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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 82–7 of February 10, 1982

Presidential Determination To Authorize Security Assistance for Pakistan

Memorandum for the Honorable Alexander M. Haig, Jr., the Secretary of State

By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended ("the Act"), I hereby:

(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.

This determination and certification together with the statement setting forth specific reasons therefore shall be submitted to the Congress immediately.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, February 10, 1982.

[FR Doc. 82–6334
Filed 3–4–82; 4:27 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 4906 of March 4, 1982

Louisiana World Exposition of 1984

By the President of the United States of America

A Proclamation

In 1984, the United States of America will host a major international exposition that will explore the fundamental relationship of water to life. To be held in New Orleans on the great Mississippi River, the Louisiana World Exposition has as its theme "The World of Rivers—Fresh Water as a Source of Life."

The theme is most timely and appropriate.

We are the first generation in history to have seen the Earth from space, and it has given us new understanding. As seen from those great distances, the dominant colors of Earth are blue and white; blue for the great oceans, and white for the canopy of clouds that replenish the land with fresh water, forming rivers and streams that lead again to the oceans. Earth is primarily a water planet.

As the world economy grows, the wise use of all resources, including fresh water, becomes increasingly important. The direct human suffering caused by severe droughts and floods is monumental and can affect the global economic and political system. Man's technological and economic response to the challenge of new demands on our water needs to be shared and demonstrated.

There is inspiration, too, in the power and majesty of the world's rivers and their role in shaping the culture and history of so many different peoples. This celebration of the World of Rivers will be a celebration of the human experience itself.

With its many splendid opportunities for cultural and technological exchange, the Louisiana World Exposition has the full and enthusiastic support of the United States Government. In accordance with law, I shall appoint a United States Commissioner General to exercise the responsibility of the United States Government for fulfillment of the Convention of November 22, 1928, Relating to International Expositions, as modified.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in further recognition of this Louisiana World Exposition, do hereby invite the several States of the Union and its Territories to participate in the exposition and authorize and direct the Secretary of State to invite, on my behalf, such foreign countries as he may consider appropriate to participate in this event.

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

Ronald Reagan

[FR Doc. 82-6377
Filed 3-5-82; 11:03 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Revision of Salable and Reserve Percentages for the 1981–82 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the salable and reserve percentages for marketable California almonds received by handlers during the 1981–82 crop year, which began July 1, 1981. The salable percentage is increased from 75 percent to 90 percent, and the reserve percentage is correspondingly decreased from 25 percent to 10 percent. This action is taken under the marketing order for almonds grown in California to promote orderly marketing conditions.

EFFECTIVE DATES: July 1, 1981 through June 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

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 result in only minimal costs being incurred by the regulated 26 handlers.

It has been determined that a situation exists which warrants publication of this final rule without prior opportunity for public comment. This action relaxes restrictions on handlers by allowing them to ship additional almonds to salable outlets and must be taken promptly to prevent a shortage of almonds for normal domestic and export needs and maintain the current momentum of sales. Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedures with respect to this final action are impracticable and contrary to the public interest.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The relevant provisions of the marketing order for California almonds require that revised salable and reserve percentages established for a particular crop year shall apply to all marketable California almonds received by handlers from the beginning of that year. The 1981–82 crop year began July 1, 1981.

The authority to establish salable and reserve percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Section 981.48 of the order provides for an increase in the salable percentage by the Secretary upon findings of fact that the quantity of salable almonds is not sufficient to satisfy trade demand and desirable carryover requirements for the crop year.

On September 1, 1981, an emergency interim final rule was published in the **Federal Register** (46 FR 43824) establishing on an interim basis salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for the 1981–82 crop year. That action was based on a recommendation of the Almond Board of California, which works with USDA in administering the order, at its July 29, 1981, marketing policy meeting. A final rule establishing those percentages for the 1981–82 crop year was published in the November 30, 1981, issue of the **Federal Register** (46 FR 58061).

On February 16, 1982, the Board met to review the salable and reserve percentages established for the 1981–82 crop year and the supply and demand estimates from which those percentages were derived. Pursuant to § 981.48 of the order, the Board recommended an increase in the salable percentage to 90 percent and a corresponding decrease in the reserve percentage to 10 percent. In arriving at this recommendation, the Board noted that the current estimate of 1981 crop production is down 44.0 million pounds from its July 29, 1981, estimate to 406.0 million pounds. The Board also increased the quantity of almonds deemed desirable to be carried out on June 30, 1982, from 94 million pounds to 118.7 million pounds to ensure an adequate supply of good quality almonds for early season use during the 1982–83 crop year. Therefore, an increase in the salable percentage is necessary to ensure that ample supplies of almonds are available to meet trade demand and carryover requirements.

The estimates used by the Board in recommending the revised salable and reserve percentages are tabulated below. The Board's July 29, 1981, estimates are shown as a basis of comparison.

[In millions of pounds]

	Initial estimate (July 29, 1981)	Revised estimate (Feb. 16, 1982)
Production:		
1. 1981 crop	450.0	406.0
2. Loss and exempt	27.0	26.0
3. Marketable supply	423.0	380.0
Trade shipments:		
4. Domestic	125.0	125.0
5. Export	200.0	200.0
6. Total	325.0	325.0
Inventory adjustments:		
7. Carryover, July 1, 1981	101.7	101.7
8. Estimated carryover, June 30, 1982	94.0	118.7
9. Adjustment	(7.7)	17.0
Salable/reserve:		
10. Salable supply (6 plus 9)	317.3	342.0
11. Reserve supply (3 minus 10)	105.7	38.0
12. Salable Percentage (10÷3×100)	75%	90%
13. Reserve percentage (100 percent minus 12)	25%	10%

The reserve of 10 percent must be withheld by handlers from normal domestic and export outlets to meet their reserve obligations. These reserve

almonds would be: (1) Held by handlers as a contingency reserve for possible later releases to augment 1981–82 and/or 1982/83 salable supplies; and/or (2) made available to handlers for sale to new or existing noncompetitive domestic and export outlets approved by the Board through agreements between the Board and handlers.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board, and other available information, it is further found that the revision of the salable, and reserve percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

PART 981—ALMONDS GROWN IN CALIFORNIA

Therefore § 981.230 is revised to read as follows: (The following provisions will not appear in the Code of Federal Regulations)

Subpart—Salable, Reserve, and Export Percentages

§ 981.230 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1981.

The salable, reserve, and export percentages during the crop year beginning July 1, 1981, shall be 90, 10, and 0 percent, respectively.

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

Dated: March 3, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-6196 Filed 3-5-82: 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC is amending its regulations to authorize its Board of Review to act on requests for relief from reimbursement[1] for certain violations of the Truth in Lending Act, as amended. This delegation of authority clarifies existing agency procedures for handling requests for relief from reimbursement, and eliminates the necessity for formal action by FDIC's Board of Directors in each case. FDIC's purpose in adopting this regulation is to announce a uniform procedure for handling requests for relief from reimbursement and to enhance agency responsiveness to such requests.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Meador, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429 (202) 389–4422.

SUPPLEMENTARY INFORMATION: In addition to delegating authority to FDIC's Board of Review to act on requests for relief from reimbursement under the Truth in Lending Act, as amended (the "TILA"), the amendments: (1) describe the appropriate considerations for the exercise of discretion; and (2) explicitly provide that the delegation does not preclude the Board of Directors from acting on any request for relief falling within the delegated authority. In order to assist in making an application, this preamble indicates what information is material and suggested for inclusion with the request.

Reimbursable Violations

Section 608 of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96–221, 94 Stat. 171, effective April 1, 1980) amended section 108 of the Truth in Lending Act (Pub. L. No. 90–321, 82 Stat. 150, effective May 29, 1968) to require a creditor to make an adjustment to the account of a person in a case where an annual percentage rate or finance charge was inaccurately disclosed (15 U.S.C. 1607). Section 608 specifies that its requirements shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the Board of Directors of the Federal Deposit Insurance Corporation (the "Board of Directors") in the case of insured banks other than members of the Federal Reserve System (15 U.S.C. 1607(a)(1)(C)).

Section 608 authorizes the FDIC to exercise equitable discretion in requiring an adjustment if it determines that a disclosure error resulted in a nonwillful violation involving the disclosure of an otherwise excludable fee or charge for: (1) Credit life, accident, or health insurance (for Transactions consummated before April 1, 1982; for transactions consummated after that date, adjustment is required for such violations); (2) casualty or liability insurance; and (3) fees prescribed by law to be paid to public officials to determine the existence of or perfect or release a security interest, fees paid for insurance in lieu of a perfected security interest, taxes, or any other type of charge which is not for credit and the exclusion of which is approved by regulation by the Federal Reserve Board (15 U.S.C. 1605(b), (c) (d), and 1607(e)(2)(A)). In addition, the Board of Directors has discretion: (4) in cases where the disclosed amount is 10 percent or less of the appropriate amount and either the finance charge or the annual percentage rate was disclosed correctly (15 U.S.C. 1607(e)(2)(B)); (5) in cases where there was no disclosure of the finance charge or annual percentage rate (15 U.S.C. 1607(e)(2)(C)); and (6) in cases where the disclosure error resulted from unique circumstances involving clearly technical and nonsubstantive violations which did not adversely affect information provided, and that did not mislead or otherwise deceive the consumer (15 U.S.C. 1607(e)(2)(D)). Finally, the TILA directs that with respect to transactions consummated before the effective date of section 608 (April 1, 1980) no adjustment shall be required that would have a significantly adverse impact on the safety or soundness of the bank. With respect to transactions consummated after April 1, 1980, full adjustment (taking into account agency discretion) shall be required, but partial payments may be allowed over an extended period of time which the agency considers to be reasonable to mitigate the impact on the safety or soundness of the bank (15 U.S.C. 1607(e)(3)).

Information Which May Be Included in an Application for Relief

Requests for relief from reimbursement were handled by FDIC on an ad hoc basis until August 19, 1981, when the Division of Bank Supervision instructed the regional directors to follow a uniform policy and procedure with respect to such requests. The proposed amendments would continue to follow the policy and procedure initiated on August 19, 1981, except that the Board of Review would act on requests for relief from reimbursement under delegated authority.

To make a request for relief from reimbursement, an applicant should file a request in writing with the appropriate FDIC regional director. The applicant may include, at his/her option, some or all of the following information as applicable:

(A) Describe each type of violation and illustrate by example how the violation occurred; include the correct annual percentage rate (APR) and/or

[1] As used in this context, reimbursement means requirement for making an adjustment to the account of the person to whom credit was extended.

finance charge and indicate the difference from the disclosed APR and/or finance charge. State whether the violation is nonsubstantive or technical, and explain why;

(B) Cite the applicable provisions of the Truth in Lending Act under which the FDIC may have discretion in ordering reimbursement;

(C) State briefly the bank's arguments for relief from reimbursement or for an extended time period for reimbursement, as applicable;

(D) Describe briefly any efforts made by the bank to correct the violations;

(E) Describe the amount of the total reimbursement involved (number of accounts and total dollar amount of adjustment for each type of violation) and the bank's effort and cost necessary to accomplish reimbursement. Include the size of the bank's total assets, its net earnings and show what effect reimbursement would have on the bank's capital; and

(F) Demonstrate specifically whether the adjustment would have any significant impact on the safety or soundness of the bank. Explain how the remedy could be modified to mitigate any significant adverse impact.

Regulatory Factors

The regulation would not affect in any way the right of any bank to challenge charges alleging violations of the TILA issued under section 8(b) of the Federal Deposit Insurance Act in an administrative hearing or before FDIC's Board of Directors.

Section 303.13(a) of FDIC's rules and regulations (12 CFR 303.13(a)) states that the Board of Directors does not delegate its authority except as provided in Part 303 of FDIC's rules and regulations, or in circumstances where prompt action is required to protect FDIC's interest or for operational flexibility and efficiency in litigation or liquidation matters or in payment of claims for deposit insurance. Thus, there is no alternative means of delegating general authority to grant equitable relief from the requirement for reimbursement.

The amendments are rules of FDIC internal procedure and practice. They prescribe procedures for initially requesting relief from reimbursement, and do not impair the availability of access to the Board of Directors for action on such a request. Therefore, in accordance with the Administrative Procedure Act (5 U.S.C. 553), the Board of Directors may waive notice of proposed rulemaking and public comment.

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inapplicable because the amendments do not impose recordkeeping or reporting requirements on any member of the public. An applicant for relief from reimbursement may include some or all of the information relating to the case as indicated above, but no request for relief will be affected by the failure of an applicant to include such information. Since inclusion of such information is entirely optional, the amendment imposes no "recordkeeping requirement" or "information collection request" as those terms are defined in the Paperwork Reduction Act (44 U.S.C. 3502 (11) and (16)).

Certification Under the Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board of Directors hereby certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

1. The amendments do not affect any substantive legal right or duty of any small entity.

2. The amendments impose no recordkeeping or reporting burden on any small entity.

3. The preamble and amendments will clarify filing procedure and expedite consideration of requests by many small banks for relief from reimbursement for certain nonwillful violations of the TILA.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

Part 303 of chapter III of Title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 303 is amended to read:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. By adding a new paragraph (f) to § 303.11 of Part 303 as follows:

§ 303.11 Delegation of authority to act on certain applications and on notices of acquisition of control.

* * * * *

(f) *Delegation of Authority To Act on Requests for Relief From Reimbursement.*

(1) The Board of Directors of the Federal Deposit Insurance Corporation has delegated to the Board of Review authority to act on requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (section 608(a)(2) of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980) (15 U.S.C. 1607(e)(2)).

The delegation of authority to the Board of Review to act on request for relief from the requirements for reimbursement under this subsection does not preclude the Board of Directors from acting on any application upon which the Board of Review may not wish to act. Any voting member of the Board of Review attending the meeting at which an application is considered may request that the application be referred to the Board of Directors for its consideration.

(2) In evaluating a request for relief from reimbursement, the Board of Review will take into consideration the following factors:

(i) The impact any reimbursement might have on the safety and soundness of the bank;

(ii) The kind and frequency of any reimbursable violations;

(iii) This history of any previous violations; and

(iv) Such other matters as equity and justice shall require.

By order of the Board of Directors.

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–6200 Filed 3–5–82; 8:45 am]

BILLING CODE 6714–01–M

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12 CFR Part 308

Rules of Practice and Procedures; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a reference contained in final regulations governing rules of practice and procedures for administrative proceedings before the Federal Deposit Insurance Corporation which were

published December 29, 1981 (46 FR 62812).

FOR FURTHER INFORMATION CONTACT:
James L. Meador, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, (202) 389–4422.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

§ 308.18 Decision of the Board of Directors. [Corrected]

The following correction is made in FR Doc. 81–36843 appearing on pages 62812–62833 in the issue of December 29, 1981:

On page 62820 at the top of column three, "§ 308.17" is corrected to read "§ 308.16."

[FR Doc. 82–6195 Filed 3–5–82; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–NM–05–AD, Amdt. 39–4335]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) which requires repetitive inspections of the engine pylon and spar attach bolts (fuse pins). A new, improved fuse pin has now been developed and approved to eliminate the need for repetitive inspections. This amendment provides a terminating action.

DATE: Effective date March 16, 1982.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Ms. Michele M. Owsley, Airframe Branch, ANM–120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, WA 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: AD 79–17–04, Amendment 39–3529 (44 FR 47924, August 16, 1979), requires repetitive inspections of the engine pylon and midspar attach bolts (fuse pins) for cracks. A new fuse pin has been developed which reduces the likelihood of cracks developing in the bore recess of the pins. If the existing fuse pins are replaced by the new fuse pins, the repetitive inspections required by the AD may be eliminated. AD 79–17–04 is therefore amended to incorporate a terminating action consisting of replacement of the midspar fuse pins and the associated access covers on the outboard struts of airplanes equipped with JT9D–70 or CF6–50 Series engines.

Since this amendment provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person. Therefore notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 79–17–04, Amendment 39–3529 (44 FR 47924, August 16, 1979), by adding a new paragraph G. to read as follows:

G. When fuse pins are replaced in accordance with Boeing Service Bulletin No. 747–54–2063, Revision 1, dated August 13, 1981, or later FAA approved revisions, the actions of paragraph A, C, and D may be discontinued as these fuse pins are terminating action for this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–6227 Filed 3–5–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 82–NM–08–AD, Amdt. 39–4337]

Airworthiness Directives: Canadair Model CL–600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires modification of the main windshield lower sills to prevent fatigue cracks from forming on certain Canadair CL–600 airplanes. This modification is necessary since fatigue cracks were found during the manufacturer's cyclic testing which, if allowed to remain unrepaired, could compromise the structural integrity of the windshield lower sills, resulting in possible decompression of the airplane.

DATE: Effective date: March 16, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transportation (DOT) has issued an Airworthiness Directive which requires modification of the main windshield lower sills to prevent the fatigue cracks from forming on certain Canadair CL–600 airplanes. Cracked lower sill members were found during the manufacturer's cyclic testing

which, if allowed to remain, could seriously compromise the structural integrity of the windshield installation. The manufacturer believes the modification is necessary for the continued airworthiness of the airplane, and in order to prevent cracks from occurring in production airplanes. The DOT, which is the Civil Air Authority of Canada, is requiring that the main windshield lower sills be modified in accordance with Canadair Alert Service Bulletin A600–0035 dated May 28, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires the modification of the main windshield lower sills on certain Canadair CL–600 airplanes in accordance with the service bulletin.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Canadair Model CL–600–1A11 airplanes, Serial Numbers (S/N) 1005–1008 and 1010–1018, certificated in all categories.

Compliance required as indicated.

To ensure structural integrity of the windshield lower sill members, accomplish the following unless already accomplished:

1. Prior to the accumulation of 600 hours time in service or within 25 hours time in service after the effective date of this AD, whichever occurs later, reinforce the sill members as described in paragraph 2 of Canadair Alert Service Bulletin A600–0035 dated May 28, 1981.

2. Airplanes with Canadair Modification Summary 600–680, Issue NC, installed are exempt from this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

4. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for the accomplishment of the modification required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-6228 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NW-16-AD, Amdt. No. 39-4338]

Airworthiness Directive: Gates Learjet Models 24E/F and 25D/F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of compliance period.

SUMMARY: This action extends the compliance period for Airworthiness Directive (AD) 81–16–08 which requires modification of the flight control systems, stall warning system, and control wheel of certain Gates Learjet airplanes. The FAA has determined that the original specified compliance time is unduly burdensome, and can be extended without compromising safety.

DATES: Effective date February 27, 1982.

Final compliance date extended from February 28, 1982, to May 31, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Malir, ACE–130W, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7008.

SUPPLEMENTARY INFORMATION: AD 81–16–08 (Amdt. 39–4184, 46 FR 39990), as revised (Amdt. 39–4295, 47 FR 2477), requires modification of affected airplanes in accordance with Gates Learjet Modification Kits AMK 81–7, AMK 81–8, and AMK 81–13, Change 3, respectively, by February 28, 1982. After the establishment of this compliance date, the FAA received numerous requests from owners/operators for extension of the compliance date since they cannot obtain the necessary modification kits from the airplane manufacturer and accomplish the required modifications by that date. If the compliance time is not extended, numerous airplanes will have to be grounded until the required modifications can be performed. The FAA has reevaluated the service experience in the operation of airplanes affected by this AD in light of the operators' request.

In light of the fact that there has been no further adverse service history reported to date, the increased operator awareness of potential control and handling problems of these airplanes, and the severe economic penalty which would be otherwise incurred by operators in grounding these aircraft due to nonavailability of parts, the FAA has determined that an extension of the compliance time may be granted with no degradation in safety. In the meantime, some aircraft will have already been modified. Accordingly, the final compliance date is extended three months from February 28, 1982, to May 31, 1982.

Since this revision is relieving in nature, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 81–16–08 R1, (Amendment 39–4184, 46 FR 39990), as amended

(Amendment 39-4295, 47 FR 2477), as follows:

The date appearing in the first line of paragraph D is changed from February 28, 1982, to May 31, 1982.

This amendment becomes effective on: February 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc 82-6230 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-04-AD, Amdt. 39-4339]

Airworthiness Directives: McDonnell Douglas Model DC-9-10 Through -50 Series and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection of fittings and plates on the horizontal stabilizer center section for cracking and/or corrosion and requires either repair or replacement of the affected parts and/or removal of corrosion with application of corrosion inhibiting compound on certain McDonnell Douglas DC-9 and C-9 series airplanes. This AD is necessary since cracked or corroded fittings or plates could result in failure of the horizontal stabilizer center section and loss of control of the airplane.

DATES: Effective date March 17, 1982.

Comments must be received by April 16, 1982.

Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information and copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750 (54-60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108; or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harry Irwin, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: Four operators reported nine instances of cracks in the fittings and plates on the horizontal stabilizer center section on aircraft having accumulated between 2,600 and 23,449 flight hours. Analysis by the manufacturer revealed that the cracks were caused by stress corrosion.

Since the center section box is the sole structural support for the cantilevered horizontal stabilizer and its attached elevator, failure of the center section box could result in loss of these control surfaces with consequent loss of aircraft controllability.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires a visual inspection of the fittings and plates for cracking and/or corrosion with repair or replacement of the affected parts. Subsequent repetitive inspections are required.

Request for Comments on the Rule

Although this action is in the form of a final rule, which was not preceded by notice and public procedure, comments are invited on the rule within the next 30 days. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review this amendment. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend this rule. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of this rule and determining whether additional rulemaking is needed.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure herein are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC-9-10 through -50 Series and C-9 Series airplanes prior to fuselage number 1013 certificated in all categories.

Compliance required as indicated in the body of this AD, unless previously accomplished. To prevent failure of the horizontal stabilizer center section fittings and plates, perform the following:

A. Prior to the accumulation of 2,900 flight hours, or within 400 flight hours following the effective date of this AD, whichever comes later, accomplish the following:

Note.—Operators who have accomplished the actions required by paragraphs (A)(1)-(A)(3), below, within 2,800 flight hours prior to the effective date of this AD, need not reinspect until 3,200 flight hours following the last inspection, as required by paragraph B, below.

1. Visually inspect for corrosion in areas shown in McDonnell Douglas Structural Repair Manual (SRM), Chapter 55-02, Figure 12, Fitting P/N's 591248-1, -501, -503, -505, -507.

(a) If corrosion is evident, remove corrosion per SRM Chapter 51-10-3. Reinspect to insure limits established per SRM Chapter 55-02, Figure 12, are maintained and apply corrosion inhibiting compound per SRM Chapter 51-10-3.

(b) If limits are exceeded, replace each affected part as necessary.

(c) If corrosion is not evident, apply corrosion inhibiting compound per SRM Chapter 51-10-3.

2. Visually inspect P/N 5918098-1 and -501 fitting assemblies for cracks, as outlined in SRM Chapter 55-02, Figure 13.

(a) If cracks are found, repair per SRM Chapter 55-02, Figure 13.

(b) If cracks are not found or if cracks have been repaired per (2)(a) above, apply corrosion inhibiting compound to the fitting(s) per SRM Chapter 51-10-3.

(c) If corrosion is not evident, apply corrosion inhibiting compound per SRM Chapter 51-10-3.

3. Visually inspect P/N's 9911861-1, 9911862-1, 9918440-1, and 9918441-1 plates for corrosion in areas shown in SRM Chapter 55-02, Figure 12.

(a) If corrosion is evident, remove corrosion per SRM Chapter 51-10-3. Reinspect to insure limits established per

SRM Chapter 55–02, Figure 12, are maintained and apply corrosion inhibiting compound per SRM Chapter 51–10–3.

(b) If limits are exceeded, replace each affected part as necessary.

B. The inspections and repairs set forth in paragraph A above must be repeated at intervals of 3,200 flight hours until the affected parts are replaced by new parts per Service Bulletin 55–32, Revision 1, dated September 28, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

D. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective March 17, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–6229 Filed 3–5–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 78–NE–09, Amdt. 39–4334]

Pratt & Whitney JT8D–9, –9A, –11, –15, –17 and –17R Turbofan Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises the compliance schedule of an existing airworthiness directive (AD) which requires eddy current inspection for cracks of certain front compressor front hub blade slots. The revised inspection intervals are necessary to account for engine model rotor speed differences in the detection of cracks, originating in the blade slot, which could result in complete fracture of blade retention lugs and liberation of first stage fan blades.

DATES: Effective date—March 4, 1982.

Comments on the rule must be received on or before May 4, 1982.

Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable alert service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

Send comments on the rule to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. ———, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

Copies of the service bulletins are contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: W. Locke Easton, Transport Engine Certification Section (ANE–141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7347.

SUPPLEMENTARY INFORMATION: A final rule to amend Part 39 of the Federal Aviation Regulations to include an AD requiring an eddy current inspection for cracks of certain front compressor front hub blade slots became effective on September 20, 1978. That AD required initial inspection at 13,000 cycles and a repetitive inspection interval of 6,000 cycles of all affected engine models. In the original assessment of blade slot cracking, rotor speed differences between engine models were not considered significant enough to require individual inspection intervals for each model. Recent field experience does not support the original assumptions, and it is necessary to revise the eddy current inspection intervals specified in the original AD. The revised AD requires a repetitive eddy current inspection of front compressor front hubs, in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 4, for cracks in the blade slot pressure face area. This AD revision alters the initial and repetitive inspection requirements for certain engine models.

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that migh suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviatior Regulations (14 CFR 39.13) is amended by revising AD 78–17–02 to read as follows:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft JT8D–9, –9A, –11, –15, –17, and –17R turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect cracks in compressor front hubs, P/Ns 594301, 791801, 640601, 743301, 750101, and 749801, except those listed in Pratt & Whitney Aircraft Alert Service Bulletin No.

4841, Revision 4, dated November 20, 1981, or later FAA approved revision, which could result in fracture of the retention lugs and release of first stage fan blades, accomplish the following:

(A) Inspect front compressor front hubs for cracks in the blade slots in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 4, dated November 20, 1981, or later FAA approved revision, or equivalent means approved by the Chief, Engine Certification Branch, New England Region, and in accordance with limits specified in Paragraphs (B) and (C). Remove cracked compressor front hubs prior to further flight.

(B) Hubs not previously inspected shall be inspected within 1,000 cycles from the effective date of this AD or before reaching the initial inspection limits specified in Column I of Paragraph (D), whichever occurs later, except do not exceed 13,000 total cycles. Repeat inspections at intervals listed in Column II, Paragraph (D), thereafter.

(C) Hubs which have been previously inspected shall be reinspected within 1,000 cycles after the effective date of this AD or before reaching the initial inspection limit specified in Column I, Paragraph (D), or before reaching the repetitive inspection limits specified in Column II of Paragraph (D), whichever comes later but not to exceed 6,000 cycles since last inspection. Repeat inspections at intervals listed in Column II, Paragraph (D), thereafter.

(D) Table follows:

Model	Column I initial inspection limit (cycles)	Column II repetitive inspection limit (cycles)
JT8D-9, -9A	13,000	6,000
JT8D-11	10,500	6,000
JT8D-15	9,500	5,000
JT8D-17	8,500	5,000
JT8D-17R	8,000	5,000

(E) Upon request of the operator, an FAA maintenance inspector, subject to the approval of the Chief, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(F) For hubs that have been installed in more than one engine model, the inspection schedule for the engine model with the highest rating in which it has operated is applicable.

Because the rule involves requirements affecting immediate flight safety, the Agency finds that good cause exists for making the rule effective in less than 30 days.

This amendment becomes effective March 4, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

This amendment revises Amendment 39-3281 (AD78-17-02), effective September 20, 1978.

Note.—The FAA has determined that this regulation is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Court of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Mass., on February 23, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-6226 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AAL-16]

Establishment of Ambler, Alaska, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a transition area in the vicinity of Ambler, Alaska. This action provides controlled airspace required for air traffic control services.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

History

On January 11, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to establish a transition area to provide controlled airspace in the vicinity of Ambler, Alaska. The FAA has installed a Nondirectional Radio Beacon (NDB) at Ambler and has developed a standard instrument approach procedure to the Ambler airport.

Additional controlled airspace is required to provide protected controlled airspace for the instrument approach procedure. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a transition area that extends upward from 700 feet above the surface within 9.5 miles east and 6 miles west of the Ambler NDB 186° and 006° True bearings, extending from 8 miles north of the NDB to 18.5 miles south of the NDB.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540, 1-2-81), is amended, effective 0901 GMT, May 13, 1982, as follows:

By adding Ambler, AK, Transition Area to read as follows:

Ambler, AK

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 6 miles west of the Ambler NDB (Lat. 67°06'26"N, Long. 157°51'18"W) 186° and 006° bearings, extending from 8 miles north of the NDB to 18.5 miles south of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

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

Issued in Anchorage, Alaska, on February 24, 1982.

Robert L. Faith,

Director.

[FR Doc. 82-5963 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ANW-14]

Alteration of Control Zone Abbotsford, British Columbia, Canada; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: In a rule published in the **Federal Register** on January 11, 1982, (47 FR 1114), the control zone for the Abbotsford, British Columbia, Canada Airport was amended. This action corrects a discrepancy in the geographical coordinates used in describing the control zone.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANM-534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION: Earlier in this docket, action was taken to redescribe the Abbotsford, British Columbia, Canada Airport Control Zone. Insofar as it concerns U.S. airspace, the size of the control zone was reduced. This relief was the result of the establishment of a Special Air Traffic Area and Airport Traffic Pattern Rule for U.S. airspace near Abbotsford, British Columbia, which became effective January 21, 1982.

Since this action is only editorial in nature and does not constitute a substantive change in rulemaking, notice and public procedure thereon are unnecessary and the correction may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455, January 2, 1981) is amended, effective 0901 GMT, March 18, 1982, as follows:

Abbotsford, British Columbia, Canada

On line eight, longitude coordinates 122°28'40"W, should read; 122°27'40"W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Seattle, Washington, February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5962 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 81-AAL-14]

Establishment of Jet Routes and Area High Routes; Extension of High Altitude Route J-133

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends High Altitude Route J-133 from Johnstone Point, AK, to Galena, AK. The extension of J-133 will ease flight planning and reduce controller and pilot workload associated with rerouting of these aircraft by allowing flight plans to be filed along the new route.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1981, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend High Altitude Route J-133 as published in the **Federal Register** (46 FR 60466), from Johnstone Point, AK, to Galena, AK. This action allows pilots to file flight plans along the new route and eliminates the need to reroute aircraft who request direct routing over Anchorage through this area of non-radar control. Pilot and controller workload is reduced and more efficient use of the airspace is achieved. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received but was subsequently withdrawn. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 was republished on January 2, 1981 (46 FR 834).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) extends J-133 from Johnstone Point, AK, to Galena, AK. This action aids flight planning, reduces pilot and controller workload, and provides for more efficient use of the airspace.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834), is amended, effective 0901 GMT, May 13, 1982, as follows:

J-133 [Amended]

By deleting the words "to Johnstone Point, AK." and substituting for them the words "Johnstone Point, AK; Anchorage, AK; to Galena, AK."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348)a), and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on February 26, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5964 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 22704; Amdt. No. 1211]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exist for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, VOR–A, Amdt. 1
Bangor, ME—Bangor Intl, VOR/DME Rwy 15, Amdt. 1
Bangor, ME—Bangor Intl, VOR/DME Rwy 33, Amdt. 3
Perryville, MO—Perryville Muni, VOR/DME–A, Amdt. 3

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, VOR Rwy 12L/R, Amdt. 16
Orlando, FL—Orlando International, VOR/DME Rwy 18L, Amdt. 3
Orlando, FL—Orlando International, VOR/DME Rwy 18R, Amdt. 3
Bainbridge, GA—Commodore Decatur, VOR–B, Amdt. 2, cancelled
Lincoln, IL—Logan County, VOR Rwy 3, Amdt. 4
Mt. Pleasant, MI—Mt. Pleasant Municipal, VOR Rwy 27, Amdt. 8
Laurel/Hattiesburg, MS—Pine Belt Regional, VOR Rwy 36, Amdt. 2
Albany, NY—Albany County, VOR Rwy 19, Amdt. 18
Buffalo, NY—Buffalo Airpark, VOR Rwy 24, Amdt. 5

* * * Effective February 16, 1982:

Montague, CA—Siskiyou County, VOR–B, Amdt. 5

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, LOC/DME Rwy 30L, Amdt. 4
Rockland, ME—Knox County Regional, LOC Rwy 3, Amdt. 5
Jackson, MS—Hawkins Field, LOC Rwy 18, Amdt. 1, cancelled

* * * Effective March 18, 1982:

Sioux City, IA—Sioux City Muni, LOC Rwy 13, Amdt, 1, cancelled
St. Louis, MO—Lambert–St. Louis Intl, LDA/DME–A, Amdt. 1, cancelled

Note.—The FAA published an amendment in Docket No. 22586, Amdt No. 1210 to Part 97

of the Federal Aviation Regulations (Vol. 47 FR No. 35 page 7624; dated February 22, 1982) under § 97.25 effective March 18, 1982, which is hereby amended as follows: Dayton, OH-Dayton General Arpt (South) LOC RWY 20, Original, Cancelled.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, NDB Rwy 33, Amdt. 4
Pittsfield, ME—Pittsfield Muni, NDB Rwy 1, Amdt. 3

* * * Effective April 15, 1982:

Lincoln, IL—Logan County, NDB Rwy 21, Amdt. 3
Rockland, ME—Knox County Regional, NDB Rwy 3, Amdt. 4
Merrill, WI—Merrill Muni, NDB Rwy 7, Original
Merrill, WI—Merrill Muni, NDB Rwy 16, Amdt. 4
Rice Lake, WI—Rice Lake Municipal, NDB Rwy 36, Amdt. 1

* * * Effective February 19, 1982:

Sulphur Springs, TX—Sulphur Springs Muni, NDB Rwy 18, Amdt. 2

* * * Effective February 16, 1982:

Montague, CA—Siskiyou County, NDB-A, Amdt. 5

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, ILS Rwy 33, Amdt. 9

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, ILS Rwy 12R, Amdt. 1
San Jose, CA—San Jose Muni, ILS Rwy 30L, Amdt. 14
Jackson, MS—Hawkins Field, ILS Rwy 16, Original
Laurel/Hattiesburg, MS—Pine Belt Regional, ILS Rwy 18, Amdt. 3
Albany, NY—Albany County, ILS Rwy 19, Amdt. 17

* * * Effective March 18, 1982:

Sioux City, IA—Sioux City Muni, ILS Rwy 13, Original
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 30L, Amdt. 7

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective April 15, 1982:

Monroe, LA—Monroe Regional, RADAR-1, Amdt. 3
Albany, NY—Albany County, RADAR-1, Amdt. 13

* * * Effective March 18, 1982:

St. Louis, MO—Lambert-St. Louis Intl, RADAR-1, Amdt. 27

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective May 13, 1982:

Perryville, MO—Perryville Muni, RNAV Rwy 19, Original

* * * Effective March 18, 1982:

St. Louis, MO—Lambert-St. Louis Intl, RNAV Rwy 30L, Amdt. 9

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

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

Issued in Washington, D.C., on February 26, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

[FR Doc. 82-6231 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 208

[Regulation ER-1286 Amdt. No. 35 to Part 208]

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: This rule removes an obsolete reference from the Board's rules setting forth the content of charter contracts between a U.S. airline and a charter operator. As a result of this amendment, the airline no longer is required to disclose in the contract the terms of its aircraft accident liability insurance.

DATES: Effective: March 1, 1982. Adopted: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

When the Board adopted a new 14 CFR Part 205, setting requirements for aircraft accident liability insurance for airlines (ER-1253, 46 FR 52572, October 27, 1981), it replaced the existing requirements for charter air carriers in 14 CFR 208.10-208.15. Those sections were replaced with a cross-reference to Part 205.

In § 208.32(d), charter air carriers are required to incorporate the provisions of certain sections of Part 208, including those of §§ 208.10-208.15 for insurance. In Part 205, however, the Board decided that the full terms of the insurance coverage need not be disclosed to the public. The reference to §§ 208.10-208.15 in § 208.32(d) was thus retained by mistake.

In order to prevent confusion and to follow the Board's intent, the requirement to set forth the terms of aircraft accident liability insurance in charter contracts is being removed

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 208, Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation, as follows:

1. The authority for Part 208 is:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 76 Stat. 145, 788; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

2. Section 208.32(d) is revised to read:

§ 208.32 Terms of service.

* * * * *

(d) Each and every contract for a charter to be operated hereunder shall incorporate the provisions of §§ 208.32a, 208.33, and 208.33a, where applicable, concerning insurance and substitute transportation.

* * * * *

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6101 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

15 CFR Part 904

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; suspension.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is suspending its regulations which establish criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. NOAA is also requesting comments on a proposal to revoke these regulations in a separate document appearing in this issue of the Federal Register. This action is the result of a recent federal court decision which raises a serious question as to NOAA's authority to implement these regulations. This notice is intended to suspend until further notice 15 CFR Part 904 Subpart G—Financial Compensation of Participants in Administrative Proceedings.

EFFECTIVE DATE: Interim rule effective March 8, 1982 until further notice.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3043.

SUPPLEMENTARY INFORMATION: On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar Food and Drug Administration (FDA) regulation invalid in the case of *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (Nov. 27, 1981). The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participations incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *." Congress has not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. NOAA like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. This court decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 628, NOAA is suspending its regulations of 15 CFR Part 904 Subpart G which govern financial compensation of participants in NOAA's administrative proceedings. For good cause shown, this interim action is effective immediately pursuant to the exception to the notice and comment procedures of the Administrative Procedure Act 5 U.S.C. 553. However, NOAA is requesting comments on the proposal to revoke 15 CFR Part 904 Subpart G. This will allow public participation in the rulemaking process prior to any final revocation action.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This Federal Register notice simply suspends regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not create any new rule and does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certifies that this action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904 Subpart G governing "Financial Compensation of Participants in Administrative Proceedings", does not appear to have a significant economic impact on a substantial number of small entities and is, in any event, required by law. He has provided a certification to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it has been determined that this action is not subject to the Regulatory Flexibility Analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

This suspension action does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

PART 904—FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS.

