) is added to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(g) *Shelters for Battered Women and Children.* (1) Prior to certifying its residents under this paragraph, the State agency shall determine that the shelter for battered women and children meets the definition in § 271.2 and document the basis of this determination. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition and the State agency is not required to make any further determination. The State agency may choose to require local project area offices to maintain a list of shelters meeting the definition to facilitate prompt certification of eligible residents following the special procedures outlined below.

(2) Many shelter residents have recently left a household containing the person who has abused them. Their former household may be certified for participation in the Program, and its certification may be based on a household size that includes the women and children who have just left. Shelter residents who are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the Program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

(3) Shelter residents who apply as separate households shall be certified solely on the basis of their income and

resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and expenses of their former household. Jointly held resources shall be considered inaccessible in accordance with § 273.8. Room payments to the shelter shall be considered as shelter expenses.

(4) Any shelter residents eligible for expedited service shall be handled in accordance with § 273.2(i).

(5) State agencies shall take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration in accordance with § 273.14(b) to the former household of shelter residents or acting on the reported change in accordance with § 273.12 by issuing a notice of adverse action in accordance with § 273.13.

* * * * *

PART 274—ISSUANCE AND USE OF FOOD COUPONS

8. In § 274.2, a new sentence is added to the end of paragraph (h) to read as follows:

§ 274.2 Issuance systems.

* * * * *

(h) * * * (4) Residents of shelters for battered women and children, as such shelters are defined in § 271.2 and which are not authorized by FNS to redeem through wholesalers, may request that all or part of their coupons be of the 1-dollar denomination and State agencies are authorized to grant this request, where feasible.

9. In § 274.10, a new sentence is added to the end of paragraph (d) to read as follows:

§ 274.10 Use or redemption of coupons by eligible households.

* * * * *

(d) * * * Residents of shelters for battered women and children as defined in § 271.2 may also use their coupons to purchase meals prepared especially for them at a shelter which is authorized by FNS in accordance with § 278.1 to redeem at wholesalers, or which redeems at retailers as the authorized representative of participating households in accordance with § 278.2(g).

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

10. In § 278.1, paragraphs (g) through (m) are redesignated as (h) through (n) and a new paragraph (g) is added to read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(g) *Shelters for battered women and children.* FNS shall authorize as retail food stores those shelters for battered women and children wishing to redeem coupons directly through wholesalers. The shelter must be public or private nonprofit, as defined in paragraph (d)(1) of this section, and meet the requirements of paragraphs (a) and (b) of this section. Shelters which also serve other groups of individuals must have a portion of the facility set aside on a long-term basis to shelter battered women and children. Also required is that the shelter be a residence which serves meals or provides food to its residents.

* * * * *

11. In § 278.2, paragraph (g) is revised to read as follows:

§ 278.2 Participation of retail food stores.

* * * * *

(g) *Redeeming coupons.* Authorized retail food stores may exchange coupons in accordance with this part for face value upon presentation through the banking system or through a wholesale food concern authorized to accept coupons from that retailer. Authorized drug addict or alcoholic treatment and rehabilitation programs, group living arrangements, and shelters for battered women and children may present coupons for redemption through authorized wholesale food concerns. A drug addict or alcoholic treatment center, group living arrangement, or shelter for battered women and children may purchase food in authorized retail food stores as the authorized representative of its participating households. Authorized drug addict and alcholic treatment and rehabilitation programs, group living arrangements, and shelters for battered women and children shall not present coupons directly to a bank for redemption.

* * * * *

(Sec. 101, Pub. L. 96-249, 94 Stat. 357 (7 U.S.C. 2012 and 2019))

(Catalog of Federal Domestic Assistance Program No. 10551, Food Stamps)

Dated: December 1, 1981.

David B. Alspach,

Acting Administrator.

[FR Doc. 81-35061 Filed 12-7-81; 8:45 am]

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Part IV

Department of Agriculture

Agricultural Marketing Service

Florida Oranges, Grapefruit, Tangerines, and Tangelos; Imported Grapefruit; Grade and Size Requirements

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Florida Orange, Grapefruit, Tangerine and Tangelo Reg. 6; Grapefruit Import Reg. 6]

Florida Oranges, Grapefruit, Tangerines, and Tangelos; Imported Grapefruit; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for Florida oranges, grapefruit, tangerines and tangelos and imported grapefruit. Such action is necessary to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers. This rule also makes minor revisions in the instructions for obtaining inspection and certification of imported avocados, grapefruit, limes and oranges. This action reflects reorganization of inspection services and changes in addresses of inspection offices.

DATES: Effective December 7, 1981, and continued in effect until modified, suspended, or terminated.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

An interim rule was published in the Federal Register on October 13, 1981 (46 FR 50359) which specified minimum grade and size requirements applicable to shipments of Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit through December 6, 1981. That rule provided an opportunity to file comments through November 12, 1981. No comments were received. During and subsequent to the comment period four actions were recommended by the Citrus Administrative Committee. Based on those recommendations and available information the Department issued four amendments to the interim rule. Amendment 1 provided that during the period November 9 through November 15, 1981, handlers were allowed to ship Florida Dancy tangerines with a minimum diameter of 2 1/16 inches. Amendment 2 provided that during the period November 16 through November 22, 1981, handlers were allowed to ship a quantity of smaller size Dancy variety tangerines (2 1/16 inches in diameter), equal to 35 percent of total shipments during a specified prior period. Amendment 3 continued the provisions of Amendment 2 for the period November 23 through November 29, 1981. Amendment 4 provided that during the period November 30 through December 6, 1981, handlers were allowed to ship a quantity of smaller size Dancy tangerines (2 1/16 inches in diameter), equal to 30 percent of total shipments during a specified prior period.

The Florida orange, grapefruit, tangerine and tangelo regulation is issued under the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The grapefruit import regulation is issued under § 8e (7 U.S.C. 608e-1) of this act. The grade and size requirements applicable to Florida oranges, grapefruit, tangerines and tangelos were recommended by the Citrus Administrative Committee which locally administers the program.

The grade and size requirements for domestic and export shipments are necessary to prevent shipment of Florida oranges, grapefruit, tangerines and tangelos of a lower grade or smaller size than specified and to assure that the various varieties of Florida citrus will be of suitable quality and maturity so they provide consumer satisfaction, which is essential for the successful marketing of the crop.

It is estimated that the 1981-82 season crop of Florida round oranges will be 166 million boxes, 4 percent less than last season. Grapefruit production is estimated at 55 million boxes, nine percent higher than the 1980-81 season production, and an 11 percent increase in Florida specialty citrus fruit is expected.

The committee reports that grove conditions are generally improving from the effects of the January 1981 freeze. The new crop should be of good quality. The shape and size of the fruit is considered to be generally average.

The committee's appraisal indicates fresh market demand at 17,000 carlots of round oranges, 3,000 carlots of Temple oranges, 10 carlots of seeded grapefruit, 33,000 carlots of seedless grapefruit, 3,500 carlots of tangelos, and 4,800 carlots of tangerines. Hence, considering the available supply and the reported size and quality of the fruit, more than ample quantities of each of the specified fruit meeting the grade and size requirements will be available to supply such demands.

The minimum grade and size requirements for imported grapefruit are consistent with Section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity.

It was proposed that the regulations contained in the interim rule would be effective for the period October 19, 1981, through December 6, 1981, and then continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. Issuance of regulations which would continue in effect from marketing season to marketing season reflects the fact that regulations change infrequently from season to season and it is believed unnecessary to issue them only for a single season. In addition, the action could result in a reduction in operational costs to the committee and the government. Although this final regulation is effective for an indefinite period the committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulations on shipment of Florida oranges, grapefruit, tangerines and tangelos would tend to effectuate the declared policy of the act.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that (1) the current interim Florida orange, grapefruit, tangerine, and tangelo and grapefruit import regulation (46 FR 50359) provided a 30-day comment period and no comments were received; (2) shipment of the current crop of Florida citrus is in progress; (3) the Florida citrus regulation was recommended by the committee following discussion at a public meeting on September 15, 1981; (4) Florida citrus handlers have been apprised of these requirements for Florida oranges, grapegruit, tangerines and tangelos and the effective date; (5) the grapefruit import requirements are mandatory under section 8e of the act, and they become effective at the same time as the domestic requirements; (6) the import regulation imposes the same grade and size requirements as are being made applicable to the shipment of grapefruit grown in Florida under Florida Orange, Grapefruit, Tangerine and Tangelo Regulation 6; and (7) three days notice, the minimum prescribed by section 8e, is provided with respect to this import regulation.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information collection requirements shall not become effective until such time as clearance by OMB has been obtained.