§ 904.600 through § 904.604 [Suspended]

For the reasons set out in the preamble, 15 CFR Part 904 Subpart G is suspended.

Dated: January 6, 1982.

John V. Byrne,
Administrator, NOAA.

Regulatory Flexibility Act Section 605(b) Statement and Certification

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which has been imposed uniformly on both large and small entities. This Federal Register notice suspends and requests comments on the proposal to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings of NOAA.

Since fiscal year 1980, seven payments of financial compensation to participants in administration proceedings, pursuant to 15 CFR 904, Subpart G, have been granted totaling $8,050.19. Outlays to parties have ranged in amount from $251.10 to $2,598.86. Based upon this pattern of usage, suspension of the subject program would not appear to have a significant economic impact on a substantial number of small entities. Section

606 of the Regulatory Flexibility Act ("the Act") (5 U.S.C. 606), entitled "Effect on Other Law," further provides that "The requirements of sections 603 and 604 of this title," dealing with initial and final regulatory flexibility analyses, "do not alter in any manner standards otherwise applicable by law to agency action." Accordingly, given the apparent applicability of the holding of the United States Court of Appeals for the Fourth Circuit in *Pacific Legal Foundation* v. *Goyan*, NOAA is required to suspend its program forthwith and is therefore exempted from the Act's requirement to perform a regulatory flexibility analysis thereon.

For these reasons, in accordance with section 604(b) of the Act, I certify that suspension and request for comments on the proposal to revoke National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904, Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings," does not appear to have a significant economic impact on a substantial number of small entities, and is, in any event, required by law to be effectuated. Therefore, the rulemaking is not subject to the regulatory flexibility analysis requirements of sections 603 and 604 of the Act.

[FR Doc. 82-6256 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-12-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3084]

Chrysler Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Highland Park, Mich. motor vehicle manufacturer and distributor, among other things, to cease misrepresenting or failing to disclose the limited applicability of material standards for its oil filters and other products; and failing to have competent and reliable substantiation for claims concerning such standards. The firm is required to notify aftermarket manufacturers, dealers and owners of certain vehicles of the inaccuracy of its oil filter material standard, and provide them with ways to avoid or remedy any resulting problems. Further, all future owner and service manuals have to contain accurate oil filter use information. The order additionally requires the company to maintain a reasonably-priced subscription service to provide subscribers with up-to-date material standards; and advertise the existence of this service in *Automotive News*.

DATES: Complaint and order issued Feb. 17, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Gary M. Laden, Washington, D.C. 20580. (202) 724-1524.

SUPPLEMENTARY INFORMATION: On Tuesday, September 8, 1981, there was published in the **Federal Register**, 46 FR 44765, a proposed consent agreement with analysis In the Matter of Chrysler Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-35 Employment of independent agencies; 13.533-45 Maintain records; 13.533-50 Maintain means of communication. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

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

Carol M. Thomas,

Secretary.

Chrysler Corporation, File No. 802 3009—Separate Statement of Acting Chairman Clanton and Commissioner Bailey

The Commission has voted unanimously to accept a consent agreement with Chrysler Corporation that remedies certain alleged information problems concerning replacement oil filters for its Japanese import vehicles and its Dodge Omni and Plymouth Horizon cars. Commissioner Pertschuk has stated that he would also have required Chrysler to pay consumers for the premature wear of engine balancer chains in the company's 1976-77 Mitsubishi-manufactured cars. We do not believe that the Commission can demand such relief from Chrysler because we are convinced that no law violation has occurred as to the vast majority of cars sold with the engineering development of a balancer chain.

In 1975, Chrysler introduced balancer chains in cars manufactured for the company by Mitsubishi. The balancer chain was developed to reduce engine vibration. Over the next year, Chrysler began to receive complaints that the balancer chains on its cars were wearing out prematurely. It is important to keep in mind that balancer chains were never intended to last the lifetime of the car; rather, the company anticipated that they would have to be replaced at least once.

In about September of 1976, the company had received enough complaints to indicate that some modification of the balancer chain design was necessary. The company immediately moved to discover such a "fix." Within a very short period of time, an effective fix had been implemented. The only use and care information that the company could have communicated to current owners during that time that might have reduced the likelihood of premature balancer chain wear was to advise them to use unleaded gasoline. An analysis by the Commission's economists indicates, however, that had consumers switched to unleaded gasoline, the difference in cost between leaded and unleaded gas would have at least equaled and probably exceeded the cost of dealing with any premature problems with the balancer chain.

Commissioner Pertschuk, in his separate statement, suggests that "the facts are open to reasonable dispute." On the contrary, the facts, as developed in the staff's investigation, are clear. It is the application of the law to those facts that is in dispute here.

The staff's investigation has shown that the company was possibly in technical violation of the Federal Trade Commission Act for a short time period (approximately four months), when it did not inform prospective purchasers of the cars in question that a possible design defect existed. In view of Chrysler's relatively prompt action to develop a solution to the problem, and

[1] Copies of the Complaint and the Decision and Order filed with the original document.

the limited extent of injury to prospective purchasers, we conclude that as a matter of prosecutorial discretion the company should not be charged with a violation of the Federal Trade Commission Act.

Every car buyer must sustain many costs or repairing his or her automobile over its lifetime. There are only certain circumstances in which it is legally appropriate for the Commission to intervene. This is not one of them.

Separate Statement of Commissioner Pertschuk

This Consent Agreement with the Chrysler Corporation does not go far enough. My disagreement with the Commission's action stems not from the useful relief that will be provided concerning oil filters for Chrysler cars, but from the Commission's failure to require Chrysler to redress consumers who suffered millions of dollars in total damages from another serious engine problem in certain Chrysler imports. Specifically, the Consent Agreement fails to compensate Chrysler customers for early failure of the balancer chain, a $150 to $250 device designed to reduce engine wear. This problem has affected as many as 38,000 Dodge Colts and Plymouth Arrows sold from the beginning of the 1976 model year through the middle of the 1977 model year. Chrysler failed to tell its customers of this problem after learning about it.

Acting Chairman Clanton and Commissioner Bailey do not believe the Commission should remedy Chrysler's failure to disclose the balancer chain problem. I disagree. Though the facts are open to reasonable dispute, I think there is reason to believe that Chrysler had a duty under the FTC Act to disclose the balancer chain problem to its customers. It is true that Chrysler moved to find a fix after discovering the problem and eventually landed upon one several months later. In my view, however, a manufacturer has a duty promptly to inform prospective purchasers of a serious defect affecting a substantial portion of a line of its vehicles as soon as it becomes aware of it,[2] whether or not it begins working on a future fix at the same time. Disclosure gives these customers—who will not benefit from any future fix—an opportunity to protect themselves against the defect by, for example, bargaining on price or other terms. There is reason to believe that Chrysler breached this duty to disclose in this case.

[2] The manufacturer may also be said legally to be aware of the problem, based upon information available to, or in the possession of, responsible corporate officials.

In addition, I believe a manufacturer has a duty to disclose material "use and care" information which will help owners solve or mitigate a serious defect and avoid substantial injury. An analysis by the Commission's Bureau of Consumer Protection indicates that consumers could have benefited from the information, known to Chrysler at the time, that the use of unleaded gas would eliminate or alleviate the balancer chain problem. Thus, there is reason to believe that Chrysler also breached this duty in this case.

Overall, the evidence indicates that consumers could have avoided or deferred substantial economic loss if they had been told about the balancer chain failure in time. Therefore, while I concur in this Consent Agreement as far as it goes, I must dissent from the Commission's decision to settle for less than appears justified.

Separate Statement of Commissioner Pertschuk

The consumer comments received strongly criticized the Commission's decision not to seek redress for Chrysler owners who have suffered millions of dollars in damages due to balancer chain failures in certain Chrysler imports. These comments only strengthen my previously expressed feeling that this decision is not in the best interests of consumers. They vividly express my dismay with the fact that the Commission, despite getting a helping hand from Chrysler, did not walk the full mile to protect consumers in this instance.

[FR Doc. 82-6171 Filed 3-5-82; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-940]

Community Development Block Grants: States' Program

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

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interim rule published in the **Federal Register** on November 20, 1981 (46 FR 57256) which established policies and procedures for State administration of Community Development Block Grants for nonentitlement areas. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.**

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for interim rule published November 20, 1981, at 46 FR 57256, is March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 5218, 451 7th Street, SW., Washington, D.C. 20410, Telephone No. (202) 755-6207. (This is not a toll-free number.)

Dated: March 3, 1982.

John J. Knapp,

General Counsel, Department of Housing and Urban Development.

[FR Doc. 82-6239 Filed 3-5-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 972-82]

Certification of Obligations; Immigration and Naturalization Service

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order designates the comptroller, Immigration and Naturalization Service, to certify obligations for the Service. He replaces the Assistant Commissioner, Administrative Division, Immigration and Naturalization Service in this capacity.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: James A. Kennedy, Acting Comptroller, Immigration and Naturalization Service, Room 6307, 425 I Street, NW., Washington, D.C. 20536 (202-633-3206).

SUPPLEMENTARY INFORMATION: This order amends 28 CFR 0.147 to designate the Comptroller of the Immigration and Naturalization Service as the official of the Service authorized to make the certifications required by 31 U.S.C. 200(c). The Assistant Commissioner, Administrative Division, Immigration

and Naturalization Service will no longer perform this function.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required because the rule relates solely to agency organization and management.

The rule will not have a significant economic impact on a substantial number of small entities since it relates solely to internal management and is exempt from the requirements of E.O. No. 12291 as set out under section 1(a)(3) thereof.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 31 U.S.C. 200(c), § 0.147 of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.147 Certification of obligations.

The following designated officials are authorized to make the certifications required by 31 U.S.C. 200(c): For the Federal Bureau of Investigation, the Assistant Director, Administrative Services Division; for the Bureau of Prisons, the Assistant Director for Planning and Development; for Federal Prison Industries, Inc., the Secretary; for the Immigration and Naturalization Service, the Comptroller; for the Drug Enforcement Administration, the Director of the Office of Administration and Management; for the Office of Justice Assistance, Research and Statistics, the Comptroller; and for all other organizational units of the Department (including United States Attorneys and United States Marshals), the Deputy Assistant Attorney General, Office of the Controller, Justice Management Division.

Dated: February 26, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-6232 Filed 3-5-82; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Discontinuance of Requirement That Arbitrators Furnish a Copy of the Award to the Federal Mediation and Conciliation Service

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: In order to reduce the number of submissions which arbitrators must number of documents which the agency must handle, maintain and make copies of, the requirement that arbitrators send a copy of their award to FMCS is deleted from agency regulations.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, 202/653-5305.

Dated: March 2, 1982.

Kenneth E. Moffett,

Director.

PART 1404—ARBITRATION SERVICES

Subpart C—Procedure for Arbitration Services

1. The requirement in 29 CFR 1404.15(c) that the arbitrator file a copy of the award with the FMCS Office of Arbitration Services is deleted, and paragraph (c) is revised to read as follows:

§ 1404.15 Decision and award.

* * * * *

(c) After an award has been submitted to the parties, the arbitrator is required to submit a Fee and Award Statement, form R-19 showing a breakdown of the fee and expense charges so that the Service may be in a position to review conformance with stated charges under § 1404.12(a). Filing the Statement within 15 days after rendering an award is required of all arbitrators. The Statements are not used for the purpose of compelling payment of fees.

* * * * *

2. The requirement in 29 CFR 1404.15(d) concerning the release of copies of arbitrator awards by FMCS is deleted in conformance with the discontinuance of the submission of these awards to the agency pursuant to paragraph (c) above. Accordingly, paragraph (d) is revised to read as follows:

* * * * *

(d) The Service encourages the publication of arbitration awards. However, the Service expects arbitrators it has nominated or appointed not to give publicity to awards they issue if objected to by one of the parties.

[FR Doc. 82-6237 Filed 3-5-82; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 209

Service Charges for Allotments of Pay to Savings Accounts of Federal Civilian Employees

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of Treasury is amending 31 CFR 209.8, the regulation governing the service charge for allotments of pay to savings accounts of civilian employees who are employed within the United States. The amendment increases the service charges, established in 1968 and unchanged from that date, to comply with the statutory requirement, that employing agencies be reimbursed by recipient financial organizations for the additional cost of sending allotments requested by employees. The amendment also substitutes a more appropriate statutory reference for the information that collected service charges are deposited into the Treasury as miscellaneous receipts unless the agency has statutory authority otherwise to dispose of the credit.

DATES: The new service charge rates apply to savings allotment deductions applicable to agency pay periods that commence on or after May 31, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John MacArthur, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Treasury Annex, Department of the Treasury, Washington, DC 20226 (202/566-8374).

SUPPLEMENTARY INFORMATION:

Classification

The Department of the Treasury has determined that this regulation will not cause a significant effect on the economy and will not result in a major increase in costs or prices for financial organizations, consumers, or government agencies. The Department, therefore, does not consider this regulation to be a major rule for the purpose of Executive Order 12291 (1981).

Background

Title 31 U.S. Code, section 492, requires that agencies be reimbursed for the additional cost of sending checks for

allotments of pay to savings accounts of Federal civilian employees, by the financial organizations to which these checks are sent. Service charges were established in 1968. They no longer adequately reimburse the Government for the cost of administering the savings allotment program. The revised service charges reflect the current additional cost to the Government for processing and mailing savings allotment checks to financial organizations.

A Notice of Proposed Rulemaking on the revised service charges was published in the **Federal Register** on May 22, 1981 (46 FR 27969). This Notice proposed amending 31 CFR Part 209 to increase the service charges that are currently assessed to financial organizations that accept allotments of pay from Federal civilian employees for credit to their savings accounts. Comments were invited during a period which was to end July 10, 1981. At the request of a trade association representing Federal credit unions, the comment period was extended to October 8, 1981, by a Notice to this effect published in the **Federal Register** on July 15, 1981. The extension was granted to allow this association additional time to present data in support of its opposition to the proposed increase. Prior to granting the extension the Department responded to a request from another trade association under the Freedom of Information Act for documents and memoranda that were supportive of the requirement to increase service charges and of the means by which the amount of the increase was determined.

The proposed service charges reflect increases in agency costs since 1968, the year the current rates were established. The portion of these original charges applicable to postage costs was increased to reflect increases in first class postage rates since 1968. To the remaining portion, representing agency costs to process payroll deductions and disbursing office costs to process checks, an index reflecting Federal salary increases since 1968 was applied.

The Department intends to review the service charges annually, taking into account changes in first class postage rates and changes in salaries as reflected by the aforementioned index. The goal of this review is to insure that service charges reflect agencies' costs in processing savings allotments. The revised service charge schedule applies to payroll deductions for Federal employees' savings accounts applicable to the first complete pay period that begins on or after May 31, 1982.

Comments on the proposed increase were received from industry trade associations, financial organizations and members of the public. One credit union trade association provided with its comments an analysis of a survey of credit unions relative to the proposed increase. Another trade association presented consolidated comments representing the views of ten trade and service organizations. Comments were also received from an association representing independent banks.

In addition, comments were received from 254 credit unions, 8 credit union leagues, and 315 individual credit union members, as well as from 3 savings and loan leagues, 6 savings and loan associations and 6 banks. In varying degree, all comments expressed opposition to the proposed increase.

Frequently mentioned was the contention that the proposed increase in service charges would disproportionally affect smaller credit unions that serve primarily Federal civilian employees. Some comments also indicated that this situation should cause the Department to reconsider its position that the proposed increase is not a major rule under Executive Order 12291, or that the proposal does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96–354).

The data and accompanying analysis submitted by the trade associations were carefully studied and evaluated, as were all comments received. The Department's conclusion, however, is that the facts and arguments presented in opposition to the proposed increase in service charges do not justify modification of the rule proposed.

With respect to small financial organizations, a typical observation was that small credit unions serving primarily Federal civilian employees rely heavily on savings allotments, and that the impact of the proposed increase is heaviest on these institutions. The Department agrees that it is reasonable to assume these types of financial organizations receive savings allotment deductions in amounts that represent a higher proportion of their total assets than do financial organizations not primarily serving Federal civilian employees. It obviously follows that the amount of service charges paid by financial organizations with higher proportions of federal employee customers would be higher.

In determining and assessing service charges, the Department does not have authority to categorize financial organizations selectively as to type, asset size, or field of membership (with respect to credit unions). The Secretary of the Treasury is required by 31 U.S.C. 492 to prescribe regulations under which employing agencies "shall be reimbursed for the additional cost of sending any additional check requested by * * * [an] employee by the financial organization to which such check is sent." 31 U.S.C. 492(b)(1).

The Department emphasizes that the proposed increase in service charges was not made in a capricious or arbitrary manner and that the advisability of conducting a formal economic impact study was carefully considered. The Department concluded, however, that the statute provides insufficient flexibility in discharging its obligation to increase these charges so as to recover current agency cost. The Office of Management and Budget did not object to this assessment in its review of the proposal prior to publication in the **Federal Register**. The Department, therefore, feels that the cost of conducting such a study cannot be justified. Because the increase in service charges flows directly from the statutory requirement, and because there is no practicable alternative to the proposed increase other than noncompliance with 31 U.S.C. 492(b), the Treasury Department is not required to perform an economic impact analysis.

Numerous comments contended that the service charge increases would discourage continued participation in the savings allotment program by many financial organizations. Also frequently mentioned was the contention that the Federal Government as an employer should absorb the costs associated with savings allotments as a fringe benefit for Federal civilian employees. The Department does not have data to indicate the extent, if any, of attrition by financial organizations that the increased charges might precipitate. However, these comments address the desirability of the policy reflected in 31 U.S.C. 492(b), a matter which is beyond the scope of this regulation project.

The Department does not share the view of those who questioned the validity of using the 1968 service charge rates as a base, and of the index that was subsequently applied to that base. The Department feels that the use of the original 1968 service charges as a base for updating these rates is justified. The charges were originally established as a result of cost estimates submitted by representative agencies and were generally accepted by the financial community. The Department feels that the original service charges represent a fair and reasonable representation of agency costs of administering the savings allotment program in 1968, and that, therefore, it is justified in considering these rates as a base for determining appropriate increases. The Department also notes that these service charge rates have been in effect for 13 years during which time costs for goods

and services have increased significantly.

The amounts of the new service charges were determined by postage rate increases and the application of an index measuring Federal salary increases since 1968. The Department believes that this approach is the most reasonable and cost effective means available, considering that data collected from Federal agencies indicates that labor costs comprise the overwhelming majority of the costs of processing savings allotments.

In summary, the Department's position is that the service charges must be increased in order to comply with the statutory requirement that agencies be reimbursed for their additional costs incident to the savings allotment program. In light of the above comments, the Department finds no reason to change the proposed service charge rates.

This amendment is proposed under the authority of Revised Statute 3620, as amended by Pub. L. 90–365, 82 Stat. 274 (31 U.S.C. 492).

PART 209—PAYMENT TO FINANCIAL ORGANIZATIONS FOR CREDIT TO ACCOUNTS OF EMPLOYEES AND BENEFICIARIES

For the reasons set out in the preamble, Part 209 of chapter II of Title 31 of the Code of Federal Regulations is amended as follows.

Accordingly, § 209.8 is amended by revising paragraphs (a)(1), (a)(2), and (b) as follows:

§ 209.8 Service charge.

* * * * *

(a) * * *

(1) Twelve (12) cents for each payroll deduction stated on the record which is to accompany the aggregate remittance for all administrative and payrolling costs in the agency); plus

(2) Twenty-seven (27) cents on each remittance as a single charge for the entire record accompanying the remittance, regardless of the number of payroll deductions listed (for all check preparation and mail preparation costs in the disbursing office, including postage).

(b) In accordance with R.S. Sec. 3617, as amended by Sec. 6, Pub. L. 91–375, 84 Stat. 783 (31 U.S.C. 484), the total service charge collected pursuant to this section shall be covered into the Treasury as miscellaneous receipts unless the agency has statutory authority otherwise to dispose of the credit.

W. E. Douglas,

Commissioner.

December 30, 1981.

[FR Doc 82-6103 Filed 3-5-82; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 81-071]

Drawbridge Operation Regulations; Little Potato Slough, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of two yacht clubs, two large marinas, and several mariners, the Coast Guard is changing the regulations governing the Highway 12 bridge over Little Potato Slough near Stockton, California, by requiring the bridge to open on signal 16 hours a day from May to October with four hours advance notice required at all other times. This action will meet the reasonable needs of navigation, improve vessel safety, and reduce marine fuel consumption.

EFFECTIVE DATE: This amendment becomes effective on March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Bridge Administrator, at (415) 556–8668.

Drafting Information

The principal persons involved in drafting this rule are: Rose E. Guerra, Bridge Administrator, and Lieutenant Commander W. A. Cassels, Project Attorney, District Legal Office, Twelfth Coast Guard District.

SUPPLEMENTARY INFORMATION: On December 10, 1981, the Coast Guard published a proposed rule (46 FR 60477) concerning this amendment. The Commander, Twelfth Coast Guard District, also published these proposals as a Public Notice 12–140 dated 14 December 1981. Interested persons were given until 25 January 1982 to submit comments. The comment period was extended ten days at the request of the California Resources Agency.

Discussion of Comments

Twenty-six comments were received. Twenty-two either agreed with the proposal or offered no objection. Four objected to the proposal or offered substitute regulations.

The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) asked the Coast Guard to consider impacts of increased vehicular delay and cost of operation. FHWA also stated that consideration should be given to providing a high level bridge which could result in substantial benefits to users of both forms of transportation.

One commenter wanted the period started earlier, one wanted the period shortened, and one thought that 9 to 12 hours of operation would be sufficient. The California Department of Boating and Waterways suggested that the proposal be implemented for a one year trial. Another commenter offered a substitute regulation which would be more restrictive than the existing regulation, and suggested that any increased costs of a regulation change be borne by those requesting the change. A group of landowners objected to the change and all increased access for boat traffic in the area. A nearby resident objected to the siren used at the bridge and any longer hours of operation which would increase the noise problem, however, he would not object to the proposal if the siren were removed.

The Coast Guard feels the additional openings which would occur at the Little Potato Slough Bridge would reduce the number of openings at the Highway 12 bridge over the Mokelumne River thus offsetting the delays to overland transportation, although there probably will be some slight increase in the total number of openings due to increasing waterway traffic. Both vehicular traffic and vessel traffic are increasing at a rate of about four percent each year in the project area (San Joaquin County). The Coast Guard has had meetings with Caltrans since April 1977 on replacement of the existing span with a high level fixed bridge. The Coast Guard advised the Project Development Team that if the existing swing span was continued in use or a new swing span constructed the present special operating regulation would probably be changed to require full time operation of the bridge. On 16 April 1980 Caltrans decided not to replace the existing bridge.

The comments concerning the period and times of operation were considered, but the regulation as proposed was determined to cover the period and times of peak demand.

The substitute regulation was not adopted since it did not meet the needs of navigation. The suggestion that increased costs be borne by the requestors was not adopted because the increased cost of operation will be offset by the fuel savings to the marine public.

The objection to the siren was outside the authority of the Coast Guard as the siren is not required by Coast Guard regulation. The California Department of Transportation is re-evaluating the need for the siren at the bridge and will try to reduce the noise if it remains.

Because of the increased demand of navigation, the Coast Guard is implementing the regulation at this time. However, the Coast Guard will review the regulation after two seasons of operation to determine if the regulation should be modified.

Regulatory Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule.

In addition, the regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, the impact of this regulation is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.714(g) to read as follows:

§ 117.714 San Joaquin River and its tributaries, Calif.

* * * * *

(g) Little Potato Slough. State of California highway bridge at Terminous.

(1) From May 1 through October 31, the draw shall open on signal from 6 a.m. to 10 p.m.

(2) At all other times the draw shall open on signal if at least 4 hours notice is given to the Rio Vista Bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 6(g)(2), Pub. L. 89–670, 80 Stat. 931, at 937, as amended (49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3)))

Dated: February 18, 1982.

J. P. Stewart,

Vice Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District.

[FR Doc. 82–6209 Filed 3–5–82; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Mobile Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed mobile home unit loans, lot loans, and combination mobile home unit and lot loans. In addition, the maximum interest rates applicable to home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for mobile home loans guaranteed by the VA as he finds the mobile home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional mobile home loans, and the decrease of other short-term and long-term interest rates—have shown that the mobile home capital markets have improved. It is now possible to decrease the interest rates on mobile home unit loans, lot loans, and combination mobile home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), Title 38, United States Code, to establish maximum interest rates for home and condominium loans and for loans for home improvement purposes. Market indicators similarly favor reductions in the maximum interest rates for these types of loans. These lower interest rates should assist more veterans in the purchase of homes and condominiums or to obtain improvement loans because of the decrease in the monthly loan payments for principal and interest.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United

States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), and 36.4311 (a), (b) and 36.4503(a), Title 38, Code of Federal Regulations.

Approved: March 1, 1982.

By direction of the Administrator:

Dorothy L. Starbuck,

Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f)).

(1) Effective March 2, 1982, 17½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective March 2, 1982, 17 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective March 2, 1982, 17 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

2. In § 36.4311, paragraphs (a) and (b) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 15½ per centum per annum, effective March 2, 1982, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 15½ per centum per annum on the unpaid principal balance.

(38 U.S.C. 1803(c)(1))

(b) Effective March 2, 1982, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements of repairs which is guaranteed or insured wholly or in part on or after such date may not exceed 16 per centum per annum on the unpaid principal balance.

(38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 15½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 16 percent per annum.

(38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 82-6234 Filed 3-5-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[ER-FRL-1953-2a]

Categorical Exclusion From EPA Procedures Implementing the National Environmental Policy Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This document amends EPA's procedures implementing the National Environmental Policy Act (NEPA). It includes procedures for granting categorical exclusions from the substantive environmental review requirements of 40 CFR Part 6 for EPA actions subject to NEPA. This action is taken to comply with the Council on Environmental Quality's (CEQ) regulations implementing the procedural provisions of NEPA. The intended effect of this action is to reduce the regulatory requirements on recipients of EPA grants for the planning and construction of wastewater treatment facilities while maintaining the integrity of EPA's environmental review responsibilities. Technical changes will be made during the comment period to make the procedures consistent with Pub L. 97-117 (Municipal Wastewater Treatment Construction Grant Amendments of 1981) and related changes to 40 CFR Part 35.

DATES: Effective date: Interim final rule effective March 8, 1982.

Comment date: Comments must be received on or before April 7, 1982.

ADDRESS: Comments may be mailed to the Office of Federal Activities, A-104, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460; Attention: Richard Otis.

FOR FURTHER INFORMATION CONTACT: John Gustafson, John Gerba, or Richard Otis, Office of Federal Activities, (202) 755-8835.

SUPPLEMENTARY INFORMATION:

Classification

The Office of Federal Activities has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment productivity, innovation or on the ability of a United States based enterprise to compete with Foreign-based enterprises in domestic or export markets.

The purpose and effect of this amendment is to reduce unnecessary regulatory burdens on municipalities and other recipients of wastewater treatment facility construction grants. No increased paperwork burdens are imposed by the amendment.

This amendment (will be) was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Document Control Office, EPA, Room 107, 401 M Street, SW., Washington, D.C. 20460.

Because this amendment is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Office of Federal Activities (OFA) within thirty (30) calendar days of the effective date.

Regulatory Analysis

Under E.O. 12291, EPA must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Since EPA believes that this amendment is not "major," it is not subject to such an analysis. However, this amendment will significantly reduce the regulatory burden on recipients of wastewater treatment facility construction grants.

Action Being Undertaken

EPA is amending its procedures for implementing CEQ's regulations (40 CFR 1508.4) authorized by NEPA to (1) make several technical changes; (2) be consistent with the revised regulations for EPA's Construction Grants Program (40 CFR Part 35); and (3) include categorical exclusions as provided in the CEQ regulations. Technical revisions include changing the name of the Office of Environmental Review to the Office of Federal Activities and correcting references in § 6.600 to the New Source National Pollution Discharge Elimination System consolidated permit program regulations (40 CFR Part 122–125). Alterations to the public participation process are made to be consistent with the revised Construction Grants regulations. Amendments incorporating the categorical exclusion process will exclude specified categories of EPA actions from the substantive environmental review requirements of 40 CFR Part 6.

Definitions

Categorical Exclusion—In part, CEQ's NEPA regulations state that: "Categorical exclusion means a category of actions which does not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency * * * and for which, therefore, neither an environmental assessment nor an environmental impact statement is required." EPA is amending its implementing procedures (40 CFR Part 6) to provide descriptions of the categories of actions within the Construction Grants Program that EPA has determined do not have a significant effect upon the human environment. It also provides the procedures and conditions for granting an exclusion and for identifying additional categories of excluded actions.

It is EPA's intent to apply this exclusion process to actions which, through Agency, State, and grantee experience, have not required an environmental impact statement as defined in 40 CFR 6.506 and which have not generally required the application of procedures described in 40 CFR Subpart C, "Coordination With Other Environmental Review and Consultation Requirements." Categorical exclusions are intended to apply to actions that are small scale, minor, and routine.

Minor Rehabilitation, Minor Expansion, Replacement, and Minor Upgrading—In addition to avoiding primary effects, certain actions eligible for categorical exclusions within the Construction Grants Program are described as being "minor" to avoid the negative secondary environmental effects of induced new development. The intent is to ensure that categorical exclusions assist the Agency's efforts to achieve direct environmental improvements from the Construction Grants Program and not to fund or unintentionally subsidize new development.

Excluded actions involving replacement, minor rehabilitation, minor expansion, or minor upgrading of facilities should not result in increasing the overall design capacity of treatment works, nor the pipe size of interceptors or collector sewers.

Therefore, actions which may result in new community development shall not receive categorical exclusions except for infilling largely built-up areas and where new development is insignificant. Allowing some new development to occur without an environmental review recognizes that there is a trade-off between the potential negative secondary effects of the development and the benefits provided by granting categorical exclusions. It also recognizes that for these actions the possible negative secondary effects are outweighed by the primary benefits. Incidental new development unrelated to the action should not disqualify the action from receiving an exclusion.

Consistency—In granting an exclusion, § 6.506(c) uses a consistency test to determine if an action is eligible for exclusion under one of the categories in § 6.506(c)(1). The consistency test requires the characteristics of the likely alternatives (including but not limited to treatment technology, location, capacity, and possible secondary effects) which may be considered in the planning process or the potential action if facilities planning has begun, to be substantially similar to or described by the characteristics of the actions outlined in a category.

Review Required for Application—The review included as part of the request for an exclusion described in § 6.507(a) shall include a description of the characteristics of the likely alternatives which may be considered in the planning process or the potential action if facility planning has begun. It should also state that the action under consideration is consistent with a category of actions eligible for exclusion and should identify the category. If the environmental review process has not begun, information required for this review should come from existing sources. If such information is not available before the environmental review process begins the action shall not be granted an exclusion at that time even if the action appears consistent with actions described by a category eligible for exclusion. But, information generated during the development of an Environmental Information Document (EID) or an environmental assessment can be used in producing this review.

Timing—Categorical exclusions may be granted for actions before the environmental review process has begun as well as during the process. If, in preparing an EID or environmental assessment, the information generated clearly indicates that the project meets the requirements for an exclusion, the responsible official may grant an exclusion. EPA may revoke an exclusion at any time as described in § 6.107(e).

Response to Comments

Comments from EPA headquarters and regional offices generated during two or more review periods have been addressed or incorporated into this amendment. Comments from major constituent groups and delegated states have also been addressed or incorporated. Several significant comments are discussed below.

Public Review Period—A thirty day public review period had been originally proposed where comments on a publicly available proposed notice of categorical exclusion could be addressed to the official responsible for granting an exclusion. Comments on the notice were intended to assist the responsible official in determining if any serious local or environmental issues exist or if Federal, State, or local laws would be violated by granting an exclusion. After receiving comments from several parties on this topic, and with the responsible official's ability to revoke an exclusion after it is granted (as provided in § 6.107(e)) the regulation development work group concluded that the comment period was unnecessary.

Notice of Categorical Exclusion—In order to further reduce paperwork, the preparation and public issuance of a "notice of categorical exclusion" was removed from the amendment. Instead, the responsible official is required to

review the request for an exclusion and document the resulting decision.

New Categories—The work group considered various alternative processes for creating additional categories of excluded actions. This interim final rule will use EPA's minor regulation development process to create new categories. New categories will be published in the **Federal Register** with a subsequent 30 day comment period because CEQ's regulations require public notice and a comment period.

Suggestions are invited from EPA Regional Offices, State governments, and interested parties for new categories of minor construction grants actions that may be eligible for exclusion and which are not already identified in this amendment. Comments are also invited on the process for creating new categories.

Anne M. Gorsuch,

Administrator.

March 1, 1982.

PART 6—IMPLEMENTATION OF PROCEDURES ON THE NATIONAL ENVIRONMENTAL POLICY ACT

For the reasons set out in the preamble, 40 CFR Part 6 is amended as follows:

1. The authority for Part 6 reads as follows:

Authority: Sec. 101, 102 and 103 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); also, the Council on Environmental Quality Regulations promulgated November 29, 1978 (40 CFR Part 1500).

§§ 6.102 and 6.103 [Amended]

2. Sections 6.102(c) and 6.103(a)(1)(A)(5) are amended by removing the words "Office of Environmental Review, (OER)" and inserting, in their place, the words "Office of Federal Activities, (OFA)."

3. Section 6.103(a)(2) is amended by removing the words "Office of Environmental Review" and inserting, in their place, the words "Office of Federal Activities."

§§ 6.103, 6.104, 6.106, 6.400, 6.401, 6.402, 6.404 [Amended]

4. Amend this part by removing "OER" and inserting in its place "OFA" in the following places:

(a) 40 CFR 6.103(a)(3)(iii) and (iv)
(b) 40 CFR 6.104
(c) 40 CFR 6.106(a)
(d) 40 CFR 6.106(b)(1), (2), and (3)
(e) 40 CFR 6.400(b), (d), and (e)
(f) 40 CFR 6.401(a), (c), (d), and (e)
(g) 40 CFR 6.402(b)
(h) 40 CFR 6.404(b)

5. Section 6.103 is amended by revising paragraph (a)(1)(iii); deleting § 6.103(a)(1)(iii)(A) (1), (2), and (3); and renumbering § 6.103(a)(1)(iii)(A) (4), (5), and (6) as § 6.103(a)(1) (iv), (v), and (vi) to read as follows:

§ 6.103 Responsibilities.

(a) * * *

(1) * * *

(iii) When an EIS is not prepared, assuring documentation of the decision to grant a categorical exclusion, or assuring that findings of no significant impact (FNSIs) and environmental assessments are prepared and distributed for those actions requiring them.

(iv) Consulting with appropriate officials responsible for other environmental law set forth in Subpart C.

(v) Consulting with the Office of Federal Activities (OFA) on actions involving unresolved conflicts concerning this part or other Federal agencies.

(vi) When required, assuring that public participation requirements are met.

* * * * *

6. Section 6.105 is amended by revising paragraph (b) to read as follows:

§ 6.105 Synopsis of EIS procedures.

* * * * *

(b) *Environmental information documents.* Environmental information documents must be prepared by applicants, grantees, or permittees and submitted to EPA as required in Subparts E, F, G, H, and I. Environmental information documents will be of sufficient scope to enable the responsible official to prepare an environmental assessment as described under § 6.105(d) of this part and Subparts E through I. Environmental information documents will not have to be issued for actions where a categorical exclusion has been granted.

* * * * *

7. Subpart A of this part is amended by adding § 6.107 to read as follows:

§ 6.107 Categorical exclusions.

(a) *General.* Categories of actions which do not individually, cumulatively over time, or in conjunction with other Federal, State, local, or private actions have a significant effect on the quality of the human environment and which have been identified as having no such effect in the requirements set forth in Subpart E, may be exempted from the substantive environmental review requirements of this part. Generally, environmental information documents and environmental assessments or environmental impact statements will not be required for excluded actions.

(b) *Determination.* For each excluded action, the responsible official shall determine whether an action is eligible for a categorical exclusion as established in Subpart E. The determination shall be made as early as possible following the receipt of an application or notification that an application will be filed. The responsible official shall document the decision to issue or deny an exclusion. The documentation shall include the application, a brief description of the proposed action, and a brief statement of how the action meets the criteria for a categorical exclusion.

(c) *Consultation.* The documentation outlined in § 6.107(b) of this part shall be made available to the public and a copy be sent to The Office of Federal Activities.

(d) *Extraordinary circumstances.* If undertaking a normally excluded action may violate Federal, State, or local environmental laws or may involve serious local or environmental issues, the full environmental review procedures of this part must be followed. The responsible official shall ensure that actions requiring environmental assessment under this part are not processed as categorical exclusions.

(e) *Revocation.* The responsible official shall revoke a categorical exclusion and shall require a full environmental review if subsequent to the granting of an exclusion, the responsible official determines that: (1) The proposed action no longer meets the requirements for a categorical exclusion due to changes in the proposed action; or (2) determines from new evidence that serious local or environmental issues exist; or (3) that Federal, State, or local laws are being or may be violated.

8. Section 6.400 is amended by adding paragraph (f) to read as follows:

§ 6.400 [Amended]

* * * * *

(f) *Categorical Exclusions.* The responsible official shall make the documentation described in § 6.107(b) of this part available to the public and shall send a copy to the Office of Federal Activities.

9. Section 6.502 is amended by revising paragraph (a) introductory text to read as follows:

§ 6.502 Applicability.

(a) *Administrative actions covered.* This subpart applies to administrative

actions listed below (except as provided in § 6.503 of this part):

* * * * *

10. Section 6.504 is amended by revising paragraph (a), deleting paragraph (b), and renumbering subsequent paragraphs (c) and (d) as (b) and (c) to read as follows:

§ 6.504 Public participation.

(a) *General.* It is EPA policy that public participation be achieved during the environmental review process as deemed appropriate by the responsible offical under 40 CFR Part 25 and implementing provisions of Part 35, Subpart E of this chapter. Compliance with Part 25 and implementing provisions constitutes compliance with public participation requirements under this part.

(b) Public participation activities undertaken in connection with the environmental review process should be coordinated with the facility planning public participation program wherever possible.

(c) The responsible official may institute such additional NEPA-related public participation procedures as he deems necessary during the environmental review process.

11. Section 6.505 is revised to read as follows:

§ 6.505 Limitations on actions during the environmental review process.

No administrative action under § 6.502(a) shall be taken until the environmental review process has been completed except as provided under § 6.106, § 6.107 and § 6.503 of this part. The responsible official shall ensure compliance in accordance with 40 CFR 1506.1 and Subparts A, C, and D of this part, and all policies, guidance and regulations adopted to implement the requirements under 42 U.S.C. 7616 of the Clean Air Act.

12. Section 6.506 is amended by revising paragraph (a) introductory text, removing paragraph (c), and adding a new paragraph (c) to read as follows:

§ 6.506 Criteria for preparing EISs and granting categorical exclusions.

(a) *EISs.* The responsible official shall assure that an EIS will be issued when he determines that any of the following conditions exist:

* * * * *

(b) * * *

(c) *Categorical Exclusions.* Except as provided in § 6.107(d), the responsible official shall determine and document as provided in § 6.107(b) and § 6.507(a) that an action is consistent with the categories eligible for exclusion identified in § 6.506(c)(1). The responsible official shall ensure that actions consistent with the categories listed in § 6.506(c)(1) but requiring an environmental assessment under § 6.506(c)(2) are not granted categorical exclusions.

(1) Categories of actions eligible for exclusion. For this Subpart, actions consistent with the following categories are eligible for a categorical exclusion:

(i) Actions for which the facilities planning is solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or towards the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility. Such actions include but are not limited to infiltration and inflow analyses, sewer system evaluation studies, replacement of existing mechanical equipment or structures, and the construction of new small on-site structures.

(ii) Actions in sewered communities of less than 3,500 persons which are for minor upgrading and minor expansion of existing treatment works. This category does not include actions that directly or indirectly involve the extension of new collection systems funded with Federal or other sources of funds.

(iii) Actions in unsewered communities of less than 3,500 persons where onsite or other alternative technologies are proposed.

(iv) Other actions developed in accordance with § 6.506(c)(3).

(2) Criteria for not granting a categorical exclusion. Notwithstanding the provisions of § 6.506(c)(1), the responsible official shall ensure that an adequate environmental information document and environmental assessment are prepared for actions that meet any of the following criteria. An action, therefore, that meets any of the following criteria shall not be granted a categorical exclusion.

(i) The facilities to be provided will create a new discharge to surface or ground waters.

(ii) The facilities will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters.

(iii) The facilities would provide capacity to serve a population 20% greater than the existing population.

(iv) The action is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other Federal, State, local, or private actions.

(v) The action is known or expected to directly or indirectly affect sensitive environmental resources or areas, such as floodplains, wetlands, prime or unique agricultural lands, aquifer recharge zones, archaeological and historic sites, endangered or threatened species, or other areas identified in guidance issued by the OFA.

(vi) The action is known or expected not to be cost-effective or to cause significant public controversy.

(3) Developing new categories of excluded actions. The responsible official or other interested parties may request that a new category of excluded actions be created, or that an existing category be amended or deleted. The request shall be made in writing to the Director, OFA and shall contain adequate information to support the request. Under the direction of OFA, proposed new categories shall be developed through EPA's "non-major" rule-making process (E.O. 12291), including publication as an interim final rule in the **Federal Register** and a subsequent thirty (30) day public comment period. The following shall be considered in evaluating proposals for new categories:

(i) Actions in the proposed category should seldom result in the effects identified in § 6.506(c)(2).

(ii) Based upon previous environmental reviews of similar actions, the proposed category of actions would seldom require the preparation of an EIS.

(iii) Whether information adequate to determine if a potential action is consistent with the proposed category will normally be available when needed.

13. Section 6.507 is amended by revising paragraph (a) to read as follows:

§ 6.507 Environmental review process.

* * * * *

(a) *Award of a facilities planning grant (Step 1).* Prior to award of Step 1 assistance, or within no more than 30 days thereafter, EPA shall review, or request that the State review, if the facilities plan review is delegated under § 205(g) of the Clean Water Act, the likely project alternatives in the potential action and the existence of environmentally sensitive areas in the facilities planning area, including those identified in § 6.506(c)(2)(v) of this Subpart. The responsible official shall use this review and any additional analysis he may deem necessary to determine whether the action is eligible for a categorical exclusion from the substantive environmental review requirements of this part. This review is intended to be brief and concise, drawing on existing information and

knowledge of EPA, State agencies, regional planning agencies, water quality management agencies, and grantees. If a categorical exclusion is granted, the grantee will not be required to prepare a formal environmental information document and environmental assessment during facilities planning. This review should also be used to determine the scope of the environmental information document prepared by the grantee when an action does not meet the requirements for a categorical exclusion. It should also be used to make an early determination of the need for an EIS. Whenever possible, this initial review should be discussed at the first conference held with the potential grantee.

* * * * *

14. Section 6.508 is amended by revising paragraph (a) (1) and (2), and paragraph (b) to read as follows:

§ 6.508 Limits on delegation to States.

(a) * * *

(1) The determination of whether or not to prepare an EIS shall be solely that of EPA. EPA shall consider a State's recommendations, but the ultimate decision under NEPA cannot be delegated.

(2) Categorical exclusions, findings of no significant impact and the environmental assessment shall be approved, finalized and issued by EPA.

(3) * * *

(b) *Elimination of duplication.* The responsible official shall assure that maximum efforts are undertaken to minimize duplication within the limits described under § 6.506 and § 6.507(a) of this part. In carrying out requirements under this subpart, maximum consideration shall be given to eliminating duplication in accordance with 40 CFR 1506.2. Where there are State or local procedures comparable to NEPA, EPA should enter into Memoranda of Understanding with a State concerning workload distribution and responsibilities for implementing the environmental review and facilities planning process.

15. Section 6.600 is amended by revising paragraph (b) to read as follows:

§ 6.600 Purpose.

* * * * *

(b) *Permit regulations.* All references in this subpart to the "permit regulations" shall mean Parts 122 and 124 of Title 40 of the Code of Federal Regulations relating to the NPDES program.

* * * * *

16. Section 6.601 is amended by revising paragraph (a) to read as follows:

§ 6.601 Definitions.

(a) The term "administrative action" for the sake of this subpart means the issuance by EPA of an NPDES permit to discharge as a new source, pursuant to 40 CFR 124.15.

* * * * *

17. Section 6.602 is amended by revising paragraph (b) to read as follows:

§ 6.602 Applicability.

* * * * *

(b) *New Source Determination.* An NPDES permittee must be determined a "new source" before these procedures apply. New source determinations will be undertaken pursuant to the provisions of the permit regulations under 40 CFR 122.66 (a) and (b) and 122.53(h)

* * * * *

18. Section 6.603 is revised to read as follows:

§ 6.603 Limitations on actions during environmental review process.

The processing and review of an applicant's NPDES permit application shall proceed concurrently with the procedures within this subpart. Actions undertaken by the applicant or EPA shall be performed consistent with the requirements of 40 CFR 122.66(c).

19. Section 6.604 is amended by revising paragraph (h) to read as follows:

§ 6.604 Environmental review process.

* * * * *

(h) *Documents for the administrative record.* Pursuant to 40 CFR 124.9(b)(6) and 124.18(b)(5) any environmental assessment, FNSI EIS, or supplement to an EIS shall be made a part of the administrative record related to permit issuance.

20. Section 6.606 is amended by revising paragraph (a) to read as follows:

§ 6.606 General.

At the time of permit award, the responsible official shall prepare a record of decision in those cases where a final EIS was issued in accordance with 40 CFR 1505.2 and pursuant to the provisions of the permit regulations under 40 CFR 124.15 and 124.18(b)(5). The record of decision shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable.

* * * * *

21. Section 6.607 is amended to read as follows:

§ 6.607 Monitoring.

In accordance with 40 CFR 1505.3 and pursuant to 40 CFR 122.66(c) and 122.10 the responsible official shall ensure that there is adequate monitoring of compliance with all NEPA related requirements contained in the permit.

[FR Doc. 82-6165 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-37-M

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40 CFR Part 6

[ER-FRL-1953-2b]

Segmentation Consultation Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This document revises EPA's procedures implementing the National Environmental Policy Act (40 CFR Part 6) by removing the Council on Environmental Quality (CEQ) from the consultation process on requests to segment wastewater treatment facility construction grant projects and by making several other technical changes.

DATES: Interim final rule effective March 8, 1982. Comments must be received on or before April 7, 1982.

ADDRESSES: Comments may be mailed to the Office of Federal Activities, A-104, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460; Attention: Richard Otis.

FOR FURTHER INFORMATION CONTACT: John Gustafson or Richard Otis, Office of Federal Activities; (202) 755-8835.

SUPPLEMENTARY INFORMATION: *Classification:* The Office of Federal Activities has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprise to compete with Foreign-based enterprise in domestic or export markets.

The purpose and effect of this revision is to reduce unnecessary regulatory burdens on municipalities and other recipients of EPA grants for planning and constructing wastewater treatment

facilities. No paperwork burdens are imposed by the amendment.

This revision (will be) was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Document Control Office, EPA, Room 107, 401 M Street, S.W., Washington, D.C. 20460.

Because this revision is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Office of Federal Activities (OFA) within thirty (30) calendar days of the effective date.

Regulatory Analysis: Under E.O. 12291, EPA must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Since EPA believes that this revision is not "major," it is not subject to such an analysis.

Action Being Undertaken

This revision is being made in response to a request from CEQ and after EPA and CEQ determined that the consulting process for approving the segmentation of wastewater treatment facility construction projects now represents a noncontroversial routine action

The segmentation process as outlined in 40 CFR 6.503 allows EPA to award a Step 2 grant for facilities design or a Step 3 grant for construction of a discrete segment of a project before the environmental review for the project as a whole is complete. EPA is currently required to consult with CEQ before awarding grants under this procedure. This revision removes CEQ from the consultation process and also makes several minor technical changes.

The Office of Federal Activities (OFA) is responsible for handling these segmentation requests. Examples include: Award of a Step 2 grant for preparation of plans and specifications for a large treatment plant when the only unresolved issue is the site for final effluent or sludge disposal; and award of a Step 3 grant for construction of collectors and an interceptor to transport flows to an existing plant proposed for expansion from an area of failing septic tanks affecting a public water supply.

OFA will continue to review requests under the procedures currently identified in § 6.503 of this part. In reviewing a request either through the regional office from a delegated State or directly from a regional office in the case of a nondelegated State, OFA will consult with the Office of Water and return its finding to the originating EPA regional office.

Anne M. Gorsuch,

Administrator.

March 1, 1982.

PART 6—IMPLEMENTATION OF PROCEDURES ON THE NATIONAL ENVIRONMENTAL POLICY ACT

For the reasons set out in the preamble, 40 CFR 6.503 is revised to read as follows:

§ 6.503 Consultation during the environmental review process.

When there are overriding considerations of costs or impaired program effectiveness, the responsible official may award a Step 2 or Step 3 grant for a discrete segment of the project plans or construction before the environmental review is completed. The segmented portion of the project must be noncontroversial, necessary to correct water quality or other immediate environmental problems, and cannot, by its completion, foreclose any reasonable options being considered in the environmental review. If a project is segmented the entire project shall be evaluated to determine if an EIS is required. In applying the criteria to determine if an EIS is required, regional EIS preparation staff shall be consulted. In no case may these types of grant assistance for Step 2 or Step 3 projects be awarded unless the OFA has been consulted, an FNSI has been issued on the segments permitted to proceed at least 30 days prior to grant award, and the grant award contains a specific agreement prohibiting action on the segment of planning or construction for which the environmental review is not complete. The Director, OFA is responsible for consulting with the Assistant Administrator for Water.

[FR Doc. 82-6168 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-37-M

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40 CFR Part 52

[A-4-FRL-2050-6]

Approval and Promulgation of Implementation Plans; Kentucky; Jefferson County Regulation for Existing Hot Air Aluminum Atomization Processes

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA today approves a State Implementation Plan (SIP) revision submitted by the Kentucky Department for Natural Resources and Environmental Protection. The SIP revision is Jefferson County's Regulation for Existing Hot Air Aluminum Atomization Processes and is recognized by EPA as part of Appendix N to the Kentucky SIP. The regulation relaxes the particulate limits presently being met by Units #1 and #2 at the Reynolds Metals Company Plant #3 in Louisville, Kentucky.

DATE: This action will be effective on May 7, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

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

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

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

Library, Environmental Protection Agency, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365; or

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2 Ft. Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Programs Branch, EPA Region IV at the above address or call (404) 881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: The Kentucky SIP revision being approved herein was subjected to public hearing on July 16, 1980 in Louisville, Kentucky (Jefferson County). Jefferson County Regulation 6.28, Standard of Performance for Existing Hot Air Aluminum Atomization Processes was subsequently adopted by the Jefferson County Board on March 18, 1981.

Regulation 6.28 establishes standards for particulate matter emissions. Section 3 of the regulation states that:

> No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases which may contain particulate matter which:
>
> (a) Is equal to or greater than 20 percent opacity; or,
>
> (b) Is in excess of 13.76 pounds per ton of aluminum powder atomized.

The Air Pollution Control District has certified in a letter dated December 16, 1981, that the test methods for

determining source compliance with Regulation 6–28 are EPA test methods 1 through 5 as necessary.

Implementation of this regulation will allow the Reynolds Metals Company to discontinue use of the scrubber presently used at Unit #1 and Unit #2. The industry has presented information which strongly implicates the scrubbers as the major cause for the regularity of hazardous explosions which has occurred since the scrubbers were installed. The units will in the future, be controlled by cyclones followed by multiclone collectors. This is the control process that was used prior to the installation of the venturi scrubbers in 1974 and 1975. Prior to approval of Regulation 6.28, Units #1 and #2 were subject to Jefferson County Regulation 6.09. Regulation 6.09 required that the units meet an allowable emission limit of 2.38 lbs/hr, while Regulation 6.28 requires the units to comply with an allowable emission limit of 8.6 lbs/hr.

Approval of the SIP revision will have a minor effect on air quality in Louisville, and will not adversely affect Kentucky's reasonable further progress (RFP) toward attainment of the TSP standard.

The CRSTER model was used to determine ambient air quality impact with and without the scrubbers. The modelling predicts lower maximum 24-hour concentrations for the proposed allowable emissions, using the cyclones and the multiclones without the scrubbers, when compared to the present allowable emissions with the scrubbers. This is because the wet scrubber emissions exit from low horizontal stacks (height=5.5 meters), while the emissions from the multiclones exit from taller vertical stacks (height=8.5 meters).

The modelling also indicates that the annual mean concentration using the proposed allowables provides an overall improvement in air quality when compared to the present allowable emission limits.

There could be a decline in air quality when comparing the proposed allowable emissions to the present actual emissions from the scrubbers. This is because the actual emissions from the scrubbers are less than the actual emissions from the multiclones. But because this increase in emissions will not interfere with reasonable further progress in the nonattainment area, the revision is approvable.

Action: Based on the foregoing, EPA today approves Kentucky's SIP revision which revises Appendix N of the State plan to include Jefferson County Regulations 6.28, Standard of Performance for Existing Hot Air Aluminum Atomization Processes. EPA has chosen to take final **Federal Register** action on this revision, foregoing the proposal process. This is done because the revision affects only one source and imposes no added restrictions; in fact, the revision responds to a request from the source.

The public should be advised that this action will be effective May 7, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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 approves state actions. It imposes no new requirements. In addition, this action only applies to one facility.

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

Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on Juy 1, 1981.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart S—Kentucky

In § 52.920, paragraph (c) is amended by adding subparagraph (28) as follows:

§ 52.920 Identification of plan.

* * * * *

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

* * * * *

(28) Addition to Appendix N of Jefferson County Regulation 6.28, Standard of Performance for Existing Hot Air Aluminium Atomization Processes, submitted on May 18, 1981, by the Kentucky Department for Natural Resources and Environmental Protection.

[FR Doc. 82-6169 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-9-FRL-2056-2]

Approval and Promulgation Implementation Plans; Nevada State Implementation Plan, Maintenance-of-Pay Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA announces its approval of a State Implementation Plan (SIP) revision which the Nevada Department of Conservation and Natural Resources has submitted pursuant to the requirements of the Clean Air Act. The revision provides that a source may not temporarily reduce the pay of an employee by reason of the use of a supplemental or intermittent or other dispersion dependent control system to meet requirements of an order under section 113(d) or section 119 of the Clean Air Act. This type of maintenance-of-pay provision is required by section 110(a)(6) of the Clean Air Act. This action will be effective 60 days from the date of this notice unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective May 7, 1982.

ADDRESSES: Written comments should be addressed to James Hanson of EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street S.W., Room 2404, Washington, D.C. 20460;

Library, Office of the Federal Register 100 "L" Street, N.W., Room 8401, Washington, D.C. 20408;

Nevada Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: James Hanson at EPA Region 9 (address above) or call (415) 974–8038.

SUPPLEMENTARY INFORMATION: On November 17, 1981, the State of Nevada submitted as an SIP revision an addition to Article 14 of the State of Nevada Air Quality Regulations enacted to provide that a worker's pay would not be temporarily reduced when a source used a dispersion-dependent control system to meet the requirements of an order under section 113(d) or section 119 of the Clean Air Act. The regulation satisfies the requirement for such a provision contained in section 110(a)(6) of the Clean Air Act. The regulation submitted is Article 14.1 of the State of Nevada Air Quality Regulations, and is reproduced in its entirety as follows:

"Article 14.1

If the owner or operator of a source uses a supplemental or intermittent control system (or other control system designed to vary with atmospheric conditions) for the purpose of meeting the requirements of an order issued pursuant to section 113(d) or 119 (relating to primary nonferrous smelters) in the Act, he may not temporarily reduce the pay of any of his employees because of his use of the system."

EPA is today approving this revision to the Nevada SIP. This is being done without prior proposal because the change is a requirement of the Clean Air Act and is not controversial. The public should be advised that this approval action will be effective May 7, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

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 approves the State action. It imposes no new requirements.

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

Under section 307(b)(1) of the 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 from today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Incorporation by reference of the State Implementation Plan of the State of Nevada was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 113, 119, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7413, 7419 and 7601(a)))

Dated: March 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart DD of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart DD—Nevada

Section 52.1470, paragraph (c) is amended by adding subparagraph (24) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(24) The following amendments to the plan were submitted on November 17, 1981 by the Governor.

(i) Amendments to the Nevada Air Quality Regulations: Article 14.1.

* * * * *

[FR Doc. 82-6167 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2042-3]

Revision to the Ohio State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to announce final rulemaking on a site-specific revision to the Ohio State Implementation Plan (SIP) for Republic Steel Corporation's Youngstown, Ohio, Sinter Plant. We are taking this action at the request of the State of Ohio. Approval of these amendments will permit Republic Steel Corporation to operate the Sinter Plant previously closed down by another company.

EFFECTIVE DATE: This action is effective April 7, 1982.

ADDRESSES: Copies of the SIP revision and supplementary information are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

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

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

FOR FURTHER INFORMATION CONTACT: Carol Wilmowski, Docket Clerk, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2034.

SUPPLEMENTARY INFORMATION: On October 26, 1981, (46 FR 52138) U.S. EPA proposed approval of a site-specific revision to the Ohio SIP for particulate matter which establishes emission limitations for Republic Steel Corporation's Youngstown, Ohio, Sinter Plant. In that notice U.S. EPA described the regulatory and statutory framework in which this rulemaking occurs and requested comments from interested parties. No comments have been received. Therefore, U.S. EPA approves this revision. Under the variance permit which is being approved, particulate emissions from the windbox end of Republic's sinter plant will be limited to a concentration of 0.042 grains per dry standard cubic feet of air (gr/dscf); the discharge end will be limited to 0.010 gr/dscf. Overall emissions from the windbox and discharge ends of this sinter plant may not exceed 100 pounds per hour. In addition, local hoods will collect emissions from the cooler and material transfer points following the breaker. These local hoods will be ducted to the same baghouse serving the discharge end. The revised SIP includes a schedule for ultimate compliance by December 31, 1982, with the limit on outlet concentrations listed above.

Based upon the material submitted by the Ohio Environmental Protection Agency (OEPA) and Republic, U.S. EPA determined that the limitation described above represents the application of RACT for this facility. This revision constitutes approval of only one small element of an acceptable overall Part D Plan for Mahoning County. Nonetheless, since the revision for Republic's sinter plant would be acceptable as an element of an overall Part D Plan U.S. EPA will approve it as a SIP revision.

U.S. EPA is not at this time proposing action on Ohio Administrative Code rules 3745–17–01 through 11 which contain TSP requirements. Rulemaking on the adequacy of these rules will be discussed in a separate **Federal Register** notice to be issued shortly.

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.

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

Under section 307(b)(1) of the 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.

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

Dated: February 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

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

1. Section 52.1870 is amended by adding a new paragraph (c)(41) as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(41) On April 10, 1981, the Governor of Ohio submitted revised requirements for Republic Steel Corporation's Youngstown Sinter Plant.

* * * * *

[FR Doc. 82-6133 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL-1986-5]

Approval and Promulgation of Implementation Plans; Provisions for Paper, Fabric and Vinyl Surface Coaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document approves Massachusetts State Implementation Plan (SIP) revisions for paper, fabric and vinyl surface coaters submitted on March 6, 1981. These revisions fulfill the 1979 SIP approval condition as set forth on September 16, 1980 (45 FR 61293), and they meet the requirements of Part D (Plan Requirements for Non-Attainment Areas) and certain other sections of the Clean Air Act (the Act), as amended in 1977. Approval of these revisions will establish emission limits for fabric and vinyl surface coaters and provide guidance for achieving the limits.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, Air Branch EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, the Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC; and the Department of Environmental Quality Engineering (DEQE), Division of Air Quality Control, One Winter Street, Boston, Massachusetts 02111.

SUPPLEMENTARY INFORMATION: On March 6, 1981, the State of Massachusetts submitted SIP revisions needed to satisfy EPA's conditions for approving the paper, fabric and vinyl surface coating portion of the Massachusetts SIP and to satisfy Part D requirements of the Clean Air Act. (These conditions are set out in the Final Rulemaking Notice published on September 17, 1981 (45 FR 61293).) EPA published a notice proposing to approve these revisions, on July 10, 1981 (46 FR 35685).

Summary of the Revisions

The revisions, based on a comprehensive industry-State-EPA study, consist of three regulations to control volatile organic compound (VOC) emissions from paper, fabric and vinyl surface coaters. (See 310 CMR 7.18 (14), (15), and (16).) The regulations limit the emissions of VOCs to 2.9 pounds per gallon of coating (excluding water) for paper and fabric surface coaters, and 3.8 pounds per gallon of coating (excluding water) for vinyl surface coaters. In all cases, the limits are *on a solids applied basis.* ("On a solids applied basis" means that the limits per gallon of coating are understood as limits *per gallon of solids in the coating actually applied.*) The State has determined that these limits represent "Reasonable Control Technology" (RACT).

A facility can receive an exemption from these RACT limits if it documents, to the State's satisfaction, that achieving these limits using add-on controls is not economically feasible. For the State to grant an exemption, the facility must: (1) commit itself to studying the feasibility of reformulating its surface coating mix to reduce or eliminate solvents; (2) include a workplan with milestone dates; and (3) agree to install add-on controls to achieve an alternative RACT emission limit if reformulation is determined to be inappropiate.

Note.—As a part of granting an exemption from the RACT limits set in the regulation, the State determines appropriate *alternative* emission limits for the facility. These alternative emission limits, that take into account the individual facility's economic circumstances, are referred to as the "alternative RACT limits" for the facility. The State reevaluates these alternative RACT limits every two years.

Comments

EPA received letters from four commenters. Three supported EPA's proposal, although two of these questioned EPA's interpretation of the proposed SIP revision. One commenter opposed the revision. The specific comments, and EPA's responses, are discussed below.

1. *Comment.* A source applying for exemptions from the RACT emission limits on VOCs should not have to agree to install add-on controls to achieve the alternative RACT limits. It is illogical to require this, since to qualify for an exemption in the first place, the source would have already documented that it cannot achieve RACT.

EPA's Response. This requirement is to achieve *alternative* RACT limits. This is not illogical, because: (1) A source that cannot meet the RACT limits may still be able to meet limits that are less stringent, and (2) it is our understanding that the *alternative* RACT limits, where granted, would be less stringent. (DEQE confirmed this understanding in a letter sent August 5, 1981, during the comment period.)

2. *Comment.* In proposing to approve the SIP revisions, EPA stipulates that the RACT limits are "on a solids applied basis". However, the term "on a solids applied basis" is not used in either the Massachusetts SIP or the Control Technique Guidelines (CTG).

EPA's Response. It is true that neither the SIP nor the CTG uses the term "on a solids applied basis". However: (1) In the industry-State-EPA study that formed the basis for the SIP revisions, the participants agreed to 81% control using add-on controls. This agreed upon level of control is equivalent to 2.9 pounds of VOC per gallon of coating, excluding water (3.8 for vinyl), on a solids applied basis. (2) The May 5, 1980, Richard Rhoads memorandum

("Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating") explains that VOC limits must be determined "on a solids applied basis".

(3) Massachusetts reviewed the NPR before publication, and indicated to EPA that it interpreted its regulation to require equivalency calculations "on a solids applied basis".

3. *Comment.* EPA should not require that the alternative RACT limits (under an exemption) be submitted to EPA as SIP revisions. The State regulation does not require this. In addition, one of the goals of the industry-State-EPA study was to allow the State to exercise this authority and avoid the burden of variances and SIP revisions.

EPA's Response. (1) Under Sections 110(a)(2), 110(a)(3), and 110(i) of the Clean Air Act, EPA is required to review State determined alternative emission limits, since these are changes in the requirements of the SIP. Under these Sections of the Act, EPA can forgo this review only if the State's regulations contain strict mechanical procedures to determine alternative emission limits. Therefore, to ensure that State determined alternative emission limits will not interfere with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), EPA must require that each be submitted for approval as source-specific SIP revisions. (2) EPA agrees that one of the goals of the industry-State-EPA study was to determine one alternative RACT limit for all Massachusetts paper, fabric, and vinyl surface coaters. This would have eliminated the need for variances for surface coaters, who for economic and technological reasons, could not achieve the State's RACT emission limits. The study showed however, that for these sources, alternative RACT limits have to be determined on a case-by-case basis. Therefore, one *alternative* RACT limit was not feasible for all Massachusetts sources.

4. *Comment.* It is unfair to require compliance by December 31, 1982, for sources that choose to use add-on controls, while extending the compliance deadline to January 1, 1985 for sources that commit themselves to studying the feasibility of using low/no solvent coating mixes.

EPA's Response. EPA disagrees because: (1) The technology for add-on controls exists today, and any source that does not elect to study low/no solvent substitutes for existing coatings can install the control equipment by December 31, 1982. (2) As discussed in the November 3, 1978 memorandum from Walter C. Barber ("Categorical Compliance Schedule for VOC Sources"), EPA advocates the use of low/no solvent technology because of its long-term benefits in eliminating the need for abatement equipment and reducing accompanying energy requirements. Additionally, low/no solvent technology requires research time to develop and evaluate a potential coating mix, and to determine customer acceptance. Therefore, EPA is willing to allow sources this additional time if they are committed to a study.

5. *Comment.* It is unclear whether the 2.9 pounds per gallon of coating (excluding water) on a solids applied basis emission limit applies as an average over a period of time, or whether it applies at every moment in time. If it *can* be an average, it should be a *weekly* average.

EPA's Response. Under 310 CMR 7.18 (14), (15) and (16), the emission limits apply at every moment in time. However, there is an exception to this if a source can meet requirements to entitle it to "bubble". In this case, the limit may apply as a *daily* average of emissions. (See the Massachusetts VOC Surface Coating Bubble Regulation, 310 CMR 7.18(2)(b).)

Other Comments. Other comments dealt with specific requirements of the DEQE regulations. Since these comments are already addressed adequately by DEQE in its record of decision (available at locations listed in the ADDRESSES section above), we will not discuss them further here.

Finally, one commentor supported approval of the regulation, but raised several issues on Massachusetts VOC Surface Coating Bubble Regulation 310 CMR 7.18(2)(b). This regulation is the subject of a July 21, 1981 NPR (46 FR 37525) and these comments will be addressed in a separate Final Rulemaking Notice.

Action: EPA is approving regulations 310 CMR 7.18 (14), (15) and (16) for Paper, Fabric and Vinyl Surface Coating.

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 Clean Air Act will not have a significant economic impact on a substantial number of small entities, 46 FR 8709 (January 27, 1981). The attached rule constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions and it imposes no new requirements.

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

After evaluation of the state's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts State Implementation Plan.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(a) and 7601(a)))

Dated: February 26, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart W—Massachusetts

1. Section 52.1120, is amended by adding paragraph (c)(40) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(40) Regulations 310 CMR (14), (15), and (16), for paper, fabric, and vinyl surface coaters to meet the requirements of Part D for ozone were submitted by the Governor of Massachusetts on March 6, 1981.

§ 52.1166 [Amended]

2. Section 52.1166 is amended by removing paragraphs (a) (2), (3), (4), and (5), and these paragraphs are thereby reserved.

[FR Doc. 82-6235 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL-2050-1; Docket No. AH030VA]

Approval of Revision of the Commonwealth of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a variance to the Commonwealth of Virginia State Implementation Plan (SIP). This revision consists of a variance from Emission Standards for Visible Emissions and Fugitive Dust/Emissions, and Emission Standards for Particulate Emissions from Fuel Burning Equipment, for the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince

William County, Virginia. The variance would allow the central heating plant to convert from fuel oil to coal and allow for the use of coal while air pollution control devices are being installed.

DATE: This action is effective May 7, 1982 unless notice is received by April 7, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Carol D. Peters

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

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Peters at the Region III address stated above or call 215/597–9139.

SUPPLEMENTARY INFORMATION: On November 5, 1980, the Commonwealth of Virginia submitted a variance which it had issued to the U.S. Marine Corps Quantico Base on October 6, 1980. Also submitted were technical and modeling analyses to support the variance. The Commonwealth requested the variance be reviewed and processed as a revision to the Virginia SIP Rules EX–2, Emission Standards for Visible Emissions and Fugitive Dust/Emissions, and EX–3, Emission Standards for Particulate Emissions from Fuel Burning Equipment.

The variance would allow the central heating plant to convert from fuel oil to coal and allow for the use of coal while air pollution control devices are being installed. The heating plant would be allowed to burn 1% sulfur coal during and after the variance. The Commonwealth previously submitted a revision which would change the available sulfur content of solid fuel used in combustion installations from .75% to one percent, in the Northern Virginia Region, which includes the Quantico Marine Base. The revision for the increased sulfur content of fuel for Northern Virginia is presently undergoing EPA evaluation and will be the subject of a separate rulemaking notice.

The Commonwealth provided proof that after adequate public notice, a public hearing was held with regard to this variance. The hearing was held in accordance with public hearing and notice requirements of 40 CFR 51.4 and all relevant State procedural requirements.

EPA Evaluation

The modeling analysis submitted by the Commonwealth was inadequate. After discussions between the Commonwealth and EPA, the Commonwealth submitted a revised variance to EPA on December 16, 1981. For the period of the variance the particulate emission standard is modified to the extent that during the operation of the coal fired boilers, their total particulate emissions will not exceed 55 pounds per hour. The firing rates and operating parameters proposed by the Quantico Marine Base will be subject to approval by the Director, Virginia Air Quality Control Region VII.

Boilers numbers 4 and 5 are for emergency use only, and the Director of Virginia's Region VII must be notified before they may be brought on line.

The allowable particulate emission rate (55 lb/hr) is predicted not to cause violations of the National Ambient Air Quality Standard (NAAQS). The variance will be in effect until October 15, 1983.

Upon completion of the coal conversion project the particulate emission limitations shall be 55 lbs/hr as allocated below and no greater than a total of 1,132 lbs/day.

Boiler No.	Particulate emissions (pounds per hour)
1	10
2	10
3	11
6	24
Total	55

Again, boilers numbers 4 and 5 are for emergency use only.

Conclusion

EPA is approving this variance today, as it is viewed as non-controversial, for the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince William County, Virginia, without prior proposal. The public should be advised that this action will be effective May 7, 1982. However, if notice is received on or before April 7, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify 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. This action only approves State actions. It imposes no new requirements.

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

(42 U.S.C. 7401–642)

Dated: February 26, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

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

Subpart VV—Virginia

1. In § 52.2420 *Identification of plan* paragraph (c)(62) is added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(62) A variance issued to the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince William County, Virginia, exempting their boilers from Rules EX–2 and EX–3 until October 15, 1983, submitted on November 5, 1980, revised on December 16, 1981 by the Secretary of Commerce and Resources.

[FR Doc. 82–6236 Filed 3–5–82; 8:45 am]

BILLING CODE 6560–38–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6171

[OR-22030-A (WASH)]

Washington; Revocation of Former Military Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order, as modified to provide for disposition by the Secretary of the Interior, which withdrew 71 acres of land for military purposes. This action will restore the land to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

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. The Executive Order of September 22, 1866, which withdrew the following described land for military purposes, as modified by Executive Order No. 3893 of August 13, 1923, to provide for disposition by the Secretary of the Interior, is hereby revoked:

Willamette Meridian

T. 28 N., R. 1 E.,
Sec. 26, lot 1 and SW¼SE¼.
The area described contains 71.00 acres in Jefferson County.

2. At 10 a.m. on April 2, 1982, the land described above will 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 April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on April 2, 1982, the land described above will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the minerals leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982

[FR Doc. 82-6109 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6172

[C-24225]

Colorado; Partial Revocation of Reclamation Withdrawal, Fryingpan-Arkansas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial order and opens a 0.57 acre tract of land to operation of the public land laws, including the mining laws. The remaining 23.16 acres are privately owned.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

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. Secretarial Order dated June 3, 1946, withdrawing lands for the Bureau of Reclamation's Gunnison-Arkansas Project (now Fryingpan-Arkansas Project) is hereby revoked as to the following described lands:

Sixth Principal Meridian

T. 9 S., R. 80 W.,
Sec. 19, lots 1, 2, 14.
The lands described aggregate approximately 23.73 acres.

2. At 7:45 a.m. on April 2, 1982, lot 14 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 7:45 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on April 2, 1982, lot 14 will be open to location under the United States mining laws. It has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc. 82-6110 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6173

[M-41696]

Montana; Partial Revocation Of Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive and three Secretarial Orders of Interpretation as to 552.24 acres of land withdrawn as public water reserves. This action will restore the lands to operation of the public land laws generally, including non-metalliferous mineral location under the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority contained in 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. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Secretarial Orders of January 18, 1935, May 14, 1935, and October 2, 1940, as Interpretation Nos. 212, 217 and 262, respectively, are hereby revoked insofar as they affect the following described lands:

Principal Meridian

T. 9 S., R. 46 E.,
Sec. 35, lot 14.
T. 8 S., R. 51 E.,
Sec. 31, lot 4.
T. 3 S., R. 52 E.,
Sec. 26, NE¼NE¼.
T. 6 S., R. 54 E.,
Sec. 21, NW¼NW¼.
T. 2 S., R. 57 E.,
Sec. 11, SW¼SE¼;
Sec. 14, NW¼NE¼ and SE¼SE¼;
Sec. 27, SE¼NW¼.
T. 2 S., R. 58 E.,
Sec. 11, SW¼NW¼;
Sec. 25, SE¼.
T. 3 S., R. 58 E.,
Sec. 1, SW¼SE¼.

The areas described aggregate 552.24 acres in Carter and Powder River Counties.

2. At 8 a.m. on April 2, 1982, the lands 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 8 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The public lands described above will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on April 2, 1982. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6111 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6174

[C-11325]

Colorado; Revocation of Section 24 Restriction on a Portion of Powersite Reserve No. 52

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order removes the restriction of Section 24 of the Federal Power Act on a portion of Powersite Reserve No. 52 which was previously revoked.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By 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, and pursuant to determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA-496 Colorado dated August 25, 1971, it is ordered as follows:

1. Secretary's Order of July 1, 1910, which withdrew lands for Powersite Reserve No. 52, as modified by Secretary's Order of January 19, 1928, is hereby revoked in its entirety as it pertains to the following described lands, which lands are hereby relieved of the restrictions of Section 24 of the Federal Power Act:

Sixth Principal Meridian

T. 3 S., R. 79 W.,
Sec. 12, lot 8 (7.81 acres); Forest land Tract 37 (.31 acres) Patented land (Previously described as Lot 5)

The land described aggregates approximately 8.12 acres in Summit County, Colorado.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc 82-6112 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6175

[W-71343]

Wyoming; Revocation of Executive Order No. 3655

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an executive order which withdrew lands in aid of legislation affecting approximately 320.80 acres. The lands have been patented to Natrona County for park purposes. This action will restore the lands to nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

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 No. 3655 of March 29, 1922, which withdrew the following described lands in aid of legislation, is hereby revoked.

Sixth Principal Meridian

T. 35 N., R. 86 W.,
Sec. 1, lots 1, 2, 3 and 4, S½N½.

The area described contains approximately 320.80 acres in Natrona County, Wyoming.

2. The lands described in paragraph one, are patented to Natrona County for park purposes and are not subject to disposition under the public land laws.

3. At 7:45 a.m. on April 2, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law. The lands have been open to applications and offers under the mineral leasing laws and to metalliferous mineral 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, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6113 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6176

[I-16342]

Idaho; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The order revokes 140 acres of national forest lands from two Departmental Orders which affect lands in a Bureau of Reclamation withdrawal. The lands will be opened to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

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. The Departmental Orders of March 6, 1933 and March 23, 1934, which withdrew lands for the Minidoka Reclamation Project, are hereby revoked insofar as they affect the following described lands:

Boise Meridian

Targhee National Forest

T. 13 N., R. 43 E.,
Sec. 19, S½S½SW¼;
Sec. 30, W½NW¼NE¼, N½NW¼.
The area described contains 140 acres in Fremont County.

2. At 7:45 a.m. on April 2, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6114 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6177

[U-6354]

Utah; Powersite Restoration No. 674 Partial Revocation of Powersite Withdrawals No. 34 and 42

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes two Executive orders which withdrew about 8,823 acres of land in connection with powersite reservations affecting the Colorado and Green Rivers in Utah. This action restores 1,560 acres to operation of the public land laws. Approximately 7,263 acres remain withdrawn for the Glen Canyon National Recreation Area.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, 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, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–188–Utah, it is ordered as follows:

1. The Executive Orders of July 2, 1910, creating Powersite Reserve Nos. 34 and 42, and any interpretations or modifications of either, are hereby revoked, insofar as they affect any lands outside Canyonlands National Park, as described below:

Salt Lake Meridian

T. 27 S., R. 17 E. (partially surveyed), all lands within two miles of the Green River.
T. 28 S., R. 17 E. (partially surveyed), all lands within three-fourths of a mile of the Green River.
T. 27 S., R. 18 E. (partially surveyed), all lands within two miles of the Green River.
T. 28½ S., R. 18 E. (partially surveyed), all lands within two miles of the Green River.
T. 29 S., R. 19 E. (partially surveyed), all lands within one mile of the Colorado River.

Aggregating approximately 8,823 acres in Wayne and San Juan Counties.

2. The following listed lands, shall at 10:00 a.m. on April 2, 1982, 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 10:00 a.m. on April 2, 1982, shall be considered as simultaneoulsy filed at that time. Those received thereafter shall be considered in the order of filing.

Salt Lake Meridian

T. 27 S., R. 17 E. (partially surveyed),
Sec. 8, E½SE¼, SW¼SE¼.
T. 27 S., R. 18 E. (partially surveyed),
Sec. 5, W½(part).
T. 29 S., R. 19 E. (partially surveyed),
Sec. 12, SE¼;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, NW¼NE¼, NW¼, W½SE¼, SE¼SW¼;
Sec. 36, NW¼, N½SW¼.
Aggregating 1,560 acres.

The remaining lands described in paragraph one are withdrawn for the Glen Canyon National Recreation Area pursuant to Public Law 92–593, dated October 27, 1972.

3. The State of Utah has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

The public lands described in paragraph 2 have been and will continue to be open to the filing of applications and offers under the mineral leasing laws and to location and entry under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6115 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6178

[ORE 016907]

Oregon; Revocation of Public Land Order No. 3964

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 224.48 acres of land for use by the Bureau of Land Management as a recreation area. This action will restore the land to location under the mining laws. The land remains segregated from operation of the public land laws generally by other existing withdrawals.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

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. Public Land Order No. 3964 of March 30, 1966, which withdrew the following described land for use by the Bureau of Land Management for recreational purposes, is hereby revoked:

Willamette Meridian

Middle Santiam Recreation Area

T. 12 S., R. 4 E.,
Sec. 19, Lots 1 and 2, W½NE¼, SE¼NE¼, and E½NW¼.

The area described contains 224.48 acres in Linn County.

2. The land remains segregated from operation of the public land laws by Powersite Reserve No. 664 of December 12, 1917, Powersite Classification No. 442 of January 21, 1958, and multiple use management withdrawal by Public Land Order No. 5490 of February 12, 1975.

3. At 10 a.m., on April 2, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6116 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6179

[ORE-04299]

Oregon; Revocation of Public Land Order No. 1314

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 80 acres of land for use by the Bureau of Land Management for communication site purposes. This action will restore the land to operation of the public land laws generally, including the mining laws and mineral leasing laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

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. Public Land Order No. 1314 of July 19, 1956, which withdrew the following

described land for use by the Bureau of Land Management for communication site purposes, is hereby revoked:

Willamette Meridian

Grizzly Mountain Communication Site

T. 13 S., R. 15 E.,
Sec. 17, W½SE¼.

The area described contains 80 acres in Crook County.

2. At 10 a.m., on April 2, 1982, the land described above will 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 laws. All valid applications received at or prior to 10 a.m., on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on April 2, 1982, the land described above will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc 82-6117 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6180

[M-40914]

Montana; Partial Revocation of Public Water Reserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order affecting 440.14 acres of land withdrawn as a public water reserve. This action will restore 280.14 acres of land to operation of the public land laws generally, and to location of nonmetalliferous minerals. The balance, containing 160 acres, remains segregated from the public land laws, including the mining laws as these lands are within the Charles M. Russell National Wildlife Refuge and the Corps of Engineers Withdrawal for the Fort Peck Reservoir.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority contained in 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. The Secretarial Order of March 28, 1935, which withdrew lands for public water reserve purposes is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 12 N., R. 38 E.,
Sec. 20, W½NW¼, NW¼SW¼.
T. 18 N., R. 40 E.,
Sec. 6, lots 1 and 2, S½NE¼.
T. 22 N., R. 43 E.,
Sec. 17, W½SE¼;
Sec. 20, N½NE¼.

The areas described aggregate 440.14 acres in McCone, Garfield and Rosebud Counties.

2. At 8 a.m. on April 2, 1982, the public lands described below 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 8 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Principal Meridian

T. 12 N., R. 38 E.,
Sec. 20, W½NW¼, NW¼SW¼.
T. 18 N., R. 40 E.,
Sec. 6, lots 1 and 2, S½NE¼.

The areas described aggregate 280.14 acres in Garfield and Rosebud Counties.

3. At 8 a.m. on April 2, 1982, the public lands described in Paragraph two, will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the mining laws and to applications and offers under the mineral leasing laws.

4. The following described lands will remain segregated from the public land laws generally, including the mining laws, as these lands are within the Charles M. Russell National Wildlife Refuge, the Corps of Engineers withdrawal for the Fort Peck Reservoir, and segregated by a Bureau of Land Management Withdrawal Application M 30912:

Principal Meridian

T. 22 N., R. 43 E.,
Sec. 17, W½SE¼;
Sec. 20, N½NE¼.

The area described contains 160 acres in McCone County.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Monana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6118 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6181

[OR-22054 (WASH)]

Washington; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in part as to approximately 3 acres of land withdrawn for reclamation purposes. The land, improvements and mineral estate (except for a reservation of oil and gas to the United States) have been declared excess property and reported to the General Services Administration for disposal. The land remains open to the mineral leasing laws for oil and gas leasing.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

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. Secretarial Order of September 12, 1905, which withdrew certain lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Yakima Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 9 N., R. 25 N.,
Sec. 20, That portion of the S½SE¼NE¼, lying south of the existing Sunnyside Main Canal right-of-way.

The areas described contains approximately 3 acres in Benton County.

2. The above described land and mineral estate (except for a reservation of oil and gas to the United States) have been reported to the General Services Administration for disposition as excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471, for disposal under that Act.

The land has been and continues to be open to applications and offers under the mineral leasing laws for oil and gas leasing.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6119 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6182

[NM 23614]

New Mexico; Withdrawal for Army National Guard Rifle Range

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 52.70 acres of public land and reserves it for use as a rifle range and weekend training site for the New Mexico Army National Guard for a period for 20 years.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Stella V. Gonzales, New Mexico State Office, 505-988-6211.

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 hereby ordered as follows:

1. Subject to valid existing rights, the followfng described public land which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from settlement, sale, location or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2 but not the mineral leasing laws, as a rifle range for the New Mexico Army National Guard.

New Mexico Principal Meridian

T. 12 N., R. 30 E.,
Sec. 32, lots 1 and 2.

The area described contains 52.70 acres in Quay County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6120 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6183

[NM 36236]

Oklahoma; Withdrawal Fort Sill Military Reservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This action withdraws 10.32 acres of public land and reserves it for troop maneuvers and filed artillery firing exercises at Fort Sill for a period of 20 years.

EFFECTIVE DATES: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Stella V. Gonzales, New Mexico State Office 505-988-6211.

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 hereby ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, but not the mineral leasing laws, and reserved for the use of the Department of the Army for military purposes.

Indian Meridian, Oklahoma

T. 3 N., R. 13 W.,
Sec. 19 Block 15 Goldenpass Townsite located in SE¼SE¼;
Sec. 20, Blocks 34, 35 and 36 Goldenpass Townsite located in SW¼SW¼.

The area described contains 10.32 acres in Comanche County, Oklahoma.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 25, 1982.

[FR Doc. 82-6121 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Amdt. 192-39; Docket OPSO-37]

Transportation of Natural and Other Gas by Pipeline; Metal Alloy Fittings in Plastic Pipelines

AGENCY: Materials Transportation Bureau (MTB), RSPA, DOT.

ACTION: Final rule.

SUMMARY: This final rule removes the requirement in § 192.455(f)(3) that a means be provided for identifying the location of each metal alloy fitting that is installed without coating and cathodic protection in plastic pipelines. The identification requirement is unnecessray for safety and hinders the use of corrosion resistant metal alloy fittings to mechanically join plastic pipe and components.

DATE: This final rule takes effect April 7, 1982.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow; 202-426-2392.

SUPPLEMENTARY INFORMATION: Fittings made of corrosion resistant metal alloys are available for use to mechanically join lengths of plastic pipe and plastic components. These fittings have both safety and economic advantages. For one, mechanical joints may be made by personnel who do not have the added skills required for other methods of joining plastic pipe (see § 192.285). More important, however, a properly selected alloy (matching the alloy with the environment) can protect a buried fitting against electrochemical corrosion without the added expense of cathodic protection.

Before 1977, the use of corrosion resistant metal alloy fittings in plastic pipelines was hindered by MTB's corrosion control regulations (§§ 192.455 and 192.465) aimed at preventing or mitigating corrosion on buried or submerged metal pipelines, including metal fittings in plastic pipelines. Under corrosive conditions, ordinary metal fittings in plastic pipelines can corrode rapidly, causing gas leaks that could threaten public safety. To guard against this result, before 1977 § 192.455 required that all metal fittings be coated and cathodically protected, and then periodically inspected under § 192.465. The cost of materials and labor to comply with these corrosion control measures outweighed the safety and economic benefits from using corrosion resistant metal alloy fittings in plastic

pipelines. However, in 1977, MTB considered documented tests and experience (Notice 76–1, 41 FR 42221, Sept. 21, 1976) showing that under various corrosive environments, properly selected metal alloy fittings in plastic pipelines can provide sufficient protection against electrochemical corrosion. Thus, a new paragraph (f) was added to § 192.455 to conditionally except these fittings from the cathodic protection and inspection requirements (Amendment 192–28; 42 FR 35653, July 11, 1977).

Three conditions were established in § 192.455(f) to qualify metal alloy fittings for the exception from the coating and cathodic protection requirements: First, there must be evidence that in the area of application, corrosion will be controlled by alloyage. Second, the fitting must have a design that prevents leakage from localized corrosion pitting. Third, the pipeline operator must have some means to identify the location of each fitting that is installed.

The first condition was adopted to ensure that fittings are made from alloys that have been proven effective against corrosion in the soils in which the fittings are to be used. The second condition recognizes that even under the best circumstances some corrosion pitting can occur, and in the absence of coating and cathodic protection, the fitting's design is the final safeguard against leakage. Because of the relatively small amount of field experience with alloy fittings in plastic pipelines that had occurred by 1977, and the consequent uncertainty in predicting long range corrosion protection, the third condition was established to ensure that operators keep track of any fittings installed so that remedial action could readily be taken if needed in the future.

Looking toward possible relaxation of the conditions under § 192.455(f), MTB has sought to obtain more information about the long-term corrosive effects on alloy fittings in plastic pipelines. For example, in the preamble to the final rule document establishing the conditional exception, MTB requested that operators report the conditions of alloy fittings that are uncovered, paying special attention to leakage and corrosion performance. To date, all the information received about the susceptibility of alloy fittings to corrosion has pointed toward deleting the § 192.455(f)(3) condition as costly and unnecessary for safety.

While the bulk of the information has come from observations by MTB or State field enforcement personnel, or reports made to them, one major gas distribution company, the Pacific Gas and Electric Company (PG&E), has prepared an extensive written finding of its experience with alloy fittings in California soils. The PG&E report dated May, 1980, (a copy of which is in the public docket) shows that out of 362 samples from the approximately 942,000 Type 316 stainless steel alloy fittings manufactured by AMP, Inc., and installed between 1969 and 1979 in a broad range of soil conditions (soil resistivity from 330 to 100,000 ohm.cm; pH from 4.4 to 9) none exhibited any corrosive effects. This report substantiates preliminary findings made by PG&E in a 1976 study of 200 fittings which formed a basis for the notice of proposed rulemaking that preceded Amendment 192–28.

In addition to requesting reports from operators, MTB also sought advice on the need for § 192.455(f)(3) from the Technical Pipeline Safety Standards Committee, a statutory advisory committee made up of 15 knowledgeable persons from both the public and private sectors who are qualified to evaluate pipeline safety regulations. In its report of a meeting held January 17, 1978, the Committee, by unanimous vote, recommended that § 192.455(f)(3) be deleted on grounds that the rule serves no useful purpose and it adds to cost without a commensurate safety benefit.

In a petition (P–17) dated September 21, 1981, AMP Incorporated, a manufacturer of stainless steel fittings for plastic pipelines, argues for removal of the paragraph (f)(3) limitation. AMP states that its fittings made from AISI Series 300 stainless steels "provide a sufficient, long-term safeguard against corrosion, and obviate the need to subject them to additional location recordkeeping requirements." As a basis for its argument, AMP points to its sale since 1967 of over 15,000,000 metal alloy fittings to more than 160 operators throughout the United States, without having received any reports of corrosion failures.

AMP furthers its argument by detailing (in an appendix to the petition) the administrative costs of complying with paragraph (f)(3) by the use of computerized data banks to provide for immediate identification of each fitting installed under § 192.455(f). Although the rule does not require that operators have such means of identification (a mere card index system might suffice, using ordinary business records kept for customer services), according to the petition, operators who choose to comply in this way may spend as much as $22,500 in start-up costs, with on-going industry-wide costs in excess of $500,000 annually.

In addition to the financial costs of complying with paragraph (f)(3), MTB feels the biggest drawback of this provision is the inhibiting effect it has on the use of corrosion resistant alloy fittings to mechanically join plastic pipe components. As previously mentioned, joining plastic pipelines with corrosion resistant alloy fittings has safety and economic advantages over other joining techniques. The main purposes of issuing Amendment 192–28 was to allow operators and the public to fully realize these advantages. Since it appears that most operators are reluctant to utilize alloy fittings and also comply with the identification requirement of § 192.455(f)(3), then paragraph (f)(3) essentially frustrates the main purpose of Amendment 192–28 and should be removed unless it is needed for safety. As to the safety need for paragraph (f)(3), the evidence points to the contrary.

In summary, since Amendment 192–28 was issued, there has been an accumulation of favorable information about the effects of corrosion on alloy fittings that reduces the prior uncertainties about their long-term behavior in corrosive environments. In addition, § 192.455(f)(2) provides a redundant safeguard against the potential harmful effects of corrosion, should any occur. In view of these factors and the added costs and inhibiting effects of providing a means for later identification of the location of each fitting that is installed, MTB is by this document repealing § 192.455(f)(3).

Because this document grants relief from a regulatory burden for which there is no apparent need, a notice and comment period would be unnecessary, and in accordance with 5 U.S.C. 553, the repeal of § 192.455(f)(3) is final. Also, since this final rulemaking action will have a postive effect on the economy of less than $100 million a year, will result in a cost savings to consumers, industry, and government agencies, and no adverse effects are anticipated, the action is not "major" under E.O. 12291 or "significant" under DOT procedures.

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

In consideration of the foregoing, § 192.455(f) of Part 192 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§ 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.

* * * * *

(f) This section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if—

(1) For the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloyage; and

(2) The fitting is designed to prevent leakage caused by localized corrosion pitting.

(49 U.S.C. 1672; 49 CFR 1.53 and Appendix A to Part 1)

Issued in Washington, D.C. on March 2, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-6045 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte Nos. 282 (Sub-3) and 282 (Sub-8)]

Railroad Consolidation Procedures, Time Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission has revised the informational requirements for applications by rail carriers under 49 U.S.C. 11343–11346. These regulations will result in better use of Commission and carrier resources by reducing required information, and avoiding lengthy and costly proceedings when unwarranted by their impact. Additionally, the submission of information that is unnecessary or available elsewhere will no longer be required. The Commission has also adopted rules incorporating the time limits of 49 U.S.C. 11345 as amended by section 228 of the Staggers Rail Act of 1980 (Staggers Act), Pub. L. 96–448. Other changes necessitated by the Staggers Act have also been made.

EFFECTIVE DATES: These procedures will be effective on April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Ernest B. Abbott, (202) 275–3002.

ADDRESS: Copies: The text of the full decision is available from: Office of the Secretary, Interstate Commerce Commission, Room 2227, Washington, D.C. 20423; or by calling toll-free (800) 424–5403.

SUPPLEMENTARY INFORMATION: These rules incorporate changes based on the Staggers Act and on comments to previous versions of the rules, published at 44 FR 66626, November 20, 1979, and 45 FR 62991, September 23, 1980. The text of these rules appears in the Appendix to this notice. The Commission's decision explaining the changes in the rules can be obtained from the Commission's office of the Secretary.

Subpart A to Part 1111 of Title 49 of the Code of Federal Regulations is revised in accordance with the appendix of this decision. (49 U.S.C. 11343–11347 and 5 U.S.C. 552 and 553).

Dated: February 19, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Clapp dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

COMMISSIONER CLAPP, dissenting in part:

While I support the continuing efforts to improve consolidation procedures and to lessen filing burdens where possible, I am concerned about the use of "market or impact analysis" in lieu of more specific filing requirements. An applicant should have the flexibility to provide only useful information but I believe that the Commission should offer more complete guidelines so that all interested persons will know what needs to be filed in an application. I am not necessarily advocating traffic studies although the AAR has pointed out traffic studies may still be necessary for analysis of impact on essential services. Whatever data is required generally, the waiver process is always available for relief when certain information is not needed or not pertinent.

Under the new regulations, the Commission may still be able to obtain the information needed to decide an application, but it will be by way of less certain, more circuitous route. Thus, the burden on all parties may ultimately be greater.

Part 1111 of Title 49 is amended as follows:

1. The heading for Part 1111 is revised.

2. Subpart A is revised to read as follows:

Appendix

Subpart A of Part 1111 of Title 49 is revised to read as follows:

PART 1111—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION, TRACKAGE RIGHTS AND LEASE PROCEDURES

Subpart A—General Acquisition Procedures

Sec.

Authority: 49 U.S.C. 11343–11347 and 5 U.S.C. 552 and 553.

Subpart A—General Acquisition Procedures

§ 1111.0 Scope and purpose.

These regulations set out the information to be filed and the procedures to be followed in control, merger, acquisition, lease, trackage rights, and any other consolidation transaction involving more than one railroad that is initiated under 49 U.S.C. 11343. Section 1111.2 separates these transactions into four types: *Major, significant, minor,* and *exempt.* The informational requirements for these types of transactions differ. Before an application is filed, the designation of type of transaction may be clarified or certain of the information required may be waived upon petition to the Commission. This procedure is explained in § 1111.4. The required contents of an application are set out in §§ 1111.6 (general information supporting the transaction), 1111.7 (competitive and market information), 1111.8 (operational information) and 1111.9 (financial data). *Major* and *significant* applications must contain all of the information required in §§ 1111.6 through 1111.9. The informational requirements for a *minor* application are more limited and are set out in §§ 1111.6 and 1111.8. Procedures (including time limits, filing requirements, participation requirements, and other matters) are contained in § 1111.4. Index I lists all exhibits and indicates the type of application for which the exhibit is required. Index II is a table of contents of this Subpart. All applicants must comply with the Commission's general procedural rules, in Part 1100, unless otherwise specified. These regulations may be cited as the Railroad Consolidation Procedures.

§ 1111.1 General policy statement for merger or control of at least two Class I railroads.

(a) *General.* The Interstate Commerce Commission encourages private industry initiative that leads to the rationalization of the nation's rail facilities and reduction of its excess

capacity. One means of accomplishing these ends is rail consolidation. However, the Commission does not favor consolidations through the exercise of managerial and financial control if the controlling entity does not assume full responsibility for carrying out the controlled carrier's common carrier obligation to provide adequate service upon reasonable demand. Furthermore, the Commission does not favor consolidations that substantially reduce the transport alternatives available to shippers unless there are substantial and demonstrable benefits to the transaction that cannot be achieved in a less anticompetitive fashion. Our analysis of the competitive impacts of a consolidation is especially critical in light of the Congressionally mandated commitment to give railroads greater freedom to price without regulatory interference.

(b) *Consolidation criteria.* The Commission's consideration of the merger or control of at least two class I railroads is governed by the criteria prescribed in 49 U.S.C. 11344 and by the rail transportation policy set forth in 49 U.S.C. 10101a.

(1) Section 11344 directs the Commission to approve consolidations which are consistent with the public interest. In examining a proposed transaction, the Commission must consider, at a minimum: (i) the effect on the adequacy of transportation to the public; (ii) the effect of including, or failing to include, other rail carriers in the area involved in the proposed transaction; (iii) the total fixed charges that would result; (iv) the interest of affected carrier employees; and (v) the effect on competition among rail carriers in the affected region. (2) The Commission must also consider the impact of any transaction on the quality of the human environment and the conservation of energy resources.

(c) *Public interest considerations.* In determining whether a transaction is in the public interest, the Commission performs a balancing test. It weights the potential benefits to applicants and the public against the potential harm to the public. The Commission will consider whether the benefits claimed by applicants could be realized by means other than the proposed consolidation that would result in less potential harm to the public.

(1) *Potential benefits.* Both the consolidated carrier and the public can benefit from a consolidation if the result is a financially sound competitor better able to provide adequate service on demand. This beneficial result can occur if the consolidated carrier is able to realize operating efficiencies and increased marketing opportunities. Since consolidations can lead to a reduction in redundant facilities and thereby to an increase in traffic density on underused lines, operating efficiencies may be realized. Furthermore, consolidations are the only feasible way for rail carriers to enter many new markets other than by contractual arrangement, such as for joint use of rail facilities or run-through trains. In some markets where there is sufficient existing rail capacity the construction of new rail line is prohibitively expensive and does not represent a feasible means of entry into the market.

(2) *Potential harm.* There are two potential results from consolidations which would ill serve the public—reduction of competition and harm to essential services. In analyzing these impacts, we must consider, but are not limited by, the policies embodied in antitrust laws.

(i) *Reduction of competition.* If two carriers serving the same market consolidate, the result would be the elimination of the competition between the two. Even if the consolidating carriers do not serve the same market, there may be a lessening of potential competition in other markets. While the reduction in the number of competitors serving a market is not in itself harmful, a lessening of competition resulting from the elimination of a competitor may be contrary to the public interest. The Commission recognizes that rail carriers face not only intramodal competition, but also intermodal competition from motor and water carriers. The Commission's competitive analysis depends on the relevant market(s). In some markets the Commission's focus will be on the preservation of effective intermodal competition, while in other markets (such as long-haul movements of bulk commodities) effective intramodal competition may also be important.

(ii) *Harm to essential service.* Consolidations often result in shifts of market patterns. Sometimes the carrier losing its share of the market may not be able to withstand the loss of traffic. In assessing the probable impacts, the Commission's concern is the preservation of essential services, not the survival of particular carriers. A service is essential if there is a sufficient public need for the service and adequate alternative transportation is not available.

(d) *Conditions.* The Commission has broad authority to impose conditions on consolidations, including those that might be useful in ameliorating potential anticompetitive effects of a consolidation. However, the Commission recognizes that conditions may lessen the benefits of a consolidation to both the carrier and the public. Therefore, the Commission will not normally impose conditions on a consolidation to protect a carrier unless essential services are affected and the condition: (1) Is shown to be related to the impact of the consolidation; (2) is designed to enable shippers to receive adequate service; (3) would not pose unreasonable operating or other problems for the consolidated carrier; and (4) would not frustrate the ability of the consolidated carrier to obtain the anticipated public benefits. Moreover, the Commission believes that indemnification is ordinarily not an appropriate remedy in consolidation proceedings. Indemnification conditions can be anticompetitive by requiring the consolidated carrier to subsidize carriers who are no longer able to compete efficiently in the marketplace.

(e) *Inclusion of other carriers.* The Commission will consider requiring inclusion of another carrier as a condition to approval only where there is no other reasonable alternative for providing essential services, the facilities fit operationally into the new system, and inclusion can be accomplished without endangering the operational or financial success of the new company.

(f) *Labor protection.* The Commission is required to provide applicants' employees affected by a consolidation with adequate protection. Similarly situated employees on the applicants' system should be given equal protection. Therefore, absent a negotiated agreement, the Commission will provide for protection at the level mandated by law (49 U.S.C. 11347), unless it can be shown that because of unusual circumstances more stringent protection is necessary to provide employees with a fair and equitable arrangement. The Commission will review negotiated agreements to assure fair and equitable treatment of affected employees.

(g) *Cumulative impacts and crossover effects.* The Commission recognizes that events can occur during its consideration of a consolidation that can have an effect on various of the concerned parties. However, the Commission is mindful of the need to meet its statutory deadlines and make timely administratively final decisions. Therefore, the Commission will not reopen pending proceedings in order to assess the impact of potential or hypothetical combinations or transactions. The proper forum for considering cumulative impacts and crossover effects is in a later

proceeding. In this manner, consideration will be limited to the impacts of transactions which have already been approved and are, therefore, reasonably certain to occur. Furthermore, the Commission will have the benefit of its findings from the prior proceeding to identify more precisely the impacts of that transaction. Proceedings will remain manageable in scope and size, statutory time limits will be met, and all parties will be assured of timely, administratively final decisions.

(h) *Public participation.* To assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission encourages public participation from Federal, State, and local government departments and agencies, affected shippers and carriers, and other interested persons.

§ 1111.2 Types of transactions.

Transactions proposed under 49 U.S.C. 11343 involving more than one common carrier by railroad are of four types: *Major, significant, minor,* and *exempt.*

(a) A *major* transaction is a control or merger involving two or more class I railroads.

(b) A *significant* transaction involves at least one class I railroad, acting together with one or more other class I or class II railroads, in a major market extension. It is of regional or national transportation significance as defined in 49 U.S.C. 11345.

(c) A *minor* transaction is one which involves more than one railroad and which is not a *major, significant,* or *exempt* transaction.

(d) A transaction is *exempt* if it is within one of the six categories described below. The Commission has found that its prior review and approval of these transactions is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and is of limited scope or unnecessary to protect shippers from market abuse. See 49 U.S.C. 10505. A notice must be filed to use one of these class exemptions. The procedures are set out in § 1111.4(g). These class exemptions do not relieve a carrier of its statutory obligation to protect the interests of employees. See 49 U.S.C. 10505(g)(2) and 11347. The enumeration of the following categories of transactions as exempt does not preclude a carrier from seeking an exemption of specific transactions not falling into these categories.

(1) Acquisition of a line of railroad which would not constitute a major market extension where the Commission has found that the public convenience and necessity permit abandonment.

(2) Acquisition of a nonconnecting carrier or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

(3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

(4) Renewal of leases or trackage rights contracts and any other matters where the Commission has previously authorized the transaction, and only an extension in time is involved.

(5) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(6) Reincorporation in a different State.

§ 1111.3 Definitions.

(a) *Applicant.* The parties initiating a transaction. Parties who are considered applicants, but for whom the information normally required of an applicant need *not* be submitted, are (1) in *minor* trackage rights applications, the transferor and (2) in responsive applications, a primary applicant.

(b) *Applicant carriers.* Applicant, *all carriers related to the applicant,* and all other carriers involved in the transaction. This does not include carriers who are involved in an existing trackage rights agreement with applicants.

(c) *Major market extension.* A major market extension is a transaction which may significantly increase competition by extending service into a new market, expanding service in a currently served market when another carrier concurrently contracts its service to that market as part of the same transaction, or providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) Creating a shorter route; (2) providing enhanced service capabilities (speed is not the only factor); (3) entering an interchange or market generating more than 5,000 cars per year or 5 percent of applicant's traffic; (4) filing the application as a condition of relief to a pending proceeding; and (5) permitting a carrier to become more competitive (extending its length of haul) See. *Burlington Northern, Inc.—Control & Merger—St. L.,* 354 I.C.C. 616, 617 (1978).

(d) *Petition for clarification.* A request that the Commission clarify the applicability of any part of these regulations to a particular situation or explain the type of material needed to comply with these regulations.

(e) *Petition for waiver.* A request that the Commission either dispense with material required by the regulations, or accept material in place of that required by these regulations.

(f) *Primary application.* A proposal for approval filed under 49 U.S.C. 113343 which begins a new proceeding and is not proposed either as a condition to or as an alternative to Commission approval of another pending application.

(g) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102(18)–(19).

(h) *Responsive applications.* Applications filed in response to a primary application seeking affirmative relief either as a condition to or in lieu of the approval of the primary application. Responsive applications include inconsistent applications, inclusion applications, and any other affirmative relief that requires an application to be filed with the Commission (such as trackage rights, purchases, construction, operation, pooling, terminal operations, abandonment, etc.).

(i) *Transferee.* The transferee is:

(1) The acquiring corporation in a control proceeding,

(2) The surviving corporation in a merger,

(3) The resulting corporation in a consolidation,

(4) The leasee in a lease,

(5) The purchaser in an acquisition, and

(6) The grantee of trackage rights in a trackage rights proceeding.

(j) *Transferor.* The transferor is:

(1) The corporation acquired in a control proceeding,

(2) The merging corporation in a merger,

(3) All corporations to be consolidated in a consolidation,

(4) The lessor in a lease,

(5) The seller in an acquisition, and

(6) The grantor of trackage rights in a trackage rights proceeding.

§ 1111.4 Proceedures.

(a) *General.*

(1) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *significant* and *minor* proceedings.

(2) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

(3) Any document filed with the Commission (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(4) The Commission shall issue a list of all parties to the proceeding within 55 days of the application's acceptance in a *major* transaction, and within 45 days in a *significant* or *minor* transaction.

(b) *Prefiling notification.*

(1) Between 3 to 6 months prior to the proposed filing of an application in a *major* transaction, and 2 to 4 months prior to the proposed filing of an application in a *significant* transaction, applicant shall file a notice with the Commission. The notice shall:

(i) Briefly describe the transaction,

(ii) Indicate the year to be used for the impact analyses,

(iii) Indicate the approximate filing date of the application, and

(iv) Indicate why the transaction is *major* or *significant* (how a major market extension results).

(2) The Commission will publish a notice in the **Federal Register** within 30 days of receipt of the applicant's notice. The publication shall contain:

(i) A brief description of the transaction,

(ii) The year to be used for the impact analysis,

(iii) The approximate filing date,

(iv) A determination that the transaction is *major, significant,* or *minor,* and

(v) A statement of any additional information which must be filed with the application in order for the application to be considered complete.

(3) A prefiling notice may be amended to indicate a change in the anticipated filing date.

(c) *Application.*

(1) There is a $700 filing fee to file a primary application with the Commission under these procedures. There is no filing fee for a directly related application, a responsive application, or a notice of exemption.

(2) Filing requirements.

(i) The original of all applications shall be signed in ink by the applicant, if an individual; by all partners, if a partnership; and if a corporation, association, or other similar form of organization, by its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling an applicant shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, DC 20423.

(iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner, where certified copies of documents are filed with the application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all exhibits, except as otherwise specifically noted. Information from other documents may be incorporated by reference in the application. However, the documents must have been filed with the Commission within three years prior to filing of the application, the information must be up to date, and applicant must be prepared to supply copies of this information to interested persons on specific request.

(v) The applicant shall submit such additional information to support its application as the Commission may require.

(vi) Applicant shall file concurrently all directly related applications, *e.g.,* those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, et cetera.

(vii) The application shall contain a certificate of service indicating that all persons designated in section 1111.4(c)(5) have been served with a copy of the application.

(3) In a *major* or *significant* transaction, and in all responsive applications, all of the direct testimony of applicants, in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record. If a *major* or *significant* transaction is designated for oral hearing the presiding Administrative Law Judge shall have discretion in extraordinary circumstances to allow for the presentation of oral or written direct testimony not previously submitted with the application.

(5) Service. The applicant shall serve a conformed copy of an application filed under these procedures by first-class mail upon:

(i) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(ii) The Secretary of the United States Department of Transportation (Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW., Washington, DC 20590).

(iii) The Attorney General of the United States;

(iv) The Federal Trade Commission; and

(v) In *major* or *significant* transactions, all persons requesting a copy after the prefiling notice is published in the **Federal Register.**

(6) Application format. (i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendixes shall be in the same sequence as the information required by these procedures. If certain information required in the application is not applicable, provide an explanation. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume shall begin with 1, and be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, the party may contact the Commission's Section of Finance for assistance. It will provide informal opinions and interpretations which are not binding on the Commission.

(iv) All filing, service, or other requirements of these procedures must

be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Railroad Consolidation Application" on the transmittal envelope or package.

(v) The application shall conform to the typographical specifications of 49 CFR 1100.13.

(7) Acceptance or rejection of an application.

(i) The Commission shall accept a complete application no later than 30 days after the application is filed with the Commission by publishing a notice in the **Federal Register**. A complete application contains all information for all applicant carriers required by these procedures, except as modified by advance waiver. The publication shall indicate the applicable time limits for processing the application. (These are the time limits of 49 U.S.C. 11345(b) for a *major* transaction, 49 U.S.C. 11345(c) for a *significant* transaction, and 49 U.S.C. 11345(d) for a *minor* transaction.)

(ii) The Commission shall reject an incomplete application by serving a decision no later than 30 days after the application is filed with the Commission. The decision shall explain specifically why the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference. The resubmission or refiling of an application shall be considered a *de novo* filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted as complete.

(8) The application must present a *prima facie* case. Applicants can fail to meet their burden of proof and thus not present a *prima facie* case either by (i) disclosing facts that, even if construed in their most favorable light, are insufficient to support a finding that the proposal is consistent with the public interest, or by (ii) disclosing facts that affirmatively demonstrate that the proposal is not in the public interest. See Ex Parte No. 282 (Sub-No. 3A), *Railroad Consolidation Procedures Expedited Processing*, 363 I.C.C. 767 (1980).

(d) *Response to application.*

(1) Written comments.

(i) *Time to file.* (A) Written comments on a *major* transaction must be filed no later than 45 days after an application is accepted. (B) Written comments on *significant* or *minor* transactions must be filed within 30 days of the application's acceptance.

(ii) *Service.* Written comments shall be concurrently served by first-class mail on:

(A) The applicants (at each address given in the application),

(B) The United States Secretary of Transportation,

(C) The Attorney General of the United States, and

(D) All parties of record within 10 days of service of the service list by the Commission.

(iii) *Contents.* Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made.

(C) The commenting party's position (in support, opposition, or undetermined).

(D) If the commenting party intends to participate formally in a proceeding or merely comment upon the proposal.

(E) If desired, a request for an oral hearing with reasons supporting this request. The request must indicate the disputed material facts that can only be resolved at a hearing.

(F) A list of all information sought to be discovered from applicant carriers.

(G) A detailed statement of the issues in *major* and *significant* transactions reflecting the relevant underlying statutory criteria, policy statement (for *major* transactions), and antitrust policy which the Commission must consider in the proceeding.

(H) An initial list of specific protective conditions sought *by nonrailroads* in *major* and *significant* transactions.

(I) The following information *by railroads* filing written comments in *major*, and *significant* transactions:

(*1*) Any existing preferential solicitation agreements.

(*2*) A list of all run-through train operations.

(*3*) An initial list of specific protective conditions sought and a statement concerning whether the commenting railroad intends to file responsive applications, along with a description of the proposed transactions. This will be considered a prefiling notice without which the Commission will not entertain responsive applications.

(iv) *Party.* All persons who file timely written comments shall be a party of record if they so indicate in their comments. In this event, no petition for leave to intervene need be filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 60 days of the date of acceptance of the application in a *major* transaction. For *significant* and *minor* transactions these comments are due within 45 days of the date of acceptance of the application. These comments shall comply with paragraphs (d)(1)(ii) and (d)(1)(iii) of this section as to service and contents.

(3) A second list of protective conditions shall be filed with the Commission within 75 days of acceptance of the application in a *major* transaction, and within 60 days of acceptance of the application in a *significant* transaction. It shall be concurrently served by first-class mail on all parties of record. The second list of protective conditions shall modify the first list based upon changing conditions, such as protective conditions sought by other parties to the proceeding. Parties to the proceeding shall not be permitted to seek any protective conditions not contained in the second list of protective conditions. This does not preclude refinements in conditions sought, particularly when stipulations to conditions are reached.

(4) Responsive applications.

(i) All responsive applications in *major* transactions shall be filed 90 days, and in *significant* transactions 60 days, after acceptance of the primary application. No responsive applications shall be permitted to *minor* transactions.

(ii) Responsive applications which are not *major* are presumed to be *significant* transactions.

(iii) Responsive applications shall comply as fully as possible with appropriate Commission regulations. Extensions of time for filing are not permitted. The filing of an incomplete application, coupled with an extension of time to complete the application, may be permitted if authorized by the Commission in advance.

(iv) Any petitions for waiver, clarification, extension of time, or for leave to file an incomplete application, or to rebut the presumption of a *significant* transaction, must be filed in advance of the filing of the responsive application (at least 45 days in advance in *major* transactions and 30 days in *significant* transactions).

(v) Each responsive application filed and accepted (if required) is considered consolidated with the primary application.

(e) *Evidentiary proceeding.*

(1) The Commission may order an oral public hearing, a hearing by written submissions, or another kind of evidentiary proceeding. The determination will generally be made on the basis of the needs indicated by the written comments.

(2) The evidentiary proceeding will be completed:

(i) In 24 months (after the primary application is accepted) for a *major* transaction,

(ii) In 180 days for a *significant* transaction, and

(iii) In 105 days for a *minor* transaction;

(3) A final decision on the primary application and on all consolidated cases will be issued;

(i) In 180 days (after the conclusion of the evidentiary proceeding) for a *major* transaction,

(ii) In 90 days for a *significant* transaction, and

(iii) In 45 days for a *minor* transaction.

(4) The Secretary of Transportation may propose modifications to any transaction and shall have standing to appear before the Commission in support of any such proposed modification.

(f) *Waiver or clarification.*

(1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures. A petition to waive all of the procedures will not be entertained.

(2) Except as otherwise provided in paragraph (d)(4)(iv) of this section, petitions for waiver or clarification must be filed at least 45 days before the application is filed.

(3) No replies to a petition for waiver will be permitted, except where a proceeding involving the same parties and a related transaction is pending before us.[1] When a reply is permitted, the petition shall be served by first-class mail on all parties to the pending proceedings, with a reply due within 10 days of service. Replies to a petition for clarification shall be permitted within 10 days of the petition's filing.

(4) A waiver or clarification granted to any applicant in a proceeding shall apply to any other party to the proceeding unless otherwise indicated.

(5) All petitions for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

(g) *Notice of exemption.*

(1) To qualify for an exemption under § 1111.2(d), a railroad must file a verified notice of the transaction with the Commission at least one week before the transaction is consummated indicating the proposed consummation date.

(2) The notice shall contain the information required in § 1111.6(a)(1)(i)–(iii), (a)(5)–(6), and (a)(7)(ii), and indicate the level of labor protection to be imposed.

(3) The Commission shall publish a notice in the **Federal Register** within 30 days of the filing of the notice of exemption. The publication will indicate the labor protection required. If the notice of exemption contains false or misleading information which is brought to the Commission's attention, the Commission shall summarily revoke the exemption for that carrier and require divestiture.

(h) *Official notice.* In connection with any application or request for relief under these procedures, the Commission may take official notice of any or all of the following information. These data will be presumed valid unless discredited by any party. A party relying on information to be noticed officially shall list the information. Upon request, the party shall make the official notice material available. Any party is free to challenge the relevance or application of any such data, or the weight that should be accorded it.

(1) Annual ICC Form R–1 Reports submitted by rail carriers.

(2) Quarterly Commodity Statistics submitted by rail carriers.

(3) ICC Monthly Labor Statistics.

(4) Quarterly Financial Statements of Rail Carriers.

(5) All other reports submitted to the ICC under oath.

(6) Annual 1-percent Waybill Sample.

(7) Federal Reserve Board Production Statistics.

(8) AAR compilations of bad order ratios, equipment ownership and repair statistics, and freight car order figures.

(i) *Untimely decision.* If the Commission does not issue a timely decision that is a final action under 49 U.S.C. 10327, it will send written notice to Congress that the decision was not issued and the reasons why it was not issued.

§ 1111.5 [Reserved]

§ 1111.6 Supporting information.

(a) All applications filed under 49 U.S.C. 11343 shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in all applications:

(1) A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following:

(i) A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

(iv) The nature and amount of any new securities or other financial arrangements.

(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including

(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see § 1111.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

(v) The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.

(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11344.

(3) Any other supporting or descriptive statements applicants deem material.

(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Commission. This should include specific references to any pertinent

[1] See *Itel Corp.—Control-Green Bay and W. R. Co.*, 354 I.C.C. 232, 233 (1978).

provisions of applicants' bylaws or charter or articles of incorporation.[2]

(5) A list of the State(s) in which any part of the property of each applicant carrier is situated.

(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Commission.

(7) Explanation of the transaction.

(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.[3]

(iii) If a consolidation or merger is proposed, indicate: (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued.

(iv) Court order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR Part 1108. In *major* and *significant* transactions, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Commission's Energy and Environment Branch for the proper format of the environmental report.

(9) Energy data (exhibit 5). Submit information and data with respect to energy consumption prepared in accordance with 49 CFR Part 1106.

(b) Submit the following information in a *major* or *significant* transaction:

(1) Form 10–K (exhibit 6). Submit applicant carriers' most recent filing with the Securities and Exchange Commission (SEC) under 17 CFR 249.310. This shall not be incorporated by reference, and shall be updated with any Form 10–K subsequently filed with the SEC over the duration of the proceeding.

(2) Form S–14 (exhibit 7). Submit applicant carriers' most recent filing with the SEC under 17 CFR 239.23. This shall not be incorporated by reference, and shall be updated with any Form S–14 subsequently filed with the SEC over the duration of the proceeding.

(3) Change in control (exhibit 8). Indicate any change in ownership, control, or officers not indicated in the most recent annual report Form R–1.

(4) Annual reports (exhibit 9). Submit applicant carriers' two most recent annual reports to stockholders. This shall not be incorporated by reference, and shall be updated with any annual or quarterly report to stockholders issued over the duration of the proceeding.

(5) Issues (exhibit 10). Submit a discussion of any other issues relevant to the transaction.

(6) Corporate chart (exhibit 11). Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (i) any common officers or directors for every entity on the chart (with reference to the Commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not required) and (ii) whether each company is a non-carrier or carrier (by railroad, motor, or water, including the number of any Commission certificate or permit, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(7) If applicant is not a carrier, indicate (i) the type of business in which it is engaged, (ii) the length of time so engaged, and (iii) its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(8) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed elsewhere in the application, through holding companies, ownership of securities, or otherwise, between (i) applicant carriers and any carrier or person affiliated with any carrier or (ii) a person affiliated with applicant carriers and any carrier or person affiliated with any other carrier. Indicate the nature and extent of such relationships, if they exist, and, if an applicant carrier owns securities of a carrier subject to 49 U.S.C. Subtitle IV provide the carrier's name, a description of securities, par value of each class of securities held, and the applicant carriers' percentage of total ownership.

§ 1111.7 Market analyses.

Impact analyses (exhibit 12). In *major* and *significant* transactions applicants shall submit analyses of the impacts of the proposed transaction—both adverse and beneficial—on inter- and intramodal competition for freight surface transportation in the reigons affected by the transaction and on the provision of essential services by applicants and other carriers. An impact analysis should include underlying data, a study of the implications of that data, and a description of the resulting likely effects of the transaction on transportation alternatives available to the shipping public. Each aspect of the analysis should specifically address significant impacts as they relate to the statutory criteria (49 U.S.C. 11344(b) or (d), essential services, and competition). The Commission may identify particular markets and issues that it believes warrant further study. If appropriate, the Commission will also indicate the format of such analyses. Applicants must address markets and issues identified by the Commission, but also any others they consider relevant. Specific regulations on impact analyses

[2] An opinion of counsel is not required in a control transaction for the party sought to be controlled, or in a responsive application for the party against whom relief is sought.

[3] A final signed contract or agreement need not be filed with a responsive application. However, a draft contract or agreement should be submitted containing the significant terms proposed.

are not provided so that parties will have the greatest leeway to develop the best evidence on the impacts of each individual transaction. General guidelines follow:

(a) Applicants shall prepare analyses of the anticipated effects of the transaction on traffic patterns, market concentrations, or transportation alternatives available to the shipping public.

(b) Applicants (and any other party submitting such analyses) must demonstrate both the relevancy of the market and issues analyzed and the validity of the methodology. All underlying assumptions must be clearly stated.

(c) Supporting data may (but need not) include: Current and projected traffic flows; data underlying sales forecasts or marketing goals; interchange data; market share analysis; diversion studies; and/or shipper surveys. *It is important to note that these types of studies are neither limiting nor all inclusive.* The parties must provide supporting data, but are free to choose the type(s) and format.

(d) Analyses should reflect the consolidated company's marketing plan and existing and potential competitive alternatives (inter- as well intramodal). They can address:

(1) City pairs, interregional movements, movements through a point, or other factors;

(2) A particular commodity, group of commodities, or other commodity factor that will be significantly affected by the transaction; or

(3) Other effects of the transaction (such as on a particular type of service offered).

§ 1111.8 Operational data.

(a) For *major* and *significant* transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a *pro forma* density chart.

(2) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.

(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes; and how these will lead to the financial and service benefits described in the summary.

(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction.

(5) Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calender year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.

(b) For *minor* transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

(1) Traffic level density on lines proposed for joint operations.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(3) Operating economies, which include, but are not limited to, estimated savings.

(4) Any anticipated discontinuances or abandonments.

§ 1111.9 Financial information.

The following information shall be provided for *major* and *significant* transactions, and for carriers shall conform to the Commission's Uniform System of Accounts, 49 CFR Part 1201:

(a) *Pro forma* balance sheet (exhibit 16). Where the transaction involves a proceeding other than a control, a *pro forma* balance sheet statement giving effect to the proposed transaction commencing for the first year of the Impact Analysis in exhibit 12. The data shall be presented in columnar form showing (1) in the *first* column, the balance sheet of transferee on a corporate entity basis, (2) in the *second* column, a balance sheet of transferor, on a corporate entity basis, (3) in the *third* column, *pro forma* adjustments and eliminations; and (4) in the *fourth* column, transferee's balance sheet giving effect to consumation of the proposed transaction.[4] Each adjustment and elimination shall be properly footnoted and fully explained. A *pro forma balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.*

(b) *Pro forma* income statement (exhibit 17). Where the transaction involves a proceeding other than a control, submit a *pro forma* income statement showing transferee's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation of the transaction.[5] The

[4] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* colum should show transferee's actual balance sheet on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* is a compilation of the first two columns into a *pro forma* balance sheet.

The transferor shall file a balance sheet similar to the one filed by the transferee, with the *second* column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar balance sheet shall be filed for each.

All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

[5] If the operating plan requires more than 3 years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

pro forma data shall be presented in columnar form, showing (1) in the first column, transferee's actual income statement on a corporate entity basis for the year indicated in the impact analysis in exhibit 12; (2) in the *second* column, a similar income statement for the transferor; (3) in the *third* column, forecasted adjustments to the combined revenues, expenses, and net income to reflect increases or decreases anticipated under the unified operations, and (4) in the fourth column, a compilation of the first three columns into a *pro forma* income statement.[6] The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the *third* column. Additionally, if the major financial advantages to be derived from the proposed transaction will not occur within 3 years after consummation, then applicant shall furnish additional information to reflect the number of years within which the financial advantages will be realized. The basis for all such data furnished shall be fully explained and supported.

(c) Sources and application of funds (exhibit 18). Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast [7] of sources and application of funds for each carrier (if a merger or consolidation, the surviving or resulting corporation) for the year following consummation of the proposed transaction, and the years necessary to effectuate the operating plan.[8] The form and content of these statements should be constructed in accordance with the schedule: "Statement of Changes in Financial Position" required in the most recently filed Annual Report R–1 for Class I railroads.

(d) Property encumbrance (exhibit 19). If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof, submit:

(1) A description of the property encumbered.

(2) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions.

(3) Amount of encumbrance assumed or to be assumed by applicant.

(e) The Commission will incorporate by reference the current balance sheets and income statements of Class I railroads which are on file with the Commission. Class II and Class III railroads, and non-carrier entities shall submit balance sheets (exhibit 20) and income statements (exhibit 21) covering a period ending within 6 months before the application is filed.

§ 111.10–19 [Reserved]

Appendix B

Note.—Appendix B, consisting of various indexes to Subpart A will not be shown in the Code of Federal Regulations.

INDEX I FOR SUBPART A.—EXHIBITS

No.	Name	Section	Type of application
1	Map	1111.6(a)(6)	All.
2	Agreement	1111.6(a)(7)(ii)	Do.
3	Court order	1111.6(a)(7)(iv)	Do.
4	Environmental data	1111.6(a)(8)	Do.
5	Energy data	1111.6(a)(9)	Do.
6	Form 10–K	1111.6(b)(1)	Mjr & Sgt.
7	Form S–14	1111.6(b)(2)	Do.
8	Change in control	1111.6(b)(3)	Do.
9	Annual reports	1111.6(b)(4)	Do.
10	Issues	1111.6(b)(5)	Do.
11	Corporate Chart	1111.6(b)(6)	Do.
12	Market analyses	1111.7	Do.
13	Operating plan—major	1111.8(a)	Do.
14	Density charts	1111.8(a)(5)	Do.
15	Operating plan—minor	1111.8(b)	Minor.
16	Pro forma balance sheets.	1111.9(a)	Mjr & Sgt.
17	Pro forma income statements.	1111.9(b)	Do.
18	Sources and application of funds.	1111.9(c)	Do.
19	Property encumbrance	1111.9(d)	Do.
20	Balance sheet—minor	1111.9(e)	Minor.
21	Income statement—minor.	1111.9(e)	Minor.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS

Section		Application type[1]
No.	Name	
1111.0	Scope and purpose	All.
1111.1	General policy statement.	Major (Mjr.).
(a)	General	Do.
(b)	Consolidation criteria	Do.
(c)	Public interest considerations	Do.
(c)(1)	Potential benefits	Do.
(c)(2)	Potential harm	Do.
(c)(2)(i)	Reduction of competition.	Do.
(c)(2)(ii)	Harm to essential service.	Do.
(d)	Conditions	Do.
(e)	Inclusion of other carriers.	Do.
(f)	Labor protection	Do.
(g)	Cumulative imparts and crossover effects.	Do.
(h)	Public participation	Do.
1111.2	Types of transactions	
(a)	Major	Major.
(b)	Significant	Significant (Sgt.).
(c)	Minor	Minor.
(d)	Exempt	Exempt.
(d)(1)	Acquisition—carrier	Do.
(d)(2)	Acquisition—line	Do.
(d)(3)	Within corporate family	Do.
(d)(4)	Renewals	Do.
(d)(5)	Relocations	Do.
(d)(6)	Reincorporation	Do.
1111.3	Definitions	All.
(a)	Applicant	Do.
(b)	Applicant carriers	Do.
(c)	Major market extension	Do.
(d)	Petition for clarification	Do.
(e)	Petition for waiver	Do.
(f)	Primary application	Do.
(g)	Railroad	Do.
(h)	Responsive application	Mjr. and Sgt.
(i)	Transferee	All.
(j)	Transferor	Do.
1111.4	Procedures	All.
(a)	General	Do.
(a)(1)	Copies filed	Do.
(a)(2)	Acronym	Do.
(a)(3)	Furnishing documents	Do.
(a)(4)	Service list	Do.
(b)	Prefiling notification	Mjr. and Sgt.
(b)(1)	Carrier action	Do.
(b)(1)(i)	Description	Do.
(b)(1)(ii)	Impact analyses year	Do.
(b)(1)(iii)	Filing date	Do.
(b)(1)(iv)	Major or significant	Do.
(b)(2)	Commission action	Do.
(b)(2)(i)	Description	Do.
(b)(2)(ii)	Impact analyses year	Do.
(b)(2)(iii)	Filing date	Do.
(b)(2)(iv)	Major or significant	Do.
(b)(2)(v)	Additional information	Do.
(b)(3)	Amendment	Do.
(c)	Application	All.
(c)(1)	Filing fee	Do.
(c)(2)	Filing	Do.
(c)(2)(i)	Signed under oath	Do.
(c)(2)(ii)	Filed with secretary	Do.
(c)(2)(iii)	Copies conform to original.	Do.
(c)(2)(iv)	Include exhibits	Do.
(c)(2)(v)	Additional information	Do.
(c)(2)(vi)	Directly related applications.	Do.
(c)(2)(vii)	Certificate of service	Do.
(c)(3)	Direct testimony	Mjr. and Sgt.
(c)(4)	Evidentiary record	All.
(c)(5)	Service	All.
(c)(5)(i)	States	Do.
(c)(5)(ii)	U.S. Department of Transportation.	Do.
(c)(5)(iii)	U.S. Attorney General	Do.
(c)(5)(iv)	Federal Trade Commission.	Do.
(c)(5)(v)	Others	Mjr.and Sgt.
(c)(6)	Application format	All.
(c)(6)(i)	Sequence	Do.
(c)(6)(ii)	Appendix, volumes, and numbering.	Do.
(c)(6)(iii)	Interpretation	Do.
(c)(6)(iv)	Compliance	Do.
(c)(6)(v)	Typographical specifications.	Do.
(c)(7)	Acceptance or rejection.	Do.
(c)(7)(i)	Acceptance	Do.
(c)(7)(ii)	Rejection	Do.
(c)(8)	Prima facie case	Do.

[6] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustment necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the second column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferor or transferee is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statements.

[7] The forecast should reflect only changes anticipated to result from the proposed transaction. Forecasts are not required to reflect general economic conditions unrelated to the proposed transaction.

[8] The *pro forma* balance sheets (exhibit 16), *pro forma* income statements (exhibit 17), and sources and application of funds (exhibit 18) shall cover the same years.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS—Continued

Section No.	Section Name	Application type[1]
1111.4:		
(d)	Response to application.	Do.
(d)(1)	Written comments	Do.
(d)(1)(i)	When filed	Do.
(d)(1)(ii)	Service	Do.
(d)(1)(ii)(A)	Applicants	Do.
(d)(1)(ii)(B)	U.S. Department of Transportation.	Do.
(d)(1)(ii)(C)	U.S. Attorney General	Do.
(d)(1)(ii)(D)	Parties on service list	Do.
(d)(1)(iii)	Contents	Do.
(d)(1)(iii)(A)	Docket number and title.	Do.
(d)(1)(iii)(B)	Representative	Do.
(d)(1)(iii)(C)	Position	Do.
(d)(1)(iii)(D)	Participation	All.
(d)(1)(iii)(E)	Oral hearing request	Do.
(d)(1)(iii)(F)	Discovery	Do.
(d)(1)(iii)(G)	Issues	Mjr.and Sgt..
(d)(1)(iii)(H)	Protective conditions—initial—nonrail.	Do.
(d)(1)(iii)(I)	Railroad information	Do.
(d)(1)(iii)(I)(1)	Preferential solicitation agreements.	Do.
(d)(1)(iii)(I)(2)	Run through train operations.	Do.
(d)(1)(iii)(I)(3)	Protective conditions—initial.	Do.
(d)(1)(iv)	Party of record	Do.
(d)(2)	Comments of DOT and Justice.	All.
(d)(3)	Protective conditions—final.	Mjr. and Sgt..
(d)(4)	Responsive applications.	All.
(d)(4)(i)	Filing time	
(d)(4)(ii)	Significant	Mjr. and Sgt..
(d)(4)(iii)	Compliance; extension of time to complete.	Do.
(d)(4)(iv)	Petitions—time	Do.
(d)(4)(v)	Consolidated	Do.
(e)(1)	Hearing designation	All.
(e)(2)	Evidentiary time periods.	All.
(e)(2)(i)	Major	Major.
(e)(2)(ii)	Significant	Significant.
(e)(2)(iii)	Minor	Minor.
(e)(3)	Decisional time periods	All.
(e)(3)(i)	Major	Major.
(e)(3)(ii)	Significant	Significant.
(e)(3)(iii)	Minor	Minor.
(e)(4)	U.S. Department of Transportation participation.	All.
(f)	Waiver or clarification	Do.
(f)(1)	Petition required	Do.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS—Continued

Section No.	Section Name	Application type[1]
1111.4:		
(f)(2)	When filed	Do.
(f)(3)	No replies to petition	Do.
(f)(4)	Application of waiver to other parties.	Do.
(f)(5)	Specificity of waiver	Do.
(g)	Notice of exemption	Exemption.
(g)(1)	When filed	Do.
(g)(2)	Contents	Do.
(g)(3)	Commission action	Do.
(h)	Official notice	All.
(h)(1)	R-1 Report	Do.
(h)(2)	Quarterly commodity statistics.	Do.
(h)(3)	Labor Statistics	Do.
(h)(4)	Quarterly financial reports.	Do.
(h)(5)	Other reports	Do.
(h)(6)	Waybill sample	Do.
(h)(7)	Production statistics	Do.
(h)(8)	AAR compilations	Do.
(i)	Untimely decision	All
1111.5 reserved		
1111.6:	Supporting information	All.
(a)	All applications	Do.
(a)(1)	Descriptions	Do.
(a)(1)(i)	Summary	Do.
(a)(1)(ii)	Time schedule	Do.
(a)(1)(iii)	Purposes	Do.
(a)(1)(iv)	Financial arrangements	Do.
(a)(2)	Public interest	All.
(a)(2)(i)	Competition	Do.
(a)(2)(ii)	Financial consideration	Do.
(a)(2)(iii)	Fixed charges	Do.
(a)(2)(iv)	Adequate service	Do.
(a)(2)(v)	Employees	Do.
(a)(2)(vi)	Inclusion	Do.
(a)(3)	Other support	Do.
(a)(4)	Opion of Counsel	Do.
(a)(5)	States	Do.
(a)(6)	Map	Do.
(a)(7)	Explanation of transaction.	Do.
(a)(7)(i)	Nature of transaction	Do.
(a)(7)(ii)	Agreement	Do.
(a)(7)(iii)	Resulting merged company.	Do.
(a)(7)(iv)	Court order	Do.
(a)(7)(v)	Property involved	Do.
(a)(7)(vi)	Routes	Do.
(a)(7)(vii)	Governmental financial assistance.	Do.
(a)(8)	Environmental data	Do.
(a)(9)	Energy data	Do.
(b)	Major or significant transaction.	Mjr. and Sgt.
(b)(1)	Form 10-k	Do.
(b)(2)	Form S-14	Do.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS—Continued

Section No.	Section Name	Application type[1]
1111.6:		
(b)(3)	Change in control	Do.
(b)(4)	Annual reports	Do.
(b)(5)	Issues	Do.
(b)(6)	Corporate chart	Do.
(b)(6)(i)	Common officer or directors.	Mjr. and Sgt.
(b)(6)(ii)	Carrier or non-carrier	Do.
(b)(7)	Non-carrier information	Do.
(b)(8)	Relationships	Do.
1111.7	Market analyses	Do.
	Impact analysis	Do.
(a)	Traffic pattern, Market concentration, and transportation alternatives.	Do.
(b)	Relevancy and validity	Do.
(c)	Suporting data	Do.
(d)	Marketing plan and competitive alternative affects.	Do.
(d)(1)	Movements	Do.
(d)(2)	Commodity	Do.
(d)(3)	Other	Do.
1111.8	Operational data	
	Major transactions—operating plan.	Mjr. and Sgt.
(a)(1)	Patterns of service	Do.
(a)(2)	Passengers service	Do.
(a)(3)	Equipment requirements.	Do.
(a)(4)	Condition of properties	Do.
(a)(5)	Density charts	Do.
(b)	Minor transaction—operating plan.	Minor.
(b)(1)	Traffic level	Do.
(b)(2)	Passenger service	Do.
(b)(3)	Operating economies	Do.
(b)(4)	Abandonments	Do.
1111.9	Financial information	
(a)	Pro forma balance sheets.	Mjr. and Sgt.
(b)	Pro forma income statement.	Do.
(c)	Sources and applications of funds.	Do.
(d)	Property encumbrance	Do.
(d)(1)	Description	Do.
(d)(2)	Amount	Do.
(d)(3)	Assumption	Do.
(e)	Balance sheet—and Income Statement—minor.	Minor.
(f)		
1111.10–.19	Reserved	
Index-I	Exhibits	
Index II	Table of contents	

[1] Major is defined in § 1111.2(a). Significant is defined in § 1111.2(b). Minor is defined in § 1111.2(c). Exception is defined in § 1111.2(d). "All" includes major, significant, and minor.

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Proposed Rules

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 81-041]

Importation of Horses From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would amend the requirements for importation of horses from Canada to allow entry when accompanied by certification that negative results were obtained from official Agar-gel immunodiffusion (AGID) tests, commonly known as a "Coggins test," for equine infectious anemia (EIA) for which blood samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States.

This action is being proposed because it is believed that the present requirement may be an unnecessary barrier to the importation of horses from Canada. The intended effect of this action would be to allow horses entering or returning to the United States from Canada to enter the United States under adequate but less restrictive requirements.

DATE: Comments must be received on or before May 10, 1982.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:
Dr. Mark Dulin, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." This proposed rule, if adopted, is not likely to result in any significant effect on the economy; any major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Alternatives

The alternatives considered in making this decision were (1) continue the present requirement that Canadian horses must be tested for EIA within 60 days from the date of importation, (2) to remove the test requirement and permit Canadian horses to enter the United States without a Coggins test for EIA, (3) to extend the test requirement from the current 60-day period to a 1-year period, and (4) to extend the test requirement from the current 60-day period to a 180-day period.

Alternative No. 1 causes confusion to United States importers because the Canadian Coggins test requirement for United States horses is valid for a period of 6 months. The current United States import requirements for Canadian horses require the Coggins test to be conducted within 60 days prior to importation. This test requirement was extended to 90 days for returning horses which entered Canada for exhibition purposes.

Alternative No. 2, removing the EIA test requirement, would be an unacceptable health risk and be inconsistent with State EIA control programs.

Alternative No. 3, extending the current test requirement from 60 days to 1 year, was unacceptable because the risk of importing an EIA-affected horse is greater than would occur if all horses were tested within 6 months prior to importation. Also, similar to Alternative No. 1 a one year period would be different from Canada's test requirement and could cause confusion to importers.

Alternative No. 4 would allow horses that had a negative Coggins test to be eligible for importation provided the horse was tested within 6 months prior to importation. This 6-month period offers a minimal risk of importing a horse affected with EIA. Additionally, horse importers would save an average of $20 per test. Because test results would be valid for an additional 4 months, or two-thirds longer, there could be as much as a two-thirds savings to United States importers. The 6-month EIA test requirement would also be consistent with what is required by most States for the interstate movement of United States horses.

Alternative No. 4 was selected because it offers a reasonable amount of protection at less cost to United States importers.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would reduce the frequency of one inexpensive test for one species of animal from one country. Over the past five years (Fiscal Years 1976–1980), on the average, 19,148 horses have entered or returned to the United States annually from Canada. The aggregate amount received by individual veterinarians and laboratories for testing these animals is not a significant part of their incomes.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, and sections 2, 4, and 11 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

The existing certification requirements for importation of horses from Canada, § 92.24(a), include evidence of a negative EIA-test report that has been performed within the last 60 days prior to the animals being offered for entry at our border port. Ninety days is presently allowed for testing exhibition animals that have entered Canada from the United States and are returning to the United States. (§ 92.25(b)). The Department has been strongly urged to reconsider its present

requirements in the light of standards of international movement.

EIA is a viral disease of horses. It is transmitted by the bite of bloodsucking insects or use of unsterilized, contaminated surgical instruments, such as hypodermic needles. The disease is found in most countries of the world where there are horses.

The Canadian government has actively pursued an EIA-control program since February 1971. Animals suspected of the disease are tested by the Agar-gel immunodiffusion (AGID) method. Any reactors are disposed of or permanently quarantined. The incidence of the disease in Canada is low because there is less intermingling among herds than in the United States and the insect vector season is shorter than in the United States, thus reducing the opportunities for transmission of the EIA virus. Information provided by the Department's scientific advisors further discloses that there is a small horse population in Canada, that Canada enforces a mandatory EIA test for all horses that are publicly raced, which provides a continuous monitoring of EIA in a representative sampling of the Canadian horse population, and that Canada has a program wherby persons are paid for reporting EIA in horses, which encourages the reporting of EIA reactors. All of the information provided suggests that there would be no significant increase in risk of EIA by extending the time period prior to entry into the United States within which horses from Canada must have been tested for the disease.

Therefore, the Department is proposing to amend § 92.24(a) and § 92.25(b) to require negative results from official tests for EIA for which samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States. The proposed regulation would specify that a test for EIA is only valid since the day the blood sample is drawn, regardless of when the sample is processed by an approved laboratory, because the results of the test are only valid as to the true health status of the animal on the day the blood sample is drawn.

The Department is also proposing to amend the regulation to allow the blood samples to be tested not only in laboratories approved by the Canada Department of Agriculture, but also laboratories approved by this Department. This Department sets the standards for which approval may be granted to a laboratory located in the United States. Canada requires those same standards to be met before it will grant approval to a laboratory. Therefore, a test conducted in an approved laboratory, whether located in the United States or Canada, would be acceptable so long as the blood sample was drawn and tested within 180 days prior to entry of the horse into the United States.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

§ 92.24 [Amended]

1. In § 92.24(a), the phrase, "conducted during the 60 days preceding exportation in a laboratory approved by the Canada Department of Agriculture" would be amended to read "for which blood samples were drawn during the 180 days preceding exportation to the United States and which test was conducted in a laboratory approved by the Canada Department of Agriculture or the United States Department of Agriculture;".

§ 92.25 [Amended]

2. In § 92.25(b), the phrase, "which were conducted within 90 days of the date," would be amended to read: "for which blood samples were drawn within 180 days of the date."

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, MD., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 3d day of March 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc 82-6170 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No 82-136]

Service Corporation Activities

Dated: February 26, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board is seeking public comment concerning the range of activities in which service corporations of federal savings and loan associations may engage without prior Board approval. The Board proposes these amendments in recognition of the need for increased experimentation and innovation in providing financial services through service corporations. Service corporation activities proposed for comment include: real estate brokerage for property owned by third parties; manufacture of mobile homes; commercial lending without restriction; leasing of consumer and business goods; insurance underwriting; debt collection services; expanded loan servicing; coin and currency services; preparation of tax returns for businesses; engaging in certain securities activities such as acting as a broker and organizing and selling shares in mutual funds, and money market funds; investing in certified development corporations; trading GNMA options; acting as a futures commission merchant; and issuing letters of credit. The Board is also proposing the elimination of current customer limitations on certain preapproved activities, including: credit analysis and appraisal; development and administration of personnel benefit programs; advertising and procurement of savings accounts and loans; serving as escrow agent or trustee; providing liquidity management and financial consulting services; and establishing and operating remote service units. The proposal also includes several technical amendments.

DATE: Comments must be received by: May 3, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available at this address for public inspection.

FOR FURTHER INFORMATION CONTACT: Wendy B. Samuel, Office of General Counsel, (202) 377-6465, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On April 23, 1981, by Resolution No 81-208, the Board adopted amendments that expanded federal associations' service corporation investment authorization and preapproved activities. *See,* 46 FR 24526 (May 1, 1981). This expansion was a result of a broadening of statutorily permissible activities for federal associations by the Depository Institutions Deregulation and Monetary

Control Act of 1980, Pub. L. 96-221, and the need for increased experimentation and innovation in providing financial services through service corporations. The months since that amendment have been characterized both by increased need for profitable investments and by an expanded view by the Board of the powers of federal associations generally.

The competitive development that continue to evolve because of the innovative market-oriented approach of many depository and non-depository firms are clear evidence that the traditional business of financial intermediation has changed. In this increasingly competitive financial services market, the Board recognizes the need to consider allowing federal associations to have new and competitive opportunities to engage in activities not directly permissible, and to realize profits in new areas to bolster a reduced return on traditional investments. Moreover, in view of various congressional inquiries and hearings seeking to study and evaluate the changes occurring in the financial services industry, the Board believes that it is similarly appropriate first to seek public comment that will assist its own inquiries and evaluation of appropriate industry powers and the possible expansion of service corporation powers.

Service corporation activities authorized by 12 U.S.C. § 1464(c)(4)(B) have been limited by Board policy to those that are reasonably related to the activities of the parent institution. This has generally included making investments and engaging in activities permissible to the parent, additional services related to lending, such as real estate appraisal and title abstracting, and other financial services that either were reasonably related to the activities of federal associations or were limited to customers of the parent association. As indicated above, it is the Board's view that in the current economic and competitive climate, it is appropriate to reconsider what activities are reasonably related to activities of federal associations and perhaps even whether the requirement that an activity be "reasonably related" still provides a relevant and workable standard. As a result, the Board now seeks comment on an additional expansion in authorized activities for the service corporations of federal associations. Moreover, the Board is particularly interested in comments addressing the specific ways the proposed activities can be used beneficially by associations and can be considered reasonably related to the activities of federal associations.

Proposed New Service Corporation Activities

Manufacture of mobile homes

Current regulations permit the retail sale and the set-up of manufactured homes as reasonably incident to the activities of federal associations, whose authority includes financing the purchase of manufactured homes. It is now proposed that this authority be expanded to include the manufacture of such homes. This activity may be reasonably related to the residental lending activities of the parent because of the latter's authority to finance the purchase of these types of homes, and because such activity is the functional equivalent of real estate development and construction which are within service corporations' current authority. In addition, this activity involves no more risk to the parent than other types of real estate development activities of service corporations. While risk is not germane to the Board's determination of whether an activity is reasonably related, it is relevant to the practical decision whether to permit the activity as preapproved rather than to retain greater control by requiring prior approval.

Insurance underwriting

Under current regulations, service corporations are permitted to act as agents for the sale of liability, casualty, automobile, life, health, accident and title insurance. The Board seeks comment concerning the extension of the preapproved powers of service corporations to include insurance underwriting. Given recent developments in the financial services marketplace, provision of insurance may be reasonably related to both the deposit and lending functions of federal associations, and the underwriting of insurance may be functionally indistinguishable from selling. While the Board believes that the financial risks of acting as an underwriter may be significantly greater than those of acting as a sales agent, prudent management, Board regulations, and state restrictions on insurance underwriters should be sufficient to control this risk. Moreover, the possible detriments that are inherent in the insurance function may not outweigh the benefits to the public, the association and the service corporation from its offering of these services. The Board's experience in previously reviewing and approving some underwriting services on a case-by-case basis indicates that this may be an area appropriate for preapproval authorization.

This proposal also includes private mortgage insurance sales and underwriting services as preapproved activities for service corporations. Currently, service corporations of federal associations are not permitted to act as sales agents or underwriters for private mortgage insurance, and all insured institutions the accounts of which are insured by the FSLIC are limited by § 563.44 of the Insurance Regulations (12 CFR 563.44) with respect to the sale of this type of insurance to their customers by their service corporations. This position has been based on the Board's view that the purpose of requiring private mortgage insurance is to protect the lender from loss upon default where the value realized from the security property is less than the outstanding balance of the loan. Where the insurer is an entity in which the lender has a financial interest, the lender continues to be at risk up to the amount of its investment in the insurer. The Board now believes, however, that since this possibility of loss can be minimized by careful adherence to prudent lending and underwriting standards it is insufficient to justify denying service corporations access to this source of revenue. However, the Board notes that the proposed inclusion of private mortgage insurance services as a preapproved activity would have little effect absent amendment of Section 563.44, which is currently being considered in conjunction with a review of all the Board's conflict-of-interest regulations.

Debt collection

The Board proposes to permit service corporations to preform debt collection services. This would include such activities as contacting delinquent debtors by letter or telephone, attaching or garnishing wages or other assets, and foreclosing against security property. Obtaining repayment is an integral part of lending activity, and therefore is reasonably related to the activities of both the parent and the service corporation. Since as maker and processor of loans the service corporation and parent association are already involved in debt collection activities in connection with their own loans, permitting service corporations to offer this service to third parties may be reasonably related to association activities.

Letters of credit

The Board also seeks comment on whether to permit service corporations

to issue letters of credit. These are instruments through which the issuing institution pays the beneficiary and is reimbursed by the account party, who arranges for the credit. Since a letter of credit is not substantially distinguishable for many purposes from a commercial loan, the Board proposes to permit service corporations to issue letters of credit as part of their commercial lending. Standby letters of credit would be subject to any limitations applicable to lending.

Coin and currency

The Board proposes to permit service corporations to operate coin and currency services. This activity includes contracting with Federal Reserve Banks or commercial banks to make coins and currency available to fund normal operations of the parent association or other customer institutions, and could include delivery and security arrangements. Since the use of coin and currency is directly related to most of the normal activities of the depository institution parent, these services may be offered without restriction as to customer.

Engaging in securities activities

Several recent applications have raised questions concerning the authority of service corporations to act as securities brokers (i.e. effecting transactions in securities for the accounts of others) and to organize, sponsor, operate, control, render investment advice to an investment company and underwrite, distribute or sell securities of an investment company. For example, a service corporation might act as a broker and purchase and sell securities pursuant to customers' instructions, and establish a money market mutual fund, and sell the shares of such fund to the public. These services may be reasonably related to the parent's authority to purchase specific types of securities and to act as a fiduciary.

These proposed services raise the issue of the application of the Glass-Steagall Act, 12 U.S.C. 377 and 378, which generally prohibits depository institutions and certain of their affiliates from engaging in the business of issuing, selling or underwriting securities. Without addressing the applicability of this Act to savings and loan associations, the Board has determined that service corporations, because of their separate corporate existence from the depository institution parent, are not subject to the restrictions of the Act. Service corporations are required pursuant to § 563.37 (12 CFR 563.37) to maintain a separate corporate existence from the parent associations, and § 570.10 (12 CFR 570.10) sets general standards for ensuring such separation. Therefore, even assuming application of the Glass-Steagall Act to the parent association(s), where a separate corporate existence is maintained service corporations clearly may engage in securities activities without violating the prohibitions contained in that Act. Furthermore, the securities activities of service corporations would be subject to the rules and regulations of the Securities and Exchange Commission. Subject to these limitations, the Board believes that securities services may be reasonably related to the permissible activities of the parent.

Leasing

The Board proposes to permit service corporations to engage in the leasing of consumer and business goods without limit as to the nature of the lessee. Service corporation leasing is currently limited to office furniture, equipment and remote service units primarily for financial institutions. As the Board established by opinion of the Office of General Counsel issued September 29, 1981, and as set forth in recent judicial decisions, e.g., *M & M Leasing Corp.* v. *Seattle First National Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978), leasing under certain circumstances may be considered the functional equivalent of lending. Consequently, service corporations should be permitted to lease goods and equipment the purchase of which they or the parent would be permitted to finance.

Options trading

The Board has proposed permitting insured institutions to engage in trading contracts on GNMA and certain other contracts when approved for trading on an organized exchange, and adding a new § 563.17–5 to this effect. See Board Res. No. 82–135 (February 25, 1982). Consequently, the Board believes that service corporations should also be permitted to enter this activity, and therefore proposes to include this authority as a revision to the current regulation.

Acting as a futures commission merchant

Under the current regulations, service corporations are permitted to engage in interest-rate futures transactions subject to certain limitations contained in § 563.17–4 (12 CFR § 563.17–4). The Board believes that expansion of this authority to include acting as a futures commission merchant would also be a reasonably related activity. As an FCM, the service corporation would furnish advice and place orders for financial institution customers for trading interest-rate futures contracts. Service corporations engaged in this activity would be subject to the rules and regulations of the Commodities Futures Trading Commission.

Extension of Currently Preapproved Activities

Real estate brokerage

The Board seeks comment on whether service corporations of federal associations should be permitted to offer real estate brokerage services for property owned by third parties. The Board has previously declined to designate such real estate brokerage as a preapproved activity, but applications have been made for authorization on a case-by-case basis. Real estate brokerage is an essential part of the process of marketing and financing homes and, for that reason, may be reasonably related to the activities of federal associations whether or not the property is owned by a third party. For that reason, allowing federal associations to provide real estate brokerage services on a wider scale may foster significant economic and competitive benefits for both the public and the savings and loan industry.

The Board recognizes, however, that a potential conflict of interest may exist, in that the decision of the parent to offer financing in a particular transaction could be affected by anticipation of the fee to a service corporation that would be generated by such a sale. However, after reviewing several applications for approval of this activity, the Board considers this potential conflict sufficiently remote so as not to offset the advantages of increased services to the public and profit opportunities of federal associations. Any actual conflicts of interest can be identified and monitored in the supervisory process.

Farm management

Current regulations permit sevice corporations to engage in the maintenance and management of real property. The Board believes that this section should be amended to include specific reference to real property used for farming. Since the authority of federal associations includes authority for lending secured by agricultural property, a reasonably related activity for service corporations would be the maintenance and management of such property.

Commercial lending

The Board seeks comment on whether to permit service corporations to engage in commercial lending without the current restriction to U.S. agency guaranteed business loans secured by real estate and inventory loans to dealers to finance the purchase of goods to be sold for personal, family, or household purposes. The current lending authority of service corporations is slightly different from the lending powers of the parent association. In seeking comment on the possible extension of the ability of service corporations to experiment and to engage in a wider range of profitable activities, the Board is endeavoring to determine whether the activities of a service corporation which can already engage in real-estate-related commercial lending activities coincidental to the parent's may also engage in the forms of commercial financing activities that expand its current business horizons but that may be considered logical extensions of the authorities already possessed by federal associations.

Loan servicing

Since servicing of loans, including recordkeeping, acceptance of payment, and billing, is reasonably related to the authorized activities of associations, the Board seeks comment concerning the authorization of service corporations to service loans without restricting such servicing to the types of loans in which the service corporation may invest.

Tax return preparation

The Board also proposes to permit service corporations to prepare tax returns. While a service corporation may not serve as an expert tax consultant, the preparation of tax returns has been an adjunct to service corporations' offering of financial counseling services. At present, tax return preparation services may be offered, but not to businesses operated for profit. The restriction to non-profit entities may no longer be justified, and therefore the Board seeks comment on the appropriateness of its deletion.

Investment in certified development corporations

Under current regulations, service corporations are authorized to invest in small business investment companies or minority enterprises licensed pursuant to Section 301(d) of the Small Business Investment Act of 1958, 15 U.S.C. 681(d). This Act was amended in 1980 to add Section 503, 15 U.S.C. 697, which provides that the Small Business Administration (SBA) may guarantee payment of debentures issued by a state or local development company, defined as an entity incorporated under state law "to promote and assist the growth and development of small-business concerns", 15 U.S.C. 662(6). It is the Board's view that investment in such companies should be a permissible type of business lending, and that the SBA payment guarantee makes this type of enterprise a prudent investment. Furthermore, this proposed expansion would enhance associations' ability to utilize the full investment authority earmarked for community development activities.

Elimination of customer restrictions

Certain activities currently are preapproved for service corporations because they are performed for customers of the parent. However, under he expanding view of the appropriate role of an association, the Board seeks comment on including among preapproved activities, without limitation to association customers, the following: credit analysis and other services connected with origination of construction loans; developing and administering personnel benefit plans, including IRA and Keogh plans; activities to procure and retain savings accounts and loans; serving as trustee; providing liquidity management and various financial consulting services; and establishing, owning and operating remote service units.

Technical Admendments

Since the April 1981 amendment of § 545.9–1 (12 CFR 545.9–1), the need for several technical changes has come to the Board's attention. First, some confusion resulted from the inclusion in paragraphs (c)(11) and (c)(12) of references to acquisition and development of real property. The Board therefore is proposing to amend the authorization relating to acquisition and development of real estate to clarify that the limitations on holding periods apply to both types of activity. Another technical amendment concerns paragraph (d)(3), which refers to service corporations that qualify under "paragraph (b) of this section." The Board proposes to amend this section to clarify its intent that the reference be limited to service corporations qualifying under paragraph (b)(1) of this section. Finally, the proposal would rearrange the provisions of paragraph (c) for easier reference.

Accordingly, the Federal Home Bank Board hereby proposes to amend Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amend § 545.9–1(d)(3) by changing the reference to "paragraph (b)" to "paragraph (b)(1)"; and revising paragraph (c) to read as follows:

§ 545.9–1 Service corporations.

* * * * *

(c) Permitted activities.—A service corporation in which a Federal association may invest is permitted to engage in the following activities:

(1) *Loans.*—Originating, investing in, selling, purchasing, servicing, or otherwise dealing in (including brokerage or warehousing), any of the following:

(i) Loans, and participations in loans, on a prudent basis and secured by real estate or liens on manufactured homes;

(ii) Loans, with or without security, for altering, repairing, improving, equipping, or furnishing real estate;

(iii) Commercial loans;

(iv) Educational loans;

(v) Consumer loans.

(2) *Services primarily for financial institutions.*—Performing any of the following services, primarily for financial institutions:

(i) Research, studies, and surveys;

(ii) Purchasing of office supplies, furniture, and equipment;

(iii) Developing and operating storage facilities for microfilm or other duplicate records;

(iv) Providing clerical, accounting, data processing and internal auditing services;

(v) Acting as a futures commission merchant for interest-rate futures.

(3) *Real estate services.*—(i) Maintaining and managing real estate, including real estate used for agricultural purposes;

(ii) Managing owners' associations for condominium, cooperative, Planned Unit Development or other rental real estate projects;

(iii) Providing homeownership and financial counseling;

(iv) Providing relocation services;

(v) Providing real estate brokerage services;

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided,* That any development, subdivision, and construction of improvements is to be completed within three years after commencement of development of the real estate and within five years after

acquisition of the real estate, unless such period is extended by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this Part) upon written application by the service corporation, which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction; and *Provided further,* That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in this subparagraph;

(vii) Acquiring improved real estate or manufactured homes to be held for rental or resale, or for remodeling, renovating, or demolishing and rebuilding for sale or rental;

(viii) Manufacture and set-up of manufactured homes;

(ix) Acquiring, maintaining and managing real estate (improved or unimproved) to be used for offices and related facilities of a stockholder of the service corporation, or for such offices and related facilities and for rental or sale, if such acquisition, maintenance and management is performed under a prudent program of property acquisition to meet either the stockholder's present needs or reasonable future needs for office and related facilities: *Provided,* That without prior approval of the Board, no service corporation shall acquire such real estate if, as a result of the acquisition, the outstanding aggregate book value of all such real estate owned by the stockholder and its service corporations would exceed their consolidated net worth.

(4) *Other investments.*—(i) Making investments specified in §§ 545.9 and 545.9–3 of this Part;

(ii) Investing in savings accounts in an insured institution that is a stockholder of the service corporation: *Provided,* That the service corporation receives no consideration, other than interest at the current market rate, for opening or maintaining any such account;

(iii) Investing in tax-exempt bonds of state governments or political subdivisions thereof used to finance residential real property for family units and issued pursuant to section 103 of the Internal Revenue Code, and tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies and issued pursuant to section 11(b) of the United States Housing Act of 1937, as amended;

(iv) Investing in the capital of a small business investment company or minority enterprise small business investment company licensed pursuant to section 301(d) or the debentures of a certified development company guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 by the U.S. Small Business Administration, where such small business or certified development company is engaged exclusively in the activities listed in subparagraphs (c) (1)–(5) of this section.

(5) *Other services.*—(i) Preparing state and Federal tax returns;

(ii) Insurance brokerage, agency or underwriting for liability, casualty, automobile, life, health, accident, title, or private mortgage insurance;

(iii) Providing fiduciary services upon application to the Board pursuant to § 550.2, and subject to the conditions provided in §§ 550.1–550.16, of this Subchapter;

(iv) Issuing credit cards, extending credit in connection therewith, and otherwise engaging in or participating in credit card operations;

(v) Credit analysis, appraising, construction loan inspection, and abstracting;

(vi) Developing and administering personnel benefit programs, including life insurance, health insurance and pension or retirement plans including IRA and Keogh Plans;

(vii) Establishing, owning, leasing, operating or maintaining remote service units;

(viii) Advertising, brokerage and other services to procure and retain both savings accounts and loans, but not pooling savings accounts or soliciting or promoting pooled savings accounts;

(ix) Serving as escrow agent or as trustee under deeds of trust, including executing and delivering conveyances, reconveyances, and transfers of title;

(x) Providing liquidity management, investment, advisory and consulting services;

(xi) Providing coin and currency services;

(xii) Providing debt collection service;

(xiii) Leasing of equipment and business and consumer goods;

(xiv) Servicing loans;

(xv) Engaging in interest-rate futures transactions subject to the provisions of § 573.17–4 of this Chapter, but not subject to any notification requirements thereof;

(xvi) Engaging in options trading subject to the provisions of § 563.17–5 of this Chapter;

(xvii) Issuing notes, bonds, debentures, or other obligations or securities;

(xviii) Acting as a broker, and thereby engaging in effecting transactions in securities for the accounts of others: *Provided,* That (*a*) the service corporation obtains and has on file an opinion of legal counsel certifying that it meets the requirements of § 563.37 of this Chapter regarding the maintenance of a separate corporate existence, and (*b*) that all applicable rules, regulations and statutes pertaining to engaging in such activities are complied with;

(xix) Organizing, sponsoring, operating, controlling, rendering investment advice to an investment company and underwriting, distributing or selling securities in an investment company: *Provided,* That (*a*) the service corporation obtains and has on file an opinion of legal counsel certifying that it meets the requirements of § 563.37 of this Chapter regarding the maintenance of a separate corporate existence, and (*b*) that all applicable rules, regulations and statutes pertaining to engaging in such activities are complied with;

(xx) Issuing letters of credit.

(6) Activities reasonably incident to those listed in subparagraphs (c) (1)–(5) of this section; and

(7) Such other activities reasonably related to the activities of federal associations as the Board may approve.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6210 Filed 3-5-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 22125, Notice No. SC-81-5]

Boeing Model 767 Series Airplanes (Three Man Crew); Withdrawal of Proposed Special Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of proposed special conditions.

SUMMARY: This document withdraws proposed special conditions for the Boeing Commercial Airplane Company Model 767 series airplane (three-man flight crew). The special conditions were proposed to establish appropriate equivalent level of safety standards for novel or unusual design features associated with a centralized caution and warning system. The FAA has reviewed comments from several other interested industry and governmental

organizations, and due consideration has been given by the FAA to all comments presented. In view of the fact that equivalent level of safety findings can be made and the three-man flight crew configuration is no longer a candidate for certification, the proposed special conditions are no longer required, and they are herewith withdrawn.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: W. M. Peacock, Regulations and Policy Office, ANM–110, FAA Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108. Telephone (206) 767–2565.

SUPPLEMENTARY INFORMATION: On September 14, 1981 (46 FR 45617), the FAA proposed special conditions covering the three man flight crew configuration for the new Boeing Commercial Airplane Company model 767 series airplane associated with a novel or unusual design feature, namely a centralized system which would provide caution and warning indications to the flight crew. The FAA has now determined that the basis for certification of the 767 centralized caution and warning system can be accomplished by means of equivalent level of safety findings to existing regulations. Also, the FAA has been officially advised by the Boeing Commercial Airplane Company that the model 767 series airplane, three-man crew configuration is no longer a candidate for FAA certification. The FAA has reviewed comments from several other interested industry and governmental organizations, and due consideration has been given by the FAA to all comments presented. In view of the fact that equivalent level of safety findings can be made and the three-man flight crew configuration is no longer a candidate for certification, the proposed special conditions are no longer required, and they are herewith withdrawn. Withdrawal of the Notice of Special Conditions constitutes only such action and does not preclude the agency from issuing another Notice in the future or commit the agency to any course of action in the future. Since this action withdraws proposed special conditions and imposes no additional burden on any person, it may be made effective in less than 30 days.

Withdrawal

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, the Notice of Proposed Special Conditions for the Boeing Commercial Airplane Company Model 767 series airplane, three-man flight crew centralized caution and warning system, published in the **Federal Register** on September 14, 1981 (46 FR 4561), is withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—This section is not a proposed rule of general applicability and is therefore not covered under Executive Order 12291 or the Regulatory Flexibility Act. The FAA has determined that this document is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the docket. A copy of it may be obtained by contacting the person identified above under "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–5994 Filed 3–5–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–ACE–16]

Transition Area; Clay Center, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposed to designate a 700-foot transition area at Clay Center, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to Clay Center, Kansas, Municipal Airport, utilizing the Clay Center Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before April 11, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, MIssouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, 601 East 12th Street, Kansas City, Missouri.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before April 11, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changes in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart § 71.181 of the Federal Aviation Regulation (14 CFR 71.181) by designating a 700-foot transition ares at Clay Center, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Clay Center, Kansas, Municipal Airport, utilizing the Clay

Center NDB as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Clay Center, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operations and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Clay Center, Kansas

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clay Center Municipal Airport (Latitude 39°23'11"N, Longitude 97°09'25"W), and within 3 miles each side of the 167° bearing from the Clay Center NDB (Latitude 39°22'50"N, Longitude 97°09'40"W), extending from the 5-mile radius area to 8 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-5993 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking and request for comments on proposal to revoke.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing to revoke its regulations which establish criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. NOAA is also requesting comments on its proposal to revoke these regulations. This action is the result of a recent Federal court decision which raises a serious question as to NOAA's authority to implement these regulations. Concurrently NOAA is issuing an interim rule suspending these regulations in a separate document appearing in this issue of the Federal Register.

DATES: Comments on the proposal to revoke must be received on or before May 7, 1982.

ADDRESS: Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, Office of General Counsel National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3043.

SUPPLEMENTARY INFORMATION: On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar Food and Drug Administration (FDA) regulation invalid in the case of *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (Nov. 27, 1981). The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participation incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *." Congress had not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. NOAA like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. This court decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 628, NOAA is proposing to revoke its regulations of 15 CFR Part 904 Subpart G, which govern financial compensation of participants in NOAA's administrative proceedings. NOAA is requesting comments on the proposal to revoke 15 CFR Part 904 Subpart G. This will allow public participation in the rulemaking process prior to any final revocation action. NOAA has received a petition from Pacific Legal Foundation to repeal 15 CFR part 904 Subpart G. Since NOAA has already decided to initiate this rulemaking process, there is no need to publish the additional Federal Register notice of the Pacific Legal Foundation request for rulemaking which would otherwise be required by NOAA procedures.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This Federal Register notice simply proposes to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings and requests

comments on our proposal to revoke these regulations. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not create any new rule and does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certifies that this action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR 904 Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings", does not appear to have a significant economic impact on a substantial number of small entities and is, in any event, required by law. He has provided a certification to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it has been determined that this action is not subject to the Regulatory Flexibility Analysis requirements of Sections 603 and 604 of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

This proposal to revoke does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

For the reasons set out in the preamble, the revocation of 15 CFR Part 904 Subpart G is proposed and comments are requested thereon.

Dated: January 6, 1982.

John V. Byrne,

Adminstrator, NOAA.

Regulatory Flexibility Act Section 605(b) Statement and Certification

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This **Federal Register** notice suspends and requests comments on the proposal to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings of NOAA.

Since fiscal year 1980, seven payments of financial compensation to participants in administration proceedings, pursuant to 15 CFR 904, Subpart G, have been granted totaling $8,050.19. Outlays to parties have ranged in amount from $251.10 to $2,598.88. Based upon this pattern of usage, suspension of the subject program would not appear to have a significant economic impact on a substantial number of small entities. Section 606 of the Regulatory Flexibility Act ("the Act") (5 U.S.C. 606), entitled "Effect on Other Law," further provides that "The requirements of sections 603 and 604 of this title," dealing with initial and final regulatory flexibility analyses, "do not alter in any manner standards otherwise applicable by law to agency action." Accordingly, given the apparent applicability of the holding of the United States Court of Appeals for the Fourth Circuit in *Pacific Legal Foundation* v. *Goyan*, NOAA is required to suspend its program forthwith and is therefore exempted from the Act's requirement to perrform a regulatory flexibility analysis thereon.

For these reasons, in accordance with Section 604(b) of the Act, I certify that suspension and request for comments on the proposal to revoke National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR 904, Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings," does not appear to have a significant economic impact on a substantial number of small entities, and is, in any event, required by law to be effectuated. Therefore, the rulemaking is not subject to the regulatory flexibility analysis requirements of Sections 603 and 604 of the Act.

[FR Doc. 82-6257 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Cancellation of Public Hearing on Modified Portions of the Iowa Permanent Regulatory Program

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

ACTION: Proposed rule: cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of program modifications submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Iowa permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice cancels the public hearing but does not alter the time and location at which the Iowa program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATE: The following hearing is cancelled: The public hearing on the proposed modifications to the Iowa program, March 9, 1982.

ADDRESSES: Written comments should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Kansas City State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Office of Surface Mining, Kansas City State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION: On February 10, 1982, notice of opportunity for public hearing on the proposed modifications to the Iowa program was published in the **Federal Register** (46 FR 6029-6031). The proposed modifications are regulatory changes required by the Secretary of the Interior in his conditional approval of the Iowa program.

The notice stated that any person interested in making an oral or written presentation at the hearing should contact Mr. Richard Rieke by February 26, 1982, and that if no person contacted Mr. Reike to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by February 26, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m., on March 11, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions imposed on the approval of the program.

Written comments should be mailed or hand-delivered to: Mr. Richard Rieke, State Office Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Dated: March 4, 1982.

J. S. Griles,

Acting Director, Surface Mining.

[FR Doc. 82-6339 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13-82-01]

Seattle Opening Day Yacht Parade and Crew Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice establishes a restricted zone in the areas of Union Bay, Portage Bay and Lake Washington on May 1, 1982, from 0800 until 1400. This action is required to permit the conducting of an approved marine event. It is intended to restrict general navigation in the area for the safety of the spectators and participants in the event.

DATE: Comments must be received on or before April 1, 1982.

ADDRESSES: Comments should be mailed to Commander (bb), Thirteenth Coast Guard District, 915 Second Ave., Seattle, WA 98174. Comments may also be hand-delivered to this address. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LCDR B. W. Mills, Boating Safety Office, (206) 442-7355.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 13-82-01), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The short comment period is necessary to provide sufficient time for publication of the Final Rule before May 1, 1982.

Drafting Information

The principal persons involved in drafting this proposal are LCDR B. W. Mills, USCG, Project Officer, CCGD13 Boating Safety Office, and LCDR R. R. Clark, USCG, Project Attorney, CCGD13 Legal Office.

Discussion of Proposed Rule

The annual yachting season Opening Day Yacht Parade sponsored by the Seattle Yacht Club is scheduled to be held on May 1, 1982, in the Lake Washington Ship Canal between Portage Bay and Webster Point beginning at about 0800 and ending at about 1400 Pacific Daylight Savings Time. A collegiate crew race will also be conducted in this area between 1100 and 1200 PDST. As a result of these two events, traffic in the area will be congested. The congestion, in Portage Bay, and the narrow width of Portage Cut (also known as Montlake Cut) and Bay Reach inhibits vessel maneuverability. For this reason it is proposed that participating sailing vessels in the restricted zone maneuver by propelling machinery. Maneuvering with the assistance of a spinnaker will be allowed if it does not interfere with the sailing vessel's ability to maneuver. The primary concern is for the safety of participants and spectators in an area which is narrow and known for unpredictable winds.

By the authority contained in Title 46, U.S.C. 454, as implemented by Title 33, Part 100 U.S. Code of Federal Regulations, a Special Local Regulation controlling navigation on the waters described is promulgated. By the same authority, the waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulation and cite persons and vessels in violation.

Summary of Draft Evaluation

These proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.0 of 5-22-80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulations

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, the Coast Guard is proposing to amend Part 100 of Title 33 Code of Federal Regulations, by adding the following new section:

§ 100.35-1301 Lake Washington/Portage Bay/Union Bay/opening day crew race and yacht parade.

(a) This event will take place on May 1, 1982, between the hours of 0800 PDST and 1400 PDST.

(b) The patrol of the described areas will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels on the parade course and in the adjoining water areas immediately prior to, during and after the parade for such time as he finds it necessary for the safe and orderly conduct of the program. Portage Cut will be closed to all traffic except crew shells and vessels in the parade from 1030 PDST until the termination of the yacht parade.

(c) All sailing vessels in the restricted zone participating in the parade shall use propelling machinery for maneuvering. Spinnakers may be used, in addition to propelling machinery, to the extent that control of the vessel is not impaired.

(d) Specific areas restricted to general navigation or anchorage from 0800 PDST until termination of the yacht parade are:

(1) The waters of Portage Bay Southeast of a line running from the Western corner of the pier (Showboat) 70 yards South of 47°39' N., 122°18'40" W., 425 yards southwest across Portage Bay to the Northwest corner of the "L" shaped moorage (at the foot of East Shelby St.) at 47°39'52" N., 122°18'52" W.

(2) All waters of Portage Cut (also known as Montlake Cut), to Union Bay Channel Buoy 27 and Union Bay Channel Buoy 28.

(3) All waters between an East and West line connecting Union Bay Channel Buoy 27, Union Bay Channel Buoy 29 and Union Bay Channel Buoy 31 and Webster Point Light 33 and an East and West line connecting Union Bay Channel Buoy 28, Union Bay Channel Buoy 30, 470 yards East of Union Bay Channel Buoy 30 to a point 80 yards South of Webster Point Light 33.

(4) The waters between the judging and reviewing vessels and the Southern edge of the channel described above. This area is generally the area South of Union Bay Channel Buoy 28 and North of Foster Island. The judging and reviewing vessels will be identified by appropriate signs showing over their sides.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction

of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(Sec. 1, 35 Stat. 69, as amended, 46 U.S.C. 454; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: March 1, 1982.

C. F. DeWolf,

Rear Admiral, Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 82-6208 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 82-024]

Drawbridge Operation Regulations; Lagoon Pond, Martha's Vineyard, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Town of Tisbury, Massachusetts, the Coast Guard is considering establishing a regulation to limit the opening of the highway bridge over the entrance to Lagoon Pond to navigation from May 15 through September 15, except for specified daily openings. The regulation will provide more uniform vehicular traffic movement between Vineyard Haven and Oak Bluffs, and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 22, 1982.

ADDRESS: Comments should be submitted to and will be available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed envelope or postcard.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

Drafting Information

The principal person involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

The number of motor vehicles on Martha's Vineyard increases fivefold during the summer months. As a result, there is a significant increase in the volume of traffic along the road connecting Vineyard Haven and Oak Bluffs. Vineyard Haven is the point where motor vehicles arrive on and depart from the island. Vehicle traffic to and from Oak Bluffs crosses the entrance to Lagoon Pond one mile from Vineyard Haven. The drawbridge is presently required to open on signal. Daytime or early evening openings of the draw cause a backup of vehicles into Vineyard Haven and Oak Bluffs and a general decrease in movement through both areas. The openings of the draw accommodate recreational traffic; the boats used for scallop harvesting are not restricted by the closed span. The Harbormaster of the Town of Tisbury has stated that the operator of the boatyard on Lagoon Pond has indicated no objection to the proposed regulation. The proposed regulation is being considered because it will provide optimum vehicular movement during the summer months. The regulation is also expected to provide for the reasonable needs of navigation.

The proposed rules have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is not expected to be significant. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by adding § 117.79 as follows:

§ 117.79 Lagoon Pond Highway Bridge, Tisbury (Martha's Vineyard), Mass.

(a) The draw shall open on signal from September 16 through May 14 provided 24 hours advance notice is given.

(b) From May 15 through September 15 the draw will open on signal only from 8:15-8:45 a.m., 10:15-11 a.m., 3:15-4 p.m., 5-5:45 p.m., and 7:30-8 p.m. Throughout the remainder of this period, the draw will open for the passage of vessels if 4 hours advance notice is given.

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

Dated: March 1, 1982.

L. L. Zumstein,

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

[FR Doc 82-6207 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS 00031; TSH-FRL-2067-5]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) to discuss matters related to EPA's implementation of the Toxic Sustances Control Act (Pub. L. 94-569). The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to 5 p.m. on Monday and Tuesday, March 22 and 23, 1982.

ADDRESS: The meeting will be held in: Rm. 3906-3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Frances Loebenstein, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS-

792), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-537, 401 M St., SW., Washington, D.C. 20460, (202-382-3830).

SUPPLEMENTARY INFORMATION: On Monday, March 22, 1982, Dr. John A. Todhunter, Assistant Administrator for the Office of Pesticides and Toxic Substances, will discuss the Administrator's policy for toxic chemicals and will also discuss ATSAC's role as an advisory committee. Dr. Elizabeth Weisburger, Chairperson of the Interagency Testing Committee (ITC), will speak about the ITC's role, and Mr. Don R. Clay, Director of the Office of Toxic Substances (OTS), will discuss priorities of OTS operations. The Committee will then form concurrent subcommittee on Testing and Premanufacture Notification Programs. At 3:30 p.m., the full Committee will reconvene and report on subcommittee discussions.

The Tuesday, March 23, 1982, agenda includes presentations concerning new chemical follow-up programs and voluntary testing approaches.

The meeting will be open to the public and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Ms. Frances Loebenstein at the address or phone number listed above.

Dated: February 26, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-6166 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-31-M

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40 CFR Parts 123, 260 and 262

[SWH—FRL 1967-4]

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirements

Correction

In FR Doc. 82-5698, appearing at page 9336, in the issue of Thursday, March 4, 1982, make the following change:

On page 9337, in the middle column, the second line of paragraph *E.* change the word now reading "charge" to "change".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 81-37165 appearing at page 63332 in the issue for Thursday, December 31, 1981, please make the following correction:

On page 63336, in the flood elevation table, for Illinois, Hoover Branch, in the location column, the second line should read "About 300 feet downstream of Old U.S. Highway 36".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[Docket HM-145D; Notice No. 82-2]

Hazardous Waste Manifest; Shipping Papers

Correction

In FR Doc. 82-5699, appearing at page 9346, in the issue of Thursday, March 4, 1982, make the following change:

On page 3946, in the first column, the first paragraph, the ninth line should read as follows: "transportation of hazardous waste because of".

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-05; Notice 1]

Federal Motor Vehicle Safety Standards; Advance Notice of Proposed Rulemaking; Grant of Petitions for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking; grant of petitions for rulemaking.

SUMMARY: This notice grants two petitions for rulemaking submitted by Mercedes-Benz of North America, Inc., and solicits comments regarding the agency's intention to issue a notice of proposed rulemaking concerning the issues raised by the petitions. Mercedes-Benz's first petition asks that the definition of Seating Reference Point, used in a number of safety standards, be amended to incorporate 95th percentile male leg segments rather than 90th percentile male leg segments as a measuring specification. Mercedes-Benz's second petition asks that the latest version of the SAE recommended practice concerning passenger car driver's eye ranges be referenced instead of an earlier version. That recommended practice is also used in a number of safety standards. In addition to deciding whether to propose changes in those areas, the agency is also considering proposing to require that manufacturers specify a vehicle's Seating Reference Point in terms of accessible permanent marks or points on the vehicle structure.

DATE: Comment closing date: April 22, 1982.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Kaehn, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1351).

SUPPLEMENTARY INFORMATION: Mercedes-Benz has submitted two petitions relating to the Seating Reference Point. The Seating Reference Point is a design point that approximately indicates the point in space above a vehicle seat where an occupant's hips will be located. It is used in a number of safety standards as a reference point within the vehicle for determining the precise location in which certain performance requirements apply. These standards include No. 103, *Windshield Defrosting and Defogging Systems;* No. 104, *Windshield Wipers and Washing Systems;* No. 107, *Reflecting Surfaces,* No. 111, *Rearview Mirrors;* No. 201, *Occupant Protection in Interior Impact;* No. 202, *Head Restraints;* and No. 210, *Seat Belt Assembly Anchorages.*

According to the first petition of Mercedes-Benz, industry design practices have changed since the agency defined Seating Reference Point. The industry now uses 95th percentile male leg segments instead of 90th percentile male leg segments as one of the specifications for locating the Seating Reference Point. (A 95th percentile male leg segment refers to the leg portion of a design template (i.e., a two dimensional

manikin) used by the industry to locate the position of the Seating Reference Point in their vehicle design drawings at a point appropriate for a tall (95th percentile) male. By changing from 90th percentile legs to the longer 95th percentile legs, industry is better able to assure that its vehicles are designed appropriately for taller members of the population.)

Mercedes-Benz contends that defining Seating Reference Point in terms of 95th percentile legs would bring the affected standards up-to-date with current industry practice, as well as bringing them into harmony with European standards.

The agency finds merit in Mercedes-Benz's request that 95th percentile male leg segments instead of 90th percentile male leg segments be referenced in the definition of Seating Reference Point. To the extent that industry now uses 95th percentile male leg segments instead of 90th percentile male leg segments in its design efforts, implementation of safety standards written on 90th percentile male leg segments necessitates largely duplicative, although slightly different, measurements to be made.

The agency recognizes, however, that changing the definition of seating Reference Point might slightly change the performance requirements of a number of safety standards. Even if the changes are slight, there may be some cases in which the changes might create difficulties for a manufacturer who currently produces vehicles with only a very slight margin of compliance. The agency invites comments on whether this technical change would create compliance difficulties for manufacturers.

The first petition also sets forth Mercedes-Benz's belief that the current definition of Seating Reference Point limits the length of seat tracks and asks that the definition be amended to permit extended seat track travel.

The present definition of Seating Reference Point, set forth at 49 CFR 571.3, is:

"Seating reference point" means the manufacturer's design reference point which—

(a) Establishes the rearmost normal design driving or riding position of each designated seating position in a vehicle;

(b) Has coordinates established relative to the designed vehicle structure;

(c) Simulates the position of the pivot center of the human torso and thigh; and

(d) Is the reference point employed to position the two dimensional templates described in SAE Recommended Practice J826, "Manikins for Use in Defining Vehicle Seating Accommodations," November 1962.

Mercedes-Benz's conclusion about the effect of the Seating Reference Point definition is erroneous. Mercedes-Benz interpreted section (a), relating to the rearmost normal design driving or riding position, and section (d), relating to the two dimensional templates, together to mean that the Seating Reference Point represents the "full rear position" of the front seat.

The definition of Seating Reference Point establishes limitations on where manufacturers must locate that point, but does not prevent manufacturers from extending seat track travel behind the point. The first part of the definition indicates that the Seating Reference Point is the manufacturer's design reference point which establishes the rearmost normal design driving or riding position. As such, it represents the rearmost design point from which manufacturers are required to meet various performance standards. It does not establish the absolute rearmost design point to which a seat may be adjusted.

Section (d) of the definition requires that manufacturers use the two dimensional templates described in SAE recommended practice J826 in locating the Seating Reference Point. That recommended practice refers to templates with lower leg and thigh segments in the 10th, 50th and 90th percentile lengths. Since the 90th percentile length is the only appropriate length of the three to use in establishing the rearmost normal design driving or riding position referred to in section (a) of the definition (since it represents the size of a tall person who would use the seat in a rear position), manufacturers must use the 90th percentile segment in locating the Seating Reference Point.

In deciding whether to propose amending the definition of Seating Reference Point, the agency will consider establishing a definition similar to that used by the Society of Automotive Engineers (SAE). That definition, included in SAE Recommended Practice J1100a, "Motor Vehicle Dimensions," is:

Seating reference point (SgRP)—The manufacturer's design reference point is a unique design H-point which:

(a) Establishes the rearmost normal design driving or riding position of each designated seating position which includes consideration of all modes of adjustment, horizontal, vertical and tilt, in a vehicle;

(b) Has X, Y, Z coordinates established relative to the designed vehicle structure;

(c) Simulates the position of the pivot center of the human torso and thigh, and

(d) Is the reference point employed to position the two-dimensional drafting template with the 95th percentile leg described in SAE Recommended Practice "Devices for Use in Defining and Measuring Vehicle Seating Accommodation"—SAE J826b.

In addition to deciding whether to propose amending the definition of Seating Reference Point, the agency will also consider requiring manufacturers to specify a vehicle's Seating Reference Point in terms of accessible permanent marks or points on the vehicle structure. Since manufacturers already establish a Seating Reference Point for both design and compliance purposes, specifying where that point is in relation to certain marks on the vehicle structure should not present any difficulty. SAE Recommended Practice J182a, "Motor Vehicle Fiducial Marks," deals with this subject. Knowing exactly where the Seating Reference Point is located would facilitate compliance testing by the agency.

Mercedes-Benz's second petition seeks to amend Standards No. 103, *Windshield Defrosting and Defogging Systems;* No. 104, *Windshield Wipers and Washing Systems;* No. 107, *Reflecting Surfaces;* and No. 111, *Rearview Mirrors* to alter references to SAE Recommended Practice J941, "Passenger Car Driver's Eye Range," which was issued in November 1965. The petition asks that the standards be amended to reference the latest version of the same SAE recommended practice, SAE J941e.

One of the primary differences between J941 and J941e is the range of seatback angles for which the practices are intended. The older recommended practice, J941, contains a statement that its use is limited to passenger cars with seatback angles of 22 to 28 degrees. Use of the latest version of the SAE recommended practice is not so limited. It provides eye ranges for seatback angles from 5 to 40 degrees. (The passenger car driver's eye range is a drafting tool, which is based on SAE research, and is used by industry in establishing, defining and checking the view of the driving environment afforded from a range of driver's eye points.)

The agency is handling this petition together with the petition on the leg segments used to define the Seating Reference Point because the latest SAE recommended practice, SAE J941e, contains not only eye ranges for seatback angles from 5 to 40 degrees but relies on a definition of Seating Reference Point based on 95th percentile male leg segments. The positioning of the eye ranges is based in part on that definition. Since the Seating Reference Point issue is common to both petitions,

the agency believes that it is appropriate to handle the petitions together.

As noted above, the eye ranges contained in SAE recommended practice, J941, are based on SAE research. That research limited the application of those eye ranges to vehicles with seatback angles from 22 to 28 degrees. Later SAE research resulted in SAE Recommended Practice J941e, which provides eye ranges for vehicles with seatback angles from 5 to 40 degrees. The vast majority of passenger cars sold toady have seatback angles between 22 to 28 degrees. However, a few have seatback angles outside that range. Moreover, as vehicle downsizing continues, manufacturers may produce more vehicles with seatback angles that are outside that range.

The agency therefore finds that Mercedes-Benz's petition to reference the latest SAE recommended practice has merit. As noted above, however, the latest recommended practice is based on a Seating Reference Point defined in terms of 95th percentile male leg segments rather than 90th percentile male leg segments. Before referencing the latest SAE recommended practice, it would be necessary to resolve the issue concerning the definition of Seating Reference Point. Therefore, the agency will continue to handle the rulemakings regarding these two petitions together.

The agency plans to issue a notice of proposed rulemaking concerning the Seating Reference Point and the passenger car driver's eye ranges shortly. A 45-day comment period is being provided at this time to enable manufacturers and other interested parties an opportunity to raise issues and provide information that the agency should consider in making the proposal.

Neither the granting of the petitions nor the issuance of this Advance Notice of Proposed Rulemaking necessarily means that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

NHTSA has considered the impacts of this action in accordance with the Department of Transportation's regulatory policies and procedures and has concluded that it is nonsignificant within the meaning of those procedures. The expected impacts are too indeterminate at this time to conclude whether a regulatory evaluation would be appropriate. Should the agency decide to proceed with a notice of proposed rulemaking, the decision whether to prepare a regulatory evaluation would be made at that time.

Before issuing a notice of proposed rulemaking, the agency would evaluate the action for the purposes of Executive Order 12291, the Regulatory Flexibility Act, and the National Environmental Policy Act.

Interested persons are invited to submit comments on the issues raised by this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119 and 124, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407 and 1410(a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 25, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-6047 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of the Status of the Spotted Bat (Euderma maculatum)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service is reviewing the status of the spotted bat (*Euderma maculatum*) to determine if it should be added to the List of U.S. Endangered and Threatened Wildlife. The Service welcomes information on the status of the bat and its habitat. The Service also would welcome any information on environmental and economic impacts and effects on small entities that would result from listing the spotted bat as an Endangered or Threatened species.

DATE: Information regarding the status of this species should be submitted on or before June 7, 1982.

ADDRESS: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Langowski, U.S. Fish and Wildlife Service, Region 2, P.O. Box 1306, 500 Gold Avenue SW., Albuquerque, New Mexico 87103 (505/766-3972), or Mr. John L. Paradiso, Office of Endangered Species, Washington, D.C. 20240 (703/235-1975).

SUPPLEMENTARY INFORMATION: The Service is publishing a Notice of Review in order to solicit biological information on the spotted bat (*Euderma maculatum*). The Service is also seeking economic or other relevant information

concerning areas that may be considered for Critical Habitat.

Species Biology

(*Euderma maculatum*) was first collected in March 1890 and by 1959, 16 specimens had been obtained. Most specimens were found dead or dying in proximity to human artifacts. During the last 2 decades, the number of biologists working on bats has increased greatly and techniques for capturing and studying bats have reached a high degree of sophistication. This increase in effort has resulted in more specimens, new locations, and in several instances, small, but viable populations have been found. However, the western United States contains vast tracts of sparsely populated lands that have not been surveyed adequately; therefore, the occurrence and status of the species over much of its range is simply not known.

The distribution of *Euderma* is restricted to western North America. It ranges from the Mexican Plateau in the State of Queretaro to the southern border of British Columbia. Although generally widespread, local distribution is quite patchy.

Inasmuch as spotted bats have been found over a large geographic area, it is not suprising that recorded habitats have been quite varied. *Euderma* has been found or collected from low desert to high mountain locations. However, only five locations have yielded substantial numbers indicating viable populations. The factors each of these locations have in common is the presence of streams (year round or ephemeral with intermittent pools) and nearby cliffs or steep hillsides with loose rocks. Specific vegetation associations, prey items, and climatic features do not appear to be as important to the species as do suitable roost sites.

The known viable populations of *Euderma* in the United States occur on lands of the National Park Service in Big Bend National Park, Texas; the National Forest Service in the Gila and Santa Fe National Forest, New Mexico; and on public lands administered by the Bureau of Land Management in the St. George, Utah, District. Most of the other sites of lesser natural occurrence also come within the boundaries of lands controlled by one of the above Federal agencies.

The population at Big Bend National Park (62 captures, no recaptures) receives some protection due to current Park Service general management policies. The populations in the Santa Fe (10 captures) and Gila (11 captures including adjacent San Mateo Mountains) National Forests receive no direct protection. The population in the Fort Pierce Wash Area of southwestern Utah and adjacent northwestern Arizona (82 captures, 4 recaptures) receives some protection due to Utah's classification of the species as Endangered.

An apparently large literature base exists concerning *Euderma*, but little substantial knowledge exists on population ecology. Judging from locations where spotted bats have been captured, they seem to prefer remote sites in canyon or arroyo situations with the presence of crevice roosts. A detailed description of preferred crevice location and internal micro-climate is needed. As in other plecotines, *Euderma* probably does not migrate great distances and appears to be particularly sensitive to human disturbance.

Four States have designated the spotted bat as a species deserving special consideration: Arizona, Nevada, Utah, and Wyoming. The rare or endangered classification by State wildlife agencies provide only limited protection; collecting permits are refused and possession is unlawful. However, disturbance and habitat modifications are not included in State protection.

Reason for Review

Section 4(a) of the Endangered Act of 1973, as amended, states that the Secretary may determine a species to be Endangered or Threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, sporting, scientific, or education purposes;
3. Disease or predation;
4. The Inadequacy of existing regulatory mechanisms; and
5. Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director, U.S. Fish and Wildlife Service.

The Service has reason to believe that the following factors may be affecting the status of the spotted bat:

1. *The present or threatened destruction, modification, or curtailment of the habitat or range.* Experts on this species feel that, like other plecotine bats, the spotted bat does not migrate great distances and hence is particularly sensitive to disturbance by human. Although four western States classify the animal as a "sensitive species," none provide any habitat protection for it; therefore, it appears to be in an extremely vulnerable position given its sparse distribution and low numbers.

2. *Overutilization.* The rarity of the species, and its striking appearance, make it a significant prize for museums. Considerable effort by field collectors has been expended to obtain this bat. Standard collecting techniques such as netting and shooting present a source of major disturbance, and "the level of impact by scientific collecting can be judged as significant." (Dr. Michael J. O'Farrell, status report prepared for the Service, April 1981.)

3. *Other natural or manmade factors.* Several factors of spotted bat biology may act to intensify adverse impacts. These are: (1) Its patchy distribution probably due to specialized roosting requirements; (2) low population numbers where it occurs; and (3) extreme sensitivity to human disturbance.

The Service is, therefore, considering proposing the spotted bat (*Euderma maculatum*) as an Endangered or Threatened species. The Service is interested in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to this species;
2. The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;
3. Current or planned activities that might be detrimental or beneficial to the species;
4. The probable impacts on such activities if the area is designated as Critical Habitat;
5. Additional information concerning the range and distribution of this species.

Economic Data Requested

The Service is particularly interested in receiving information on the possible economic impacts of listing this species, including any Critical Habitat designation, of federally funded or authorized projects.

The Service will analyze all data that it now has, as well as any data that is obtained as a result of this review, and will take appropriate action concerning listing for the species. The information will also assist in preparing impact analyses, and in examining alternative protective measures under Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601).

This Notice of Status Review was prepared by Dave Langowski, U.S. Fish and Wildlife Service, Region 2, P.O. Box 1306, 500 Gold Avenue, SW.,

Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972), and John L. Paradiso, Office of Endangered Species, Washington, D.C. 20240 (703/235–1975).

Dated: February 26, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6233 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 18

Request for Information Concerning Incidental Taking of Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments.

SUMMARY: The Fish and Wildlife Service (FWS) requests information concerning section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1371(a)(5)) that would authorize the incidental, but not the intentional, taking of small numbers of non-depleted marine mammals requested by U.S. citizens who engage in a specified activity within a specified geographical region. Section 101(a)(5) directs the Secretary (Interior or Commerce), depending upon marine mammal species affected, to allow such incidental taking, upon request, if the Secretary makes certain findings and prescribes certain regulations relating to permissible methods of taking, and the monitoring and reporting of such taking. The FWS invites interested persons to submit information and suggestions on the specific types of activities and specific geographical regions for which authorization may be requested, as well as on the structure and content of any appropriate regulations FWS may develop. The FWS will consider this information to determine if regulations should be proposed to implement section 101(a)(5), for polar bears, walruses, and Alaskan sea otters.

DATE: Information should be submitted on or before April 7, 1982.

ADDRESS: All information should be submitted to: Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jim Gillett, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202–632–2202.

SUPPLEMENTARY INFORMATION: Public Law 97–58 (approved October 9, 1981) amended the Marine Mammal Protection Act of 1972 by adding, among other things, a new section 101(a)(5) (16 U.S.C. 1371(a)(5)) which directs the Secretary (either Interior or Commerce, as appropriate) to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, the incidental, but not the intentional, taking of small numbers of marine mammals. This permission may be granted for a period of five years or less. Such taking may be allowed only if the species involved is not depleted and if the Secretary, after notice and opportunity for public comment: (a) Finds that the total taking will have a negligible impact on the species and its habitat, and on the availability of the species for subsistence uses; (b) prescribes regulations setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance; and (c) prescribes regulations pertaining to the monitoring and reporting of such taking. As used in this section, "negligible impact" means an impact which can be disregarded, and "incidental, but not the intentional, taking" means accidental taking, which includes harassing, capturing, or killing.

The FWS is responsible for implementing this new section with respect to polar bears, Alaskan sea otters, and walruses. In order to develop the proposed regulations required by the new section, the FWS invites information on the following:

(1) A description of specific activities other than commercial fishing that can be expected to result in incidental taking of marine mammals;

(2) The dates and duration of such activities and the specific geographical region where they are likely to occur;

(3) The species and numbers of marine mammals likely to be taken by age, sex, and reproductive condition, and the type of taking (e.g., disturbance by sound, injury or dealth resulting from collision, etc.) and the number of times such taking is likely to occur;

(4) A description of the status and distribution of the affected species or stocks likely to be affected by such activities;

(5) The anticipated impact of the activities upon the species of stock, and on the availability of taking for subsistence uses;

(6) The anticipated impact of the activities upon the habitat of any marine mammal populations, and the likelihood of restoration of the affected habitat;

(7) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

(8) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activities or other means of effecting the least practicable adverse impact upon the affected species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(9) Suggested specification of classes of activities (e.g., marine geophysical activities such as seismic surveys, core drilling, or vessel transport) and geographical regions in which such activities might be authorized;

(10) Suggested means of accomplishing the necessary monitoring and reporting and of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activities; and

(11) Suggested means of learning of, encouraging, and coordinating research opportunities, plans and activities relating to reducing such incidental taking and evaluating its effects.

The FWS solicits information and suggestions from interested persons in order to assist it in: (a) Identifying potential activities that may be authorized under section 101(a)(5); (b) developing regulations relating to permissible methods of taking, monitoring and reporting; and (c) developing a system of processing individual requests for such permission to take. In particular, the FWS is aware that persons who engage in seismic activities that may affect marine mammals may be interested in authorization under section 101(a)(5). The FWS specifically invites representatives of this industry as well as other concerned parties to submit relevant information so that appropriate implementing regulations can be developed, including information concerning economic and other impacts under Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

After sufficient information has been received to determine if regulations are necessary, the FWS will initiate regulations to consider individual requests to conduct specific activities in specific geographical areas. At that time, the FWS will invite information, suggestions and comments, through notice in the **Federal Register**, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activities.

After a finding of negligible impact and the promulgation of regulations

relating to taking, monitoring, and reporting, the FWS likely will issue letters of authorization for persons to conduct the specified activities subject to the regulations. To insure that the purposes of section 101(a)(5) are satisfied, the letters of authorization may specify any terms and conditions that are appropriate. Letters of authorization may be suspended if the FWS determines that the regulations prescribed are not being substantially complied with or the allowed taking is having, or may have, more than a negligible impact on the species or stock concerned, its habitat or on the availability for subsistance uses.

(Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407))

Dated: February 26, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6189 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

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

DEPARTMENT OF AGRICULTURE

Forest Service

Umpqua National Forest, Tiller Ranger District; Decision-Notice and Finding of No Significant Impact; Vegetation Management in Conifer Plantations, Douglas County, Oreg.

An environmental assessment that discusses vegetation management on the Tiller Ranger District involving control of competing vegetation on 3,536 acres of conifer plantations has been prepared. All proposed treatment areas are located on lands administered by the Umpqua National Forest within Douglas County, Oregon. The report is available for public review at the Tiller Ranger District and the Umpqua National Forest Office in Roseburg, Oregon. No flood plains or wetlands are involved in the project.

It is my decision, based on the analysis and evalation described in the Environmental Assessment for this project, to adopt Alternative 2 as modified, "Regional EIS preferred alternative, with aerial chemical applications restricted to brushfields where no other method is biologically and/or economically feasible," using the following methods:

43%—Chemical Methods—Aerial application on 318 acres with Roundup and 191 acres with 2,4–D or Garlon; ground application on 793 acres with Roundup, and 206 acres with Atrazine/dalapon mixture, and 6 acres with the herbicide Asulox.

12%—Mechanical Methods—The use of a tractor with a brush cutter and/or a soil ripping attachment will occur on 28 acres depending on soil conditions. Site preparation by tractors (during logging) will occur on about 400 acres.

11%—Manual Methods—Manual brushing will occur on 347 acres, paper mulching on 25 acres, and hand scalping on 29 acres.

15%—Biological Methods—Cattle grazing in existing allotments is expected to provide some beneficial release on 193 acres, sheep grazing is expected to provide some release on 130 acres, and the use of insects (such as the cinnabar moth) will control tansy ragwort on 220 acres.

19%—Thermal Methods—Prescribed burning (broadcast) will prepare sites on 640 acres. Girding stems with torches will occur on 10 acres.

These treatments, including retreatment acres, are necessary to control competing vegetation to provide moisture, nutrients, and light for conifer survival and growth.

This preferred alternative, with specified mitigation measures and monitoring, provides the best combination of physical, biological, social and economic benefits and is considered to be the environmentally preferable alternative.

The report considers the use of various methods of vegetation management as follows:

A. No Treatment.
B. Manual Methods.
1. Hand brushing.
2. Hand scalping.
3. Paper mulching.
C. Mechanical Methods (Tractor or Other Heavy Equipment).
D. Chemical (Herbicides).
E. Biological (Insects, Sheep, Cattle).
F. Thermal Methods.

Six alternatives were developed using various combinations of these methods.

The site specific effects of all feasible alternatives were addressed and Alternative 2, as modified, provides the best combination of methods to effectively accomplish vegetation management on the 3,536 acres with minimal environmental impacts.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) All chemicals are approved by EPA for the proposed use; (b) application of chemicals will comply with applicable EPA labels, State and Federal law, Forest Service policies and the current R–6 Environmental Statement dealing with vegetative management; (c) treatment with chemical, mechanical or hand methods will have only slight and temporary effect on the ecosystems in the treatment areas; (d) physical and biological effects are limited to the areas of planned treatment; (e) there are no irreversible or irretrievable resource commitments or losses; and (f) no known threatened or endangered plants or animals have been recorded or observed within the project area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes application measures designed to protect non-target areas and the water quality. State and Federal Water Quality Standards will be met.

Project implementation may take place immediately after the date of this decision.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: February 18, 1982.

R. D. Swartzlender,

Forest Supervisor.

[FR Doc. 82-6187 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee

AGENCY: Science and Education Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 1407 of the National Agricultural Research, Extension, and Teaching Act of 1977, as amended, Science and Education announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences
Date: March 10, 1982
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: Develop plans for needs assessment of agricultural science and education programs; discuss proposed agenda for April meeting of Joint Council; determine various policy issues to be discussed by the Council in 1982.

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 2nd day of March 1982.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 82-6356 Filed 3-5-82; 8:59 am]

BILLING CODE 3416-03-M

Office of the Secretary

Establishment of Study Committee To Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program and of Committee Meeting

1. Establishment of Committee

Pursuant to Section 507 of the Agriculture and Food Act of 1981, (Pub. L. 97–98) notice is hereby given that the Secretary of Agriculture has established a study committee to study alternative methods of establishing premiums and discounts for grade, staple, and micronaire for the upland cotton loan program.

2. Meetings

Pursuant to the provisions of Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meetings.

Name: Study Committee to Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program

Date: First Meeting March 23, 24, 1982, Second meeting April 6, 7, 1982

Place: U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 4960 South Building, Washington, D.C. 20250.

Time: 9:00 A.M.–4:45 P.M.

Purpose: To enable members to study alternative methods of establishing premiums and discounts for grade, staple, and micronaire for upland cotton that will represent true relative market values and reflect actual market demand for upland cotton produced in the United States. The committee shall submit the results of the study to the Secretary at the earliest practicable date together with recommendations as the committee considers appropriate.

Agenda: The agenda will include discussion of present methods of establishing premiums and discounts and possible alternative methods consistent with legislative guidelines.

The meetings will be open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before the meeting to the Chairman unless their participation is otherwise requested by the Committee Chairman. Written statements should be sent to Charles V. Cunningham, Acting Deputy Director, Analysis Division, ASCS, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013, telephone (202) 447–7954.

Signed at Washington, D.C., on March 4, 1982.

John E. Schrote,

Assistant Secretary for Administration.

[FR Doc. 82-6357 Filed 3-5-82; 9:40 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

Certificates of Public Convenience and Necessity and Foreign Air Carriers; Applications Filed; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended February 26, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket no	Description
Feb. 26, 1982	40486	Yukon Air Service, Inc., d.b.a. Air North and Nenana Air Service, c/o Michael J. Roberts, Verner Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Application of Yukon Air Service, Inc., d.b.a Air North and Nenana Air Service, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to issue it an amended certificate of public convenience and necessity which authorizes air transportation of persons, property and mail between and among the following points (in addition to those previously authorized by its Route 269): The terminal point: Akhiok, Alaska, the intermediate points: Aklachak, Alaska, Akiak, Alaska, Alakanuk, Alaska, Aleknagik, Alaska, Alitak, Alaska (Lazy Bay), Ambler, Alaska, Amook, Alaska, Aniak, Alaska, Anvik, Alaska, Atigun, Alaska, and Atmautluak, Alaska. Bethel, Alaska, Big Delta, Alaska, Brevig Mission, Alaska, and Buckland, Alaska. Cape Lisburne, Alaska, Cape Newenham, Alaska, Cape Romanzof, Alaska, Cape Yakataga, Alaska, Chandalar, Alaska, Chandalar Shelf, Alaska, Chefornak, Alaska, Chevak, Alaska, Clarks Point, Alaska, Cold Bay, Alaska, Coldfoot, Alaska, Cordova, Alaska, and Crooked Creek, Alaska. Deadhorse, Alaska, Deering, Alaska, Delta Junction, Alaska, Dietrich, Alaska, Dillingham, Alaska, and Dutch Harbor, Alaska. Eek, Alaska, Egegik, Alaska, Ekuk, Alaska, Ekwok, Alaska, and Elim, Alaska. Farewell, Alaska, Five Mile, Alaska, Flat, Alaska, Fortuna Ledge, Alaska, and Franklin Bluffs, Alaska. Galbraith Lake, Alaska, Gambell, Alaska, Golden Horn, Alaska, Golovin, Alaska, Goodnews Bay, Alaska, Grayling, Alaska, and Gulkana, Alaska. Happy Valley, Alaska, Holy Cross, Alaska, Homer, Alaska, and Hooper Bay, Alaska. Igiugig, Alaska, Iliamna, Alaska, and Isabelle Pass, Alaska. Kalskag-Lower Kalskag, Alaska, Kaltag, Alaska, Karluk, Alaska, Kasigluk, Alaska, Kenai, Alaska, Ketchikan, Alaska, Kiana, Alaska, King Salmon, Alaska, Kipnuk, Alaska, Kitoi Bay, Alaska, Kivalina, Alaska, Kobuk, Alaska, Kodiak, Alaska, Kokhanok Bay, Alaska, Koliganek, Alaska, Kongiganak, Alaska, Kotlik, Alaska, Koyuk, Alaska, Koyukuk, Alaska, Kwethluk, Alaska, Kwigillingok, Alaska, Kwiguk (Emmonak), Alaska, and Kwinhagak (Quinhagak), Alaska. Lake Nerka, Alaska, Larsen Bay, Alaska, Levelock, Alaska, and Livengood, Alaska. Manokotak, Alaska, Marshall, Alaska, Medfra, Alaska, Mekoryuk, Alaska, Moser Bay, Alaska, Moses Point, Alaska, and Mountain Village, Alaska. Naknek, Alaska, Napakiak, Alaska, Napaskiak, Alaska, New Stuyahok, Alaska, Newtok, Alaska, Nightmute, Alaska, Noatak, Alaska, Nondalton, Alaska, Noorvik, Alaska, Northway, Alaska, Nuigsut, Alaska, Nulato, Alaska, and Nunapitchuk-Akolmuit. Old Harbor, Alaska, Old Man, Alaska, Olga Bay, Alaska, and Ouzinkie, Alaska. Parks, Alaska, Pederson Point, Alaska, Pedro Bay, Alaska, Petersburg, Alaska, Pilot Point, Alaska, Pilot Station, Alaska, Platinum, Alaska, Point Hope, Alaska, Point Lay, Alaska, Port Vanon, Alaska, Port Alsworth, Alaska, Port Bailey, Alaska, Port Clarence, Alaska, Port Lions, Alaska, Port Williams, Alaska, Portage Creek, Alaska, and Prospect Creek, Alaska. Queen, Alaska, and Quinhagek, Alaska. Red Devil, Alaska, and Russian Mission, Alaska. St. Mary's, Alaska, San Juan, Alaska, San Point, Alaska, Savoonga, Alaska, Scammon Bay, Alaska, Seal Bay, Alaska, Selawik, Alaska, Seward, Alaska, Shageluk, Alaska, Shaktoolik, Alaska, Sheldon Point, Alaska, Shishmaref, Alaska, Shungnak, Alaska, Sitkinak, Alaska, Sitka, Alaska, Skwentna, Alaska, Sleetmut, Alaska, South Naknek, Alaska, and Stoney River, Alaska. Takotna, Alaska, Tatalina, Alaska, Teller, Alaska, Terror Bay, Alaska, Tin City, Alaska, Togiak, Alaska, Toksook, Alaska, Transcross, Alaska, Tuluksak, Alaska, Tuntatuliak, Alaska,Tununak, Alaska, and Twin Hills, Alaska. Uganik, Alaska, Ugashik, Alaska, Unalakleet, Alaska, and Uyak, Alaska. Valdez, Alaska. Wainwright, Alaska, Wales, Alaska, West Point—Village Isle, White Mountain, Alaska, Wiseman, Alaska, and Wrangell, Alaska.

Date filed	Docket no	Description
		Yakutat, Alaska, and the terminal point: Zachar Bay, Alaska. Conforming applications, motions to modify scope, and answers may be filed by March 26, 1982.

Phillis T. Kaylor,
Secretary.
[FR Doc. 82-6205 Filed 3-5-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-3-1; Docket 40466]

Compagnie Nationale Air France; U.S.-France/Mexico/Belgium Fares; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 19th day of February 1982.

In a series of recent tariff revisions, Compagnie Nationale Air France (Air France) has proposed expanding availability of its New York-Paris "vacances" service to Saturdays during the period from March 27 to June 14, 1982;[1] introduction of a New York-Mexico City supersonic fare at $440 one way, effective March 6, 1982; and introduction of new special excursion, special group excursion, advance-purchase excursion (APEX) and group APEX fares between Chicago and New York, on the one hand, and Brussels, on the other, effective April 6, 1982.

We have decided to suspend Air France's proposals. The French aviation authorities have repeatedly denied U.S. carrier attempts to introduce new fares in the U.S.-France market, have disapproved the fare proposals of U.S. carriers seeking entry into the market whenever the proposals had undercut the prevailing fares of Air France, and have even refused U.S. carriers the right to match Air France's fares at the latter's U.S. gateways if the former did not provide single-plane service. Most recently, the French authorities have disapproved two attempts by Pan American World Airways, Inc. (Pan American), to match Air France's Houston-Paris winter group excursion fare. Thus, the Government of France continues its policy of denying U.S. carrier fare initiatives in order to protect Air France, to the detriment of the traveling public. Such circumstances compel us to review Air France's fare proposals with greater scrutiny than we would otherwise prefer.

The proposed expansion of New York-Paris "vacances" service and introduction of new Chicago/New York-Brussels fares are clearly intended to enhance Air France's participation in these markets. In particular, we note that Air France's proposed promotional fares to/from Brussels are designed to match those now offered by Belgium's national carrier, Societe anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena). Sabena, however, provides single-plane service in the markets at issue, whereas Air France's service entails an intraline connection at Paris—precisely the situation at Houston, where the French authorities have blocked Pan American's efforts to compete for low-fare traffic because the carrier's service involves an intraline connection. Indeed, we find the French authorities' action harsher, because it restricts Pan American's ability to compete for traffic to/from its own country, rather than between two foreign countries.

Air France's proposed New York-Mexico supersonic fare, on the other hand, has been suspended once before,[2] and we are unconvinced that the level now proposed is compensatory. At $440, the proposed level now reflects the customary 20 percent differential over the present first-class fare of $366. At 21.1 cents per mile, however, it is still far below prices for supersonic service in other markets—Air France's current levels for the New York-Paris and Washington-Paris markets, for example, amount to 51.0 and 48.3 cents per mile, respectively. In essence, then, Air France has implicitly asked us to give deference to its own marketing judgment and value of service considerations. Such deference, however, is properly based on reciprocity and comity and, given the French authorities' posture, we are unable to approve a fare priced so far below those established for the same service in other markets.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendices A, B and C, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix A from March 3, 1982, to and including March 2, 1983, Appendix B from April 6, 1982, to and including April 5, 1983, and Appendix C from March 6, 1982, to and including March 5, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [3] and, unless disapproved by the President within ten days, it shall become effective March 3, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Compagnie Nationale Air France and the Ambassador of France in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-6203 Filed 3-5-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-3-4; Docket 39722]

Emergency Air Transportation Requirements; Order Extending Exemption Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of March, 1982.

By Order 81-11-57, November 10, 1981, we exempted all U.S. and foreign air carriers and commuter air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part. Our award of this (and other) exemption

[1] The pertinent tariff provisions are scheduled for effectiveness March 3, 1982. Under current provisions, Air France's "vacances" service during the above period would be limited to Mondays, Thursdays, Fridays and Sundays.

[2] See Order 81-5-2, April 21, 1981.

[3] We submitted this order to the President on February 19, 1982.

authority was intended to relieve carriers of certain regulatory requirements during the service cutbacks resulting from the job action by the Professional Air Traffic Controllers Organization (PATCO).[1] In particular, the exemption from the denied boarding rules was granted because of the FAA-imposed limit on capacity and difficulty in predicting the no-show rate during this period of operational constraints.[2] By the terms of our order, this exemption expires on March 1, 1982.

We received a request from the Air Transport Association (ATA) for an extension of this exemption award for the duration of the existence of the FAA's Interim Operations Plan. In support of its request, the ATA states that the situation of reduced capacity that existed when we granted the exemption remains a problem and that "[a]ir traffic control system constraints continue to impede carrier efforts to ascertain no-show patterns and to react appropriately." Although the FAA has improved capacity at its facilities, the ATA argues that disparities in the capacity of airports greatly complicate the scheduling and rescheduling of multi-leg and connecting flights. The ATA concludes that the rescheduling of flights in order to maximize service often conflicts with the carrier's ability to predict and manage the capacity for each flight.

In addition, the ATA states that continued relief from the double-compensation provision of Part 250 would permit the airline industry, which suffered serious losses in 1981, to reduce some of its expenses and still accommodate the consumer protection principles of Part 250.

We received an answer from Transamerica Airlines, Inc. in support of the ATA's request.

We have decided to extend our award of exemption authority until June 1, 1982. The air traffic control system now accommodates more operations than it did at the time of our earlier order, and has attained an improved level of stability and certainty. We recognize, however, that capacity is still significantly curtailed and that neither the airlines nor the public respond as they would in an environment of complete scheduling freedom. Since carriers remain unable to predict with any certainty the no-show rate for their flights which limits the maximum utilization of airlift capacity in a period of reduced operations, we find that it is in the public interest to continue the partial exemption from the denied boarding rules.

We will not, however, extend this exemption authority for the duration of the Plan. Even if the Interim Operations Plan remains in effect, the need for the exemption authority may change. We will review the need for it periodically.[3]

Accordingly,

1. We grant the request of the ATA in Docket 39722;

2. We extend our exemption award in ordering paragraph 2 of Order 81-11-57 which exempts all U.S. and foreign air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part, this authority shall remain in effect through June 1, 1982; and

3. We will serve a copy of this order on all U.S. certificated and foreign carriers, the Department of Justice, the Department of Transportation, the Federal Emergency Management Agency, the Federal Aviation Administration, the Postmaster General, the Department of Defense, the Aviation Consumer Action Project, and the Air Transport Association of America.

A copy of this order will be published in the **Federal Register.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Smith who filed the concurring statement below.

Smith, member, concurring:

Airlines have historically oversold flights to counter the overbooking and no-show practices of air travellers. In this context, denied boarding compensation rules have been appropriate to provide a measure of consumer protection in the industry. The Board provided some relief from penalties for "bumping" passengers in the wake of the air traffic control strike which resulted in new capacity controls for airlines.

The incidence of denied boardings for some carriers has increased, however, during the strike aftermath which suggests that it is at best, awkward to take any action which appears to condone the practice. We must acknowledge that our exemption removes much of the incentive the carriers had to make sure their bumped passenger is promptly accommodated on another flight. Furthermore, the Board encouraged the airlines to seek additional ways to counter the overbooking and "no-show" problem and granted immunity for intercarrier discussions on the problem and prospective solutions.

It would be equally inappropriate, however, to impose additional hardships on airlines during a time when capacity constraints continue and since there have been virtually no consumer complaints about the absence of the double compensation. It must also be noted that the Board has solicited comments and is reconsidering the denied boarding compensation rules.

The Board should, therefore, expedite the rulemaking to consider the possibility of giving carriers flexibility in providing alternative forms of compensation, such as future transportation, in lieu of the current fixed compensation which could be of possibly greater value to consumers and result in less fixed cost to airlines.

James R. Smith.

[FR Doc. 82-6204 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[1] *See also* Orders 81-9-168, September 30, 1981; 81-9-20, September 3, 1981; 81-8-86, August 13, 1981; 81-8-22, August 6, 1981; 81-7-158, July 30, 1981; and 81-6-148, June 19, 1981.

[2] Order 81-11-57 at 5.

[3] We are reviewing our Denied Boarding Compensation and Oversales rule to determine whether, and in what form, these rules should continue prior to and after the Board sunsets. See EDR-436, 46 FR 62285, December 31, 1981.

[Dockets 33363; 32606, and 32607]

Former Large Irregular Air Service Investigation; Applications of Worldwide Airlines, Inc.; Hearing

By Order dated February 25, 1982, a procedural schedule was established which set March 25, 1982 as the hearing date in this proceeding. After issuing that Order, it was discovered that a hearing room is not available on that date and the hearing, therefore, will be held on March 26, 1982.

Accordingly, notice is hereby given that a hearing in the above-entitled matter is assigned to be held on March 26, 1982, at 10:00 a.m. (local time), in Room 1003 Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., March 2, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-6202 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40459]

United States-Brazil/Argentina All-Cargo Exemption Proceeding; Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Wednesday, March 31, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before Wednesday, March 24, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., March 2, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6201 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

New York Region; Application Solicitation

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for seven New York Region projects as follows:

1. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning August 1, 1982 in Bronx, New York (New York SMSA). The cost of the project is estimated to be $313,600. The maximum federal participation amount is $282,240. The minimum amount required for non-federal participation is $31,360. The project number is 02-10-82001-01.

2. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in New York (Manhattan), New York SMSA. The cost of the project is estimated to be $235,200. The maximum federal participation amount is $211,680. The minimum amount required for non-federal participation is $23,520. The project number is 02-10-82002-01.

3. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in Queens, New York (New York SMSA). The cost of the project is estimated to be $212,800. The maximum federal participation amount is $191,520. The minimum amount required for non-federal participation is $21,280. The project number is 02-10-82003-01.

4. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the counties of Nassau and Suffolk in New York (Nassau SMSA). The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 02-10-82006-01.

5. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning August 1, 1982 in the Boston, Massachusetts SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 01-10-82007-01.

6. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in the Hartford, Connecticut SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 01-10-82011-01.

7. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the counties of Orleans, Monroe, Wayne, Ontario and Livington in New York State (Rochester SMSA). The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 02-10-82012-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 16, 1982.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 36-116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT:

R. Allen Walls, Chief, Enterprise Development, telephone (212) 264-4742.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. Capability and Experience of Firm/Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority

individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contributions.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. Costs

Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan and Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanations of all expenditures proposed; and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as commiting MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

A Pre-Application conference to assist all interested applicants will be held at the above address on March 31, 1982, at 2:00 PM in Room #305.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: March 1, 1982.

Ralph J. Perez,

Regional Director.

[FR Doc. 82–6122 Filed 3–5–82; 8:45 am]

BILLING CODE 3510–21–M

National Bureau of Standards

Federal Information Processing Standard FORTRAN (FIPS PUB 69); Proposed Interpretation 1, Nested Parentheses in an Expression

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. Interpretation number 1 to FIPS FORTRAN (FIPS PUB 69) is being recommended for Federal use. It pertains to nested parentheses in expressions.

This proposed interpretation is in accordance with the Interpretation Procedures for FIPS FORTRAN as contained in Federal Information Processing Standards Publication 69, paragraph 11.3, dated September 4, 1980. The proposed interpretation, if adopted, will serve as an additional specification to FIPS FORTRAN, which is an adoption of the voluntary industry standard (FORTRAN, X3.9–1978) that has been developed by the American National Standards Institute.

The proposed interpretation contains a definition of the problem, identification of the issues, recommended interpretation, supporting justification for the proposed interpretation, necessary clarifications to FIPS FORTRAN to effect the resolution, and the effective date of the interpretation.

Prior to approval of the proposed interpretation by the Natonal Bureau of Standards, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may submit comments in writing to the Director, Institute for Computer Sciences and Technology, ATTN: Proposed FORTRAN Interpretation 1, National Bureau of Standards, Washington, DC 20234, not later than June 7, 1982. Telephone inquiries should be directed to Betty Holberton at (301) 921–3485.

Dated: March 2, 1982.

Ernest Ambler,

Director.

FIPS FORTRAN

Interpretation 1—Nested Parentheses in an Expression

Problem: If an arithmetic assignment statement which contains an arbitrary number of sets of nested parentheses surrounding an arithmetic expression fails to be accepted by a processor, does such action cause the processor to fail to conform to the standard?

Issue: Given the following arithmetic assignment statement:

X = (((((...((A))...)))))
with 57 sets of parentheses surrounding the A.

Does failure to accept such a statement cuase the processor to be non-standard conforming?

Interpretation: This interpretation applies to American National Standard FORTRAN X3.9–1978, as it has been adopted as FIPS FORTRAN, FIPS PUB 69. The interpretation is that a FORTRAN processor may impose limitations on the size and complexity of a standard-conforming program that it may accept. Thus, the standard does not specify the number of nested parentheses that a processor must recognize in an expression. Hence, the number is processor-dependent.

Supporting Justification:

References: The following references to American National Standard FORTRAN, X3.9–1978, pertain to the issue involved in this interpretation:

(a) Page 1–1, 1.3 *Scope,* 1.3.2 *Exclusions.* "This standard does not specify * * * (5) The size or complexity of a program and its data that will exceed the capacity of any specific data processing system or the capability of a particular processor."

(b) Page 1–2, 1.4 *Conformance.* "Because a standard-conforming program may place demands on the processor that are not within the scope of this standard, * * *, conformance to this standard does not ensure that a standard-conforming program will execute consistently on all or any standard-conforming processors."

Discussion: The term "processor", as used in the FORTRAN standard, implies the combined actions of a computer (hardware), its operating system, a compiler, and a loader. The processor may impose limitations on the size and complexity of a program in each of the above areas. Thus, a processor may apply a limit to the size of the stack in the parser of the compiler which can affect the acceptable depth of nesting of parentheses permitted in an expression.

[FR Doc. 82–6193 Filed 3–5–82; 8:45 am]

BILLING CODE 3510-CN-M

Postponement of Scheduled Cost Comparison Reviews of Commercial or Industrial Activities Performed by Government Employees

AGENCY: National Bureau of Standards, Commerce.

ACTION: Postponement of scheduled cost comparison reviews of commercial or industrial activities.

Notice is hereby given that, as a result of budgetary uncertainties and the planned consolidation of routine services within the Department of Commerce, the cost comparison reviews of Government Commercial or Industrial Activities performed by government personnel at the National Bureau of Standards (NBS) will be postponed until later in fiscal year 1982. The initial schedule of reviews was published in the **Federal Register** on July 20, 1980 (45 FR 48680). The review schedule was subsequently revised twice and notice of those revisions was published in the **Federal Register** on July 30, 1981 (46 FR 38949) and on October 16, 1981 (46 FR 51006). An announcement of the third revision of the schedule of A–76 reviews will be published in the **Federal Register** when departmental decisions on budgetary levels and the consolidation issues are resolved.

FOR FURTHER INFORMATION CONTACT:
Robert S. Johnson, A–76 Coordinator, Office of the Director of Administration, National Bureau of Standards Washington, D.C. 20234, Telephone: (301) 921–2525,

DATED: March 2, 1982.

[FR Doc. 82–6192 Filed 3–5–82; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Opportunity for Financial Assistance for Marine Pollution Research

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: National Oceanic and Atmospheric Administration (NOAA) through its Office of Marine Pollution Assessment (OMPA) announces opportunity for financial assistance for: (1) Research related toeffects of pollution and human-induced changes of marine ecosystems (including ecosystems of the Great Lakes) under sections 201 and 202 of Pub. L. 95–532 (Marine Protection Research and Sanctuaries Act 1972) and (2) research and development and monitoring projects needed to meet priorities set forth by section 6 of Pub. L. 95–273 (National Ocean Pollution Research Development Monitoring Planning Act of 1978).

ADDRESSES: Information concerning conditions under which applications will be received may be obtained from: Operational Programs Office, Office of Marine Pollution Assessment (MPF28), 7600 Sand Point Way NE, Bin C15700, Seattle, WA 98115.

Eligible Applicants

Individuals, corporations, educational institutions and others, including local, State, and Federal agencies may apply.

SUPPLEMENTARY INFORMATION: The overall goal of the OMPA program is to develop, integrate, and apply information required for technically based decisions on use of the marine

environment with acceptable ecological, economic, and social consequences. To address this goal, three objectives have been defined:

1. Determine the ecological consequences of anthropogenic activities which pollute the marine environment.

2. Assess the consequences of marine-polluting activities in terms of ecological, economic, and social impacts.

3. Define and evaluate environment management alternatives which will foster favorable or minimize adverse consequences of anthropogenic use of the marine environment.

Implementation of this program is in recognition of the need to apply current scientific knowledge of marine ecosystem processes to investigate unresolved problems of how to predict the consequences that do or will result from polluting activities. An underlying premise is that society will continue to use the marine environment and that decisions will continue to be made as to how this will be done. The program emphasis is on developing the best environment management alternatives possible *at any given time.*

Consequently, although all of the objectives shown above are being addressed in the broad sense, the current emphasis is being directed toward the third objective—the development of environment management alternatives to reduce the deleterious consequences of specific polluting activities.

Of the several areas of human activities affecting the marine environment, principal concerns are with the following:

1. Marine Waste Disposal.
(a) Sewage Sludge/Effluents.
(b) Contaminated Dredge Material.
(c) Industrial Wastes.
2. Marine Mining.
(a) Outer Continental Shelf Oil and Gas.
(b) Hard Mineral Extraction.
3. Marine Energy.
4. Marine Transportation.
5. Accidental Discharges.
6. Coastal Land Use.
(a) Non-Point Use.
(b) Hazardous Waste Dumpsites.

Some representative examples of problems or approaches considered relevant to the program are listed below:

1. Given a definition of the oceanic distribution and physical/chemical forms of elemental and organic contaminants, predict concentrations of these contaminants in tissues of marine organisms.

2. Determine the body burden level of specific contaminants in individual organisms which will alter their normal life span or reproductive capability.

3. Determine the critical physical properties of sewage sludge which control its dispersion after discharge at an offshore site.

4. What are the time and space scales for a pollutant field resulting from input of a pollutant by different methods, . . . at different sites.

5. Given the time and space scales of a pollutant field, predict the level and nature of biotic exposure to the pollutant.

These approaches may be addressed in different geographic regions, applied to different classes of pollutants and resources, and directed toward consequences with widely different spatial and temporal scales. The development, validation, and documentation of predictive methodologies is of greatest importance to OMPA.

Procedures

Because of the costs associated with the preparation of full-scale proposals, and the importance of programmatic relevance in reaching final decisions on funding, OMPA invites *initial* proposals of no more than five double-spaced typewritten pages which define the nature of the work to be proposed. Review of initial proposals will be based principally on the degree to which the results of the proposed work will be relevant to OMPA's program. For initial proposals which rank sufficiently high after this review, a request will be made to develop full-scale final proposals. Review of these final proposals will be based primarily on scientific quality of the methods and techniques of the then specifically defined research. All final funding decisions will be constrained by the actual amount of funding available.

Initial proposals may be submitted at any time after March 1, 1982 and will be reviewed regularly during the year. It is anticipated that final proposals developed and submitted as a result of favorable reviews of the initial proposals will be reviewed only once in FY82, but in following years, reviews of final proposals will be held twice yearly.

All *initial* proposals must be accompanied by an Initial Proposal Cover Sheet which may be obtained as part of an Application Package by contracting the above address or Dr. Robert E. Burns at (206) 525-0651.

(Federal Domestic Assistance Catalog No. 11.426. Financial Assistance for Marine Pollution Research)

Dated: February 26, 1982.

Mirco P. Snidero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 82-6136 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-12-M

Patent and Trademark Office

Current Membership of Performance Review Board

This notice announces the current membership of the Performance Review Board for the Patent and Trademark Office. Since the last announcement of the membership in the **Federal Register** of July 22, 1981 (46 FR 37746), the terms of two of the members have expired and two new members have been appointed. The former members whose terms have expired are:

William Feldman, Deputy Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231

Jere W. Sears, Deputy Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

The two new members are:

Donald J. Quigg, Deptuty Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231

Bradford R. Huther, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231

Each new member is appointed to serve as a permanent member and Mr. Quigg is designated to serve as Chairman. The current membership of the PRB is as follows:

Donald J. Quigg, Chairman, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Margaret M. Laurence, Member, Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Richard J. Shakman, Member, Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Bradford R. Huther, Member, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark

Office, Washington, D.C. 20231. Term—permanent

James O. Thomas, Jr., Member, Director, Patent Examining Group 140, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1983

Herbert C. Wamsley, Member, Director, Trademark Examining Operation, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1983.

Richard J. Wieland, (Outside) Member, Assistant General Counsel for Litigation, HQ National Aeronautics and Space Administration, Washington, D.C. 20546. Term—expires July 12, 1984.

Persons desiring any further information about the membership of the PRB may contact Mr. Aaron W. Deitch, Personnel Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. Telephone (703) 557–2662.

Dated: March 3, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-6190 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-16-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 80-4]

1979 Cable Royalty Distribution Determination

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of royalty fees paid by cable systems for secondary transmissions during 1979.

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Chairman, Copyright Royalty Tribunal, (202) 653–5175.

Introduction

17 U.S.C. 111(d)(5)(B) requires the Tribunal after the first day of August to determine whether a controversy exists concerning the distribution of cable royalty fees deposited by cable systems with the Copyright Office. Upon determination that a controversy exists, 17 U.S.C. 804(d) requires the Chairman of the Tribunal to publish in the **Federal Register** a notice announcing the commencement of distribution proceedings.

In a notice published in the **Federal Register** of October 29, 1980 the Tribunal directed that claimants to royalty fees paid by cable operators for secondary transmissions during 1979 submit not later than November 15, 1980 any comments concerning whether a controversy exists concerning the distribution of the 1979 royalty fees.

In a public meeting on November 25, 1980, after giving claimants the opportunity to appear and present arguments, the Tribunal determined that a controversy did in fact exist concerning the distribution of cable royalty fees for the period from January 1 through December 31, 1979. The Tribunal set the effective date of March 2, 1981 and in the **Federal Register** of February 26, 1981 (46 FR 14154) announced that distribution proceedings had commenced.

Background and Chronology

Structure of Proceeding

The Tribunal directed claimants or their duly authorized representtives to submit proposals on the structure and procedures of the proceedings to the Tribunal no later than March 13, 1981. Reply comments, if any, were to be submitted no later than March 20, 1981. The Tribunal further directed claimants or their duly authorized representatives to submit legal brief or memorandum concerning any question of copyright owership as it affects a claim or right to any of the cable television royalties by March 23, 1981 with reply brief or memorandum, if any, to be submitted no later than March 30, 1981 (February 26, 1981 (46 FR 14154)).

In the **Federal Register** of April 6, 1981 (46 FR 20586) the Tribunal announced that a conference of claimants or their authorized representatives would be held on April 15, 1981 to discuss the structure and conduct of the distribution proceedings.

Evidentiary Proceeding

In a notice which appeared in the **Federal Register** on May 1, 1981 (46 FR 24619) the Tribunal announced that after hearing the views of claimants it has determined that the proceeding would be conducted in two separate phases. Phase I would be devoted to determining the percentages, if any, of the 1979 royalty fund which should be awarded to (a) motion picture and syndicated program suppliers; (b) sports, professional and collegiate; (c) public television; (d) music; (e) commercial television; (f) commercial radio; and (g) public radio. Phase II would be devoted to resolving disputes, if any, among claimants within each of these categories.

The Tribunal also ordered parties desiring to present evidence and argument and participate in cross examination during Phase I to notify the Tribunal of said intention on or before May 15, 1981. Only those parties who provided such notice would be permitted to participate in Phase I. Parties were further advised that participation in Phase I was not a prerequisite to participation in Phase II. Phase I of the evidentiary hearing began on July 7, 1981 and continued over a period of 35 days, concluding September 23, 1981. Participants in Phase I were allowed the opportunity to submit rebuttal evidence after the completion of the direct case. The participants were ordered to submit:

a. Names of rebuttal witnesses

b. Concise summary of each witness rebuttal testimony

c. Copies of rebuttal documentary evidence.

The hearings on the substantive aspects of the rebuttal proceeding began on October 5, 1981 and continued over a period of seven days, concluding on October 14, 1981.

In the **Federal Register** on December 2, 1981 (46 FR 58545) the Tribunal published its summary statement of its Phase I determinations. In accordance with 17 U.S.C. 803(b), a full and complete statement of the Tribunal's conclusions of law, findings of fact, and other relevant determinations will be included in the Tribunal's final determination.

In that same statement the Tribunal, in preparation for Phase II, directed that not later than December 16, 1981 each claimant category shall notify trhe Tribunal of any voluntary agreements for distribution of royalty fees among the claimants within a category. The Tribunal further directed that not later than December 16, 1981 any claimant desiring to present evidence during Phase II shall notify the Tribunal of such intention, and the Phase II issues to be decided. Additionally, the Tribunal directed that not later than January 7, 1982 parties participating in Phase II to file with the Tribunal and exchange with other parties their direct, written cases, including list of witnesses, pre-hearing statements, any written witness statements, and all documentary evidence.

Phase II of the evidentiary hearing began on January 19, 1982 and continued over a period of eight days, concluding on January 29, 1982. The Tribunal notified the parties that rebuttal exhibits and/or statements should be exchanged with the parties by the close of business on Monday, February 1, 1982. The hearings on the substantive aspects of the rebuttal proceeding began on February 3, 1982 and continued over a period of three days concluding on

February 5, 1982.The Tribunal ordered the parties to submit findings of fact and conclusons of law on February 16, 1982.

In the Phase II proceeding Multimedia and other parties raised the issue of compliance regarding 20 claims in the program syndicators category. On February 17, 1982 the Tribunal made a request to the Motion Picture Association of America to furnish any materials appropriate to establishing the validity of the 20 claims objected to by Multimedia Program Productions. This material was to be submitted to the Tribunal and interested parties by 2:00 p.m. on February 19, 1982. Replies, if any, were to be submitted by 2:00 p.m. on February 22, 1982.

Summary of Evidentiary Positions of Major Claimants—Phase I

Motion Picture Association of America (MPAA)

MPAA claimed for an allocation of 80.5% of the 1979 cable royalty fund.[1] As the centerpiece for this claim, MPAA presented a Nielsen study of the viewing of distant signal programming by cable households.[2] MPAA contended that the Nielsen Report provided the most reliable and objective figures concerning the relative importance of programming types [3] and that it is a realistic and valid measure of harm, benefit, and marketplace value,[4] thereby conforming with the criteria the Tribunal established as a result of the 1978 cable royalty distribution proceeding. Harm to syndicators is directly affected by increased viewing via distant signal carriage.[5] Benefit to cable operators is confirmed by the very substantial amount of syndicated series and movies which are included in the programming mix.[6] And the proven record of syndicated series and movies argue that they attract subscribers and therefore measures what their demand would be in the marketplace.[7] The wide use and respect for Nielsen data in the industry were a further argument for basing an allocation upon their figures.[8] In the MPAA survey those figures for syndicated programming and movies were 83% for viewing, and 72% for time.[9]

In addition to the Nielsen survey, MPAA presented other evidence and testimony to demonstrate that program syndicators are harmed by distant signal retransmission. Besides suffering from "lost compensation," which can be said to be a harm suffered by all copyright owners,[10] MPAA argued that program syndicators are particularly harmed in that they are completely dependent on syndication in order to realize their return on investment.[11] In 1978–1979 there was a marked inability to sell series in heavily cabled markets.[12] Syndication is not economically feasible on a first-run basis, and therefore network syndication is the means by which the production must first be financed.[13] The secondary syndication market is the means by which companies generally make their profits.[14] Contracts in recent years have caused the length of time it takes for a series to reach its critical mass to be increased; which in turn has caused the financial situation of producers to become more precarious.[15] Cable penetration both has reduced the viewership of network and, because their advertising revenues are affected, has caused them to have fewer funds available for program production.[16] It has also reduced the price at which syndicated series can be sold.[17] The fact that the most heavily cabled markets are frequently the smallest is not, in MPAA's judgement, any reason for this harm to be discounted because the importance of profits from these markets is still significant.[18] MPAA argued that the high prices of some programs are an indication of what other programs in other circumstances have failed to sell for because of cable penetration.[19] MPAA considered that the Nielsen survey was a good measurement of this harm, because distant signal viewing reflects the amount of viewing they have lost in local markets where they sell their programming.[20] MPAA also contended that in contrast to the viewing received by other programming, the amount of viewing received by MPAA programming is a measurement of the degree to which it is more greatly harmed than that of other parties to the proceeding.[21]

In MPAA's judgment, the criteria of benefit to the cable operator and marketplace value are related and therefore should be considered together.[22] The nation-wide appeal of movies and syndicated programming, because they are produced and sold on a national basis, cause their benefit and marketplace value to be greater relatively than that of sports or local station programming.[23] MPAA felt again that the Nielsen survey was the best evidence of this.[24] The results (83% viewing) conform with those in a Joint Sports survey in the 1978 proceedings.[25] The Nielsen survey, according to MPAA, further includes all values of programming as they may relate to prime time and any regional interest.[26] Nor does "hyping" during sweep weeks, in the MPAA's judgment, cause any distortion of the relative values which can be deduced between different kinds of programming from the Nielsen survey.[27] MPAA argued that to the degree that sports might be under-represented during the sweep weeks, they are so because their attractiveness is less than that of movies and sydicated programming.[28] In terms of the Nielsen survey MPAA considered its claim justified on the basis of benefit and marketplace value.[29]

As regards the secondary criterion of time, MPAA considered that the Nielsen survey provided a standard according to which their claim could be justified on that basis also. In that study the sydicated series and movies time share was 72% on a weighed basis and 74.16% on an unweighed basis.[30]

As to the secondary criterion of quality, MPAA cited factors such as awards which would certify their programming as of high quality, and regarded viewing as a measure which would also satisfy this criterion.[31]

The Nielsen survey was the centerpiece of the MPAA case, and its purpose was to provide as accurate a measure as possible of the viewing of distant signal programming by cable households.[32] To achieve this, the study was broken into three steps: choice of the sample stations; determination of distant signal carriage, and categorization of programs.[33] A random sample was rejected because of the high probability that many of the stations

would not be carried as distant signals and that their programming would therefore not be representative.[34] Since viewing data was not available upon which to base such a sample, the fee-generation methodology employed in the 1978 proceedings was substituted "because it provides a good approximation of the distant carriage of a particular station." [35] The ratio of 4:1 between independent and network affiliate stations stated in the Copyright Act was respected in employing the fees stations generated as the measure by which they were selected for the sample.[36] The original sampling frame of 104 stations was reduced and stratified into 25 network affiliate and 25 independents.[37] The MPAA contended that the greater importance given to independents in the survey reflects accurately the real world and the relative greater importance of independent distant signal carriage.[38] The survey further weighed the figures of individual stations to project the results to 100 station sampling frame.[39] This weighting was based upon the probability of a station being selected according to its fees generated and according to whether it was a member of a commonly owned group.[40] MPAA rejected the suggestion that any particular kind of programming, such as sports, was injured by this limitation to one station from any commonly owned group on the grounds that there is no demonstrable difference in programming between one station in a group and another.[41] MPAA cited the high level of fees generated attributable to the stations in the sample and in the sampling frame as evidence of the liklihood that the results would correlate very closely with the real world.[42] The results of the viewing for the superstations was cited further as evidence.[43] The sampling frame can also be considered accurate, in the judgment of MPAA, because it reflects the fact that a large number of the 700 or so commercial stations are not carried as a distant signal.[44] Nor is it impaired by the fact that it doesn't include any Form 1 or 2 cable systems; because they represent a very small proportion of the royalty pool and their viewing would very likely be similar to that of Form 3 systems anyway.

The survey was careful to insure that the distinction used between "distant" and "local" conformed to that in the Copyright Act, and not that traditionally used by Nielsen in its other surveys.[45] The distinction in the Copyright Act depends on the FCC definition of "must carry" and "may carry", and these in turn are based upon a geographic contour and a standard of what is "significantly viewed." [46] In order to reduce as much as possible any selection based upon personal judgment, the standard in nearly 90% of the cases was significantly viewed," and when this was not possible the Grade A and B contours were used, so that in only a very small percentage of cases was a distinction made based upon personal judgment.[47]

The program categorization followed, at least to some extent, the program types which were awarded shares in the 1978 distribution.[48] In order to eliminate all network programming Nielsen applied the codes to the results of the survey that it uses normally for such programming.[49] Then two separate classifications of the programming were made; one by Larson Associates and one by Nielsen.[50] Nielsen employed its own expert, the *Nielsen Syndicated Dictionary, BIB ID Sourcebook,* and *Television Radio Age;* and Larson employed the *Annual Programming Reports,* the *BIB ID Sourcebook, Nielsen ROSP, TV Guide,* and telephone calls to the stations.[51] At the end of the classification the lists were exchanged; however, it was agreed beforehand that the final judgment would rest in the hands of Nielsen.[52]

The substance of the survey were the time and viewing figures developed by Nielsen.[53] The source of these figures were the diaries collected by Nielsen from households subscribing to cable.[54] Every station's distant signal viewing from all over the country was counted.[55] The quarter hours of programming on an individual station basis,[56] then, to provide the bottom line figure for each group, were weighted separately within either the network or the independent group.[57] The percentages at the bottom of the study represent the percentages of the total attributable to the various categories of programming.[58] Blacked-out programming, by definition, would not appear, because no figures would be shown.

The survey, based on all four sweep periods, shows the following time and viewing percentages:[59]

	Local (percent)	Syndicated series (percent)	Devotional series (percent)	Non-network movies (percent)	Major sports (percent)	Minor sports (percent)	Other (percent)
Time	19	49	5	23	2	1	0
Viewing	8	53	¥	30	8	1	0

MPAA proposed the following allocation for all claimants:[60]

MPAA	[1]80.50
Sports	7.25
NAB	2.25
PBS	2.25
Music	2.25
NPR	.25
CBC	4.50
Devotional	.25
	[1]100.00

[1] Percent.

The Joint Sports Claimants

The claims made by Joint Sports was for 35% of the royalty fund. The Joint Sports claimants contended that their case, more than any of the others, relied most heavily on evidence that conformed with the Tribunal's criteria, in that their focus was specifically on the value of Sports programming to cable operators.[61] Joint Sports claimed that the value of the programming was much greater then the time it occupied, or its viewing.[62] Joint Sports further based its claim on two considerations: That no single formula succeeds in taking into account all pertinent data, and that the proceeding for 1979 reflects circumstances in the industry that are entirely different from what they were in 1978.[63] Joint Sports also emphasized that it was with respect to the claim of

movies and program syndication that its claim was made, in that the two are the largest claimants.[64]

Joint Sports considered that the value of sports programming to cable operators was most effectively proved by the testimony of cable operators themselves,[65] and that such testimony suggested that sports and movie programming were valued equally.[66] Joint Sports considered that three witnesses provided especially valuable testimony: Charles Dolan and Chester Simmons, who appeared on behalf of Sports, and James Hall, who appeared on behalf of NAB.[67] Charles Dolan is the Chief Executive Officer of Cablevision, Chester Simmons is the Chief Executive Officer of Entertainment and Sports Programming Network (ESPN), and James Hall is responsible for the management of cable systems owned by Storer Cable Communication.

Joint Sports considers that the three men offered incontrovertible testimony as to the value of Sports programming to cable systems.[68] Sports programming is the most important programming when a cable system considers which distant signal to import,[69] or at least is equal with movies.[70] Its appeal to cable operators is not on the basis of viewing.[71] Rather it is the ability of sports programming to attract subscribers.[72] Sports programming as distinct from movies or syndicated programming is unique.[73] Sports is carried primarily at times when most viewers can watch television.[74] Sports satisfies the primary advantage that cable offers to subscribers, in that it offers choice beyond what is available locally.[75] While movies and syndicated programming is fungible with programming of its own kind, sports cannot be duplicated.[76] In 2979 Sports did not place the same administrative burden on cable operators that syndicated programming did, to be blacked out in accordance with syndicated exclusivity rules.[77] Sports' underlying value is demonstrated by the fact that even in markets where it is saturated, like New York, sports programming is still of great interest to cable operators.[78]

The Joint Sports claimants introduced a study by BBDO in order to demonstrate that the views held by the cable operators who testified were also shared by others in the industry.[79] To correct the deficiencies that were pointed out in connection with a similar study presented by Sports in the 1978 proceeding, the survey in this proceeding was careful to distinguish between distant signal programming and "made for cable" programming and between network and nonnetwork sports; the study also focussed only on distant signal programming that was actually imported.[80] Interviews were conducted by telephone and embraced 31 of the nation's 50 largest MSO's and 53 of 108 randomly selected Form 3 cable system managers.[81] The results were that sports and movies were considered by far the most valuable distant signal programming, with syndicated programming considered much less important.[82] The method of the study was to ask each respondent what dollar value, out of $100, he would place upon each type of programming.[83]

BBDO STUDY—AVERAGE ALLOCATIONS FOR DISTANT SIGNAL PROGRAMMING CATEGORIES CARRIED IN 1979

[In percent]

	MSO executives	System managers
Movies	38.00	42.98
Live nonnetwork sports	35.00	33.98
Syndicated TV shows	10.57	10.62
News and public affairs	9.40	6.21
PBS and other educational station programming	7.03	6.21

The decline in the results from movies in comparison with the study Sports presented in the 1978 proceeding was attributed to the distinction made in this study between distant signal movies and those on pay cable.[84] The higher value to sports, in turn, was presumbly the converse of this effect.[85]

In addition Joint Sports introduced an econometric study prepared by Lexecon, Inc., to show that the amount of time sports programming is carried by stations has a significantly greater impact on whether that station is carried as a distant signal than does the amount of time it carries of other types of programming.[86] The marginal effect of sports programming on whether or not a station would be carried as a distant signal was found to be 5.9 to 6.6 times greater than that of movies and syndicated programming.[87] On the basis of MPAA/Nielsen data submitted in the 1978 proceeding the marginal effect of sports was found to be 7.2 to 9.9 times greater.[88]

Joint Sports supported these conclusions also with reference to studies submitted by other parties which show the value that cable subscribers place upon sports programming: the Arbitron study submitted by NAB, and the MPAA/Nielsen survey.[89] The conclusion was that sports and movies are the resaons individuals subscribe to cable.[90] Syndicated series were less a reason.[91] The interest in sports has increased from 1978 to 1979.[92]

With respect to the MPAA/Nielsen survey, in the eyes of the Joint Sports claimants, its results reflect the fact that Sports programming is of much greater interest to cable viewers than its time on the air measures.[93] Sports programming's average audience is substantially greater than that for any other program category.[94] Its share of total audience viewing is significantly higher than its share of broadcast time,[95] a ratio of 2.64 to 1,[96] and these values are reflected in prime time viewing of sports.[97]

The distant carriage of sports flagship stations was considered, by the Joint Sports Claimants to be a significant measure of the interest in sports programming,[98] especially as between 1978 and 1979.[99] In 1979 five percent of U.S. television stations were flagship stations; yet they were all carried as one or more distant signals by virtaully every cable sytem.[100] Furthermore, the sports flagship stations contributed 58% to the royalty pool on the MPAA fee-generation basis; in 1978 51%.[101] In 1979 this was an 11½ times greater contribution than that of the average television station as opposed to a contribution in 1978 8.8 times greater.[102] The importance of distant signals was overwhelmingly in favor of flagship stations carrying relatively large amounts of sports programming.[103]

Joint Sports submitted that the growth of superstations in 1979 is a factor that must be taken into account in any assessment of the value of sports programming.[104] They were all sports flagship stations and they were the least costly and easiest distant signals to import.[105] To the extent that selection for satellite retransmission is not the choice of the stations themselves, the choice reflects the kind of programming that the cable industry considers the most valuable.[106] To the extent that programming is a factor, the fact that all superstations were sports flagship stations is significant.[107] Evidence was submitted that sports programming is very important to superstations.[108]

The Joint Sport Claimants also submitted evidence to the effect that while cable operators may be interested in other types of programming,[109] documents and testimony before the FCC, nevertheless, do show the interest that cable operators have in sports programing.[110]

According to Joint Sports, the amounts paid by broadcasters for programming rights, contrary to the assertin of MPAA,[111] also attest to the greater value they place upon sports programming.[112] A comparison of the average amount stations which buy movie and

syndication rights pay for those rights, with the average amount stations which buy sports programming pay for that programming, reveals that a substantially higher sum is paid per hour of sports programming than for movies ans syndication.[113] Joint Sports cited also as evidence in support of this a comparison of spot ad rates on several flagship stations.[114] The values of sports programming to cable operators is further increased, with respect to movies and syndication, by the fact that much syndication represents duplication [115] and that much of it also is required to be blacked out.[116]

Finally, the Joint Sports Claimants contended that, while it is impossible to quantify the harm to sports from cable retransmission;[117] nevertheless, as an issue harm is much more compelling with respect to sports than it is with respect to other claimants.[118] Joint Sports stated that this harm is due in a major respect to the breadth of the markets in which sports is marketed and in which there is distant signal cable importation.[119] The ephermeral nature of sports is also a way in which it is harmed as no other claimant is.[120] Moreover, the assumption that sports was harmed by cable was present during the entire legislative course of the passage of the Copyright Act.[121] This is a presumption that can further be drawn from the fact thart rival sports clubs do not televise into each other's home markets.[122] Also, the Sports interests have shown their conviction that cable importation is harmful in their efforts before the FCC.[123] and in litigation.[124] The Sports Claimants contended that this harm is an assumption held by everyone in the industry.[125]

Joint Sports proposed the following allocation for all claimants:[126]

	Percent
Movies and syndicated program suppliers (including suppliers of religious programs)	54.00
Joint sports claimants	35.00
Public broadcasting	3.75
Music	3.75
Commercial television broadcasters (including Canadian broadcasters) (for local programming in which they own the copyright)	3.25
Radio	.25
Total	100.00

National Association of Broadcasters (NAB)

NAB made claims according to two methodologies. According to one the royalty share for commercial broadcasters was 17.2%;[127] according to the other it was 12.7%[128]

NAB contended that, with respect to the criteria established by the Tribunal, the relevant marketplace concerning distant signal retransmission has never existed, and therefore that it must be treated as a summation of other factors such as benefit and harm.[129] The spot ad rates in the record were from the broadcasting market, not the cable market, and in the one instance where distant signal advertising is sold, WTBS, the station refused to furnish the figures.[130] Broadcast program station expenditures bear no relationship to the value of distant signal programming, and, in any event, if any comparison were to be made on this basis, it would have to include many broadcast expenses than those strictly associated with programming rights.[131]

For its claim, NAB therefore relied most heavily on the benefit it contended local station programming provides cable operators as a distant signal. NAB presented four witnesses whose testimony was to this effect: James Hall, Vice President for Operation of Storer Cable Communication; Philip McHugh, Chairman of McHugh & Hoffman, Inc., Dr. Leo Beranek, Chairman of the Board of Directors of Boston Broadcasters, Inc. (BBI); and Paul Rich, Vice president of Operations of BBI Communications, Inc.[132]

NAB considered that the advantage, on a distant signal basis, of local station programming to cable operators is the variety that it offers and the fact that it allows the operator to fill as many full channel of programming as possible.[133] Its appeal can also be measured in terms of its relevance to the cable community served; its uniqueness; whether, without subscribing to cable, it is unavailable; its promotability; and its value with respect to the impact of nonbroadcast services, i.e., pay cable.[134] Of prime importance is diversity,[135] which the 1979–80 NEM Arbitron study, introduced by NAB, confirmed to the extent that cable subscribers indicated that the most important reason for subscribing was program choice.[136] Cable operators choose "bundles" of different types of programming as distant signals, not individual programs.[137] The regression analysis prepared for NAB by Information and Analysis, Inc., found that the popularity of particular programs was not a factor in a cable operators selection of a distant signal for retransmission.[138] Instead, the studies prepared by Wharton Econometrics Forecasting Associates, Inc., suggested that this selection was related to (1) the amount of non-network distant signal time occupied by station-originated programming, (2) the proximity between cable systems and the distant signals they import, and (3) the respective size of the television market from which the signal is being imported with respect to the television market into which it is being retransmitted.[139] Ultimately, the only measure of a distant signal's value to cable operators is its ability to attract subscribers.[140] Audience ratings are not such a measure because they do not gauge the ability of a particular signal to sell subscriptions,[141] and Norman Hecht, President of Information and Analysis, Inc., testified that from his experiences cable operators are not interested in viewership ratings.[142]

NAB contended that the appeal of local station programming to cable operators can be found in such programming as "soft news," which has an interest broader than that of the local market in which it is produced;[143] in station originated news for which the demand is increasing;[144] and in many other kinds of programming, particularly children's programming, such as "Mister Rogers' Neighborhood," whose broadcast is not restricted to the local market.[145] Even superstations promote the basis of their own locally produced programming.[146] And in some instances station-produced programming has been the reason cable operators have imported a particular signal.[147]

NAB contended that one of the prime benefits to cable operators of local broadcast stations was their proximity.[148] Most distant signals are imported from communities that are relatively nearby.[149] In 1979 nearly three-quarters of the distant signals imported were from television stations located within 150 miles of the cable system.[150] Cost incontestably was the principal reason for this.[151] But the advantage that signals which are closer and cheaper to import provide cable operators is enhanced further by the interest that large markets have for the inhabitants of nearby smaller markets.[152] In 1979 signals from markets larger than those into which the signals were being imported constituted 73% of total distant signal importation.[153] News in particular has an appeal if it is from nearby.[154]

NAB considered that the best relative criterion on which to base a measure of value was that of time,[155] although time cannot be taken as a measure by itself; and NAB conceded that the Tribunal was correct in its judgment in the 1978 proceeding which was that time was only a criterion of secondary importance.[156] According to NAB, time can serve as a useful measure against which the three primary criteria can be judged: harm, benefit, and marketplace value.[157] The issue is not whether time should be conceded as relevant, since such a concession is already inherent in

the cases of all parties;[158] but to what extent it should be weighed.[159] NAB calculated from its Wharton Study what a time share would be for PBS [160] (since in the MPAA/Nielsen study, a time share for public broadcasting was not included) and produced a time share for major claimant categories as follows:[161]

[In percent]

Program type	MPAA/ Nielson unadjusted share of time [16]	Actual share of U.S. distant signal time
Syndicated series (including devotional)	54.5	48.9
Movies	23.2	20.8
Local	19.3	17.3
Joint sports	2.0	1.8
PBS	[17]12.5	11.2
Total	111.5	100

The percentage of 17.3% derived from the MPAA/Nielsen study as the share of time for local station programming was consistent, in NAB's judgment, with the 14% derived from the Wharton Study;[162] because in the Wharton Study conservative assumptions were made concerning the relationship between local programming and sports, foreign programming, and advertising time.[163]

With regard to the criterion of quality, NAB considered that it was an extremely difficult criterion to assess and that it was not necessary to have recourse to it as a basis for allocation in the 1979 proceeding. The record without it was complete enough to provide for an allocation according to any number of bases.[164] However, to the extent that the cost of production can be considered a measure of quality, NAB contended that its expense in this regard qualified it to meet a very high standard.[165]

With regard to harm, NAB contended that to the extent that distant signal importation of local station programming constitutes the use of copyrighted materials without compensation to the owner, broadcasters were harmed to the same degree that all other copyright owners were.[166] Broadcasters suffer lost audiences, for instance, to the same extent that sports do.[167] However, unlike sports, movies, and syndicated programming, broadcasters do not benefit from the advantages, referred to as "compensating balances," that cable opens up for these kinds of programming, and which allow them to be sold in other cable markets.[168] Also, viewing data does not show harm unless it is able to make the comparison between viewing before a signal was imported and afterward.[169]

NAB asserted that its programming has value as syndiction,[170] and that the damage that national syndicators claim to suffer from distant signal importation is not borne out by the prices that they are still able to demand.[171]

NAB claims that the record in the 1979 proceeding is sufficiently complete for allocation to be made for radio programming.[172] 90% of all cable systems carried radio, and, of that, a large percentage on a distant signal basis.[173] According to the Wharton Survey, for FM radio this was 45.7%.[174] In 1979, according to the NEM Arbitron Study, 16.9% of all cable subscribers received distant radio signals.[175] Independent of any of the more intangible values that radio represents to cable operators, such as "formatting,"[176] its value can be calculated by multiplying the extent of its carriage times the price charged,[177] a result which produces a share for all radio, including NPR, of 2.8%. NAB argued that the preponderance of this should go to commercial broadcasters, because the percentage of FM distant radio which is commercial is 85%.[178] Nor is the value of public radio broadcasting proven to be necessarily more intrinsically worthwhile than commercial radio.[179]

With regard to the share that music might justifiably claim as its part of commercial radio, NAB considered that this had to be viewed in the context of radio in general; "unlike television, radio listeners choose *stations*, not programs." [180] While an appeal, music is not the only appeal a station will have and constitutes no more than 30% of the ingredients that make a station successful.[181]

In its calculation of a proposed allocation, NAB at first presented two alternative formulas. The first of these was based upon the quantity of distant signal retransmission, in other words, time. This was weighted by other factors to reflect the different degrees of value of different kinds of programming to cable operators.[182] The alternative formula was based upon the viewers' standpoint and the reasons individuals subscribe to cable.[183] The following were the results of the two methods:[184]

	Proposed allocation (percent)	Alternative proposed allocation (percent)
Syndicated series and movies	61.3	58.1
Sports	7.2	12.1
Commercial TV	17.2	12.7
PBS	7.5	10.3
Canadian	.3	.3
Music	4.5	4.5
Commercial radio	1.7	1.7
NPR	.3	.3

Public Broadcasting Service (PBS)

PBS argued that its share of the royalty fund should be 85%.[185]

Harm

On the criterion of harm, PBS witnesses testified the following: That there are two catergories of harm which are sustained by public television. One is the harm that may be suffered by public television producers in the marketing of their programs, distant cable carriage of a given program diminishing the interest in that program by local public television stations whose support is necessary to clear the program through the "station program cooperative" (SPC) process. The second category is that caused by the importation of distant public television signals which erode the local base of financial support for a public television station in the distant cable community. With regard to instructional programming, there was some indication of adverse impact on the sales of an adult educational program series in neighboring states by virtue of the carriage of signals across state lines; also a non-monetary type of harm instructional television programs have been imported without the benefit of the advance community planning and coordination that is supposed to go into the use of those programs.[186]

Benefit and Marketplace Value

PBS argued that, while marketplace value is closely tied to the size of the viewing audience for commercial television, this is not an appropriate measure for marketplace value of public television (PTV), and PTV does not look to mass audience appeal and ratings as a measure of its success. PTV cares more about the program than its numbers.[187]

Evidence was presented to show an increase of approximately 22% of PTV stations carried on a distant signal basis.[188] The aggregate number of instances of distant public television carriage in 1979 increased approximately 26%,[189] and the aggregate number of subscribers attributable to these instances of distant carriage increased by approximately 28%.[190]

PBS utilized the Larson 1979 studies to show that PTV signals accounted for

9.1% of the aggregate instances of all distant signal carriage,[191] which includes a variety of different types of part-time signals. This is consistent with the overall data for commercial stations. Subsequent examination of the underlying data established that, when only full-time distant signals were considered, PTV represented 10.7% of the total.[192]

Two "attitudinal" surveys in the record were referred to: one by BBDO and the other by Arbitron, both noted by their sponsoring witnesses as only supplemental tools with which to measure value.[193] In the BBDO survey respondents expressed their valuation of PTV in terms of time and dollars in a range of from 6.1% to 10.7%.[194] In the Arbitron survey of television preference public television ranked third.[195] PBS argued that the "attitudinal" surveys support its arguments with regard to the benefit and market value of its programming. While people may spend more time viewing entertainment fare on commercial television signals, they nonetheless place substantial value on the opportunity to view the type of programming that is available on public television.

Another factor contributing to the marketplace value and benefit of distant public television signals related/to the quality of over-the-air reception of the signals of public television stations. In the Arbitron survey a number of respondents indicated they subscribe to cable in order to obtain better reception.[196] PBS stated that many public television stations operate on UHF channels, and testimoney was presented concerning the technical difficulties encountered by UHF television stations.[197] In rebutal testimony a PBS witness expressed the view that while the distant carriage of a UHF television station would be of benefit and value to that station, more so than to a VHF station, the distant carriage of a UHF station by the same token would be of a greater benefit and value to cable operators and subscribers than would the distant carriage of a UHF station.[198]

The statute under which federal funds are provided to public television authorizes and directs the Corporation of Public Broadcasting to facilitate the "full development of telecommunications in which programs of high quality, diversity, creativity, excellence and innovation . . . will be made availble to public telecommunications entities."[199] PBS witness testified that PBS regularly provides reports to Congress on its accomplishments and its efforts to meet these standards.[200]

PBS presented five witnesses who testified concerning the quality of PTV programming. The essence of their testimony was that the public television system is different from that of commercial television, which provides programming primarily geared to mass audience tastes and the need to satisfy advertisers in a profit-oriented business. Public television, on the other hand, has the purpose and mission of presenting an alternative program service, whose standards consist of quality, innovation and diversity.

Quantity

PBS cited the study conducted by NAB of Form 1, 2 and 3 cable systems, according to which public television in 1979 constituted approximately 13% of the total time on distant signals.[201]

PBS proposed the following allocation for all claimants:[202]

MPAA and other program syndicators including claimants for syndicated religious programs and programs syndicated by commercial television stations represented by the NAB	[1] 72.00
The joint professional sports claimants and NCAA	12.00
Music performing rights societies	4.50
Commercial television station claimants for station-produced programs that are not syndicated (NAB)	3.00
Total for commercial television claimants	91.50
Canadian Broadcasting Corporation	0.25
All radio	0.25

[1] Percent.

American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and Sesac, Inc. (Music)

All music claimants joined in one presentation. Music presented evidence on three questions: (1) Music's share of cable royalties attributable to distant cable television carriage; (2) Music's share of cable royalties attributable to distant cable radio carriage; and (3) the division of the total cable royalty fund into television and radio components, which Music claimants felt was necessary for the computation of Music's share of the total fund.

Marketplace

On the question of marketplace value, Music claimed that the closest marketplace analogy available with respect to Music's share was the amount paid for copyrighted