Therefore, new §§ 905.306 and 944.106 are added and § 944.400 is revised to read as follows:

PART 905—ORANGE, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) During the period specified in Column (2) of Table I, no handler shall ship between the production area and any point outside thereof, in the continental United States, Canada, or Mexico, and variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section specified for such variety in Columns (3) and (4) of such table.

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
ORANGES			
Early and midseason	On and After 12/7/81	U.S. No. 1	2 9/16
Navel	On and After 12/7/81	U.S. No. 1 Golden	2 9/16
Valencia and other late type	On and After 12/7/81	U.S. No. 1	2 9/16
Temple	On and After 12/7/81	U.S. No. 1	2 9/16
GRAPEFRUIT			
Seeded, except pink	On and After 12/7/81	U.S. No. 1	3 15/16
Seeded, pink	On and After 12/7/81	U.S. No. 1	3 15/16
Seedless, except pink	On and After 12/7/81	Improved No. 2	3 5/16
Seedless, pink	On and After 12/7/81	Improved No. 2	3 5/16
TANGERINES			
Robinson	On and After 12/7/81	U.S. No. 1	2 5/16
Dancy	On and After 12/7/81	U.S. No. 1	2 5/16
Honey	On and After 12/7/81	Florida No. 1	2 1/16
TANGELOS			
Tangelos	On and After 12/7/81	U.S. No. 1	2 5/16

(b) During the period specified in Column (2) of Table II, no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in Columns (3) and (4) of such table.

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
ORANGES			
Early and midseason	On and After 12/7/81	U.S. No. 1	2 9/16
Navel	On and After 12/7/81	U.S. No. 1 Golden	2 9/16
Valencia and other late type	On and After 12/7/81	U.S. No. 1	2 9/16
Temple	On and After 12/7/81	U.S. No. 1	2 9/16
GRAPEFRUIT			
Seeded, except pink	On and After 12/7/81	U.S. No. 1	3 5/16
Seeded, pink	On and After 12/7/81	U.S. No. 1	3 5/16
Seedless, except pink	On and After 12/7/81	Improved No. 2	3 5/16
Seedless, pink	On and After 12/7/81	Improved No. 2	3 5/16
TANGERINES			
Robinson	On and After 12/7/81	U.S. No. 1	2 5/16
Dancy	On and After 12/7/81	U.S. No. 1	2 5/16
Honey	On and After 12/7/81	Florida No. 1	2 5/16
TANGELOS			
Tangelos	On and After 12/7/81	U.S. No. 1	2 5/16

(c) Size Tolerances: In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for *oranges*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than navel and Temple oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for *grapefruit*, as specified in § 2851.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for *tangerines*, as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for *tangelos*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the U.S. Standards for Grades

of Florida Oranges and Tangelos (7 CFR 2851.1140–2851.1180), the U.S. Standards for Grades of Florida Tangerines (7 CFR 2851.1810–2851.1835), or the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.106 Grapefruit Regulation 6.

(a) *Applicability to imports.* Pursuant to Section 8e of the Act and Part 944—Fruits; Import Regulations, on and after December 11, 1981, the importation into the United States of any variety of grapefruit listed in Column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in Columns (3) and (4) of said table. In the determination of minimum size as prescribed in Table I, a tolerance is permitted as specified in paragraph (c) of § 905.306 of this chapter.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR 944.400).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed ten standard packed cartons, equivalent to four-fifths (⅘) of a United States bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

(d) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(e) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(f) It is determined that imports of grapefruits, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements of this section are the same as those being made effective for grapefruit grown in Florida.

(g) Terms used herein relating to grade, except Improved No. 2 grade, and diameter shall have the same meaning as in the United States Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784). Improved No. 2 shall mean the same as in the marketing agreement and Order No. 905, both as amended (7 CFR Part 905). Importation means release from custody of the United States Customs Service.

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, limes, and oranges regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, AMS, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, limes and oranges that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of the specified fruit, is required on all imports. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, limes, and oranges should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the fruit will be imported:

Ports, Office, and Advance Notice

All Texas points: Officer-in-Charge, P.O. Box 107, San Juan, TX 78587, phone 512–787–4091, or Officer-in-Charge, 6070 Gateway East, Suite 410, El Paso, TX 79905, phone 915–543–7723; 1 day.

All New York points: Officer-in-Charge, Room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212–991–7668 and 7669, or Officer-in-Charge, 176 Niagara Frontier Food Terminal, Room 7, Buffalo, N.Y. 14206, phone 716–824–1585; 1 day.

All Arizona points: Officer-in-Charge, 3150 Tucson-Nogales Highway, P.O. Box 1485, Nogales, Ariz. 85621, phone 602–281–0783; 1 day.

All Florida points: Officer-in-Charge, 1350 Northwest 12th Avenue, Room 530, Miami, Fla. 33136, phone 305–324–6116, or Officer-in-Charge, 550 Third Street NW., P.O. Box 1232, Winter Haven, Fla. 33880, phone 813–294–3511, extension 33, or Officer-in-Charge, Unit 8, 3335 North Edgewood Avenue, Jacksonville, Fla. 32205, phone 904–354–5983; 1 day.

All California points: Officer-in-Charge, 784 South Central Avenue, Room 271, Los Angeles, Calif. 90021, phone 213–688–2489; 3 days.

All Louisiana points: Officer-in-Charge, 5027 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113, phone 504–589–6741; 1 day.

All other points: Chief, Fresh Products Branch, FVD, AMS, USDA, Washington, D.C. 20250, phone 202–447–5870; 3 days.

(b) Inspection certificates shall cover only the quantity of fruit that is being imported at a particular port of entry by a particular importer.

(c) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851). The cost of any inspection and certification shall be borne by the applicant therefore.

(d) Each inspection certificate issued with respect to any of the specified fruits to be imported into the United States shall set forth, among other things: (1) The date and place of inspection; (2) The name of the shipper, or applicant; (3) The commodity inspected; (4) The quantity of the commodity covered by the certificate; (5) The principal identifying marks on the container; (6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, the name of the air carrier, or other identification of the shipment; and (7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

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

Dated: December 4, 1981.

Russell L. Hawes,

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

[FR Doc. 81-35207 Filed 12-7-81; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Last Listing December 3, 1981

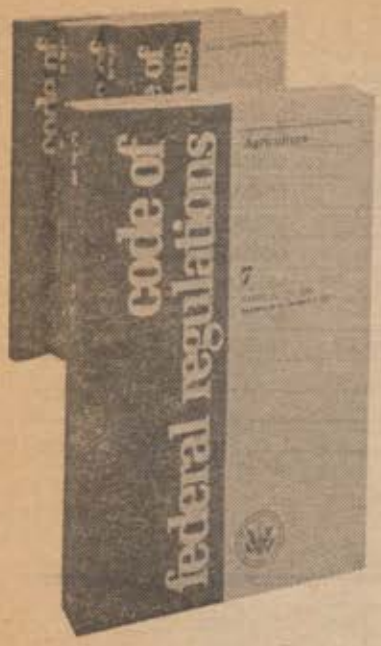
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 4144/Pub. L. 97–88 Energy and Water Development Appropriation Act, 1982. (Dec. 4, 1981; 95 Stat. 1135) Price: $2.

H.R. 3454/Pub. L. 97–89 Intelligence Authorization Act for Fiscal Year 1982. (Dec. 4, 1981; 95 Stat. 1150) Price: $2.

H.R. 3413/Pub. L. 97–90 Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982. (Dec. 4, 1981; 95 Stat. 1163) Price: $1.75.

H.R. 4522/Pub. L. 97–91 District of Columbia Appropriation Act, 1982. (Dec. 4, 1981; 95 Stat. 1173) Price: $1.75.



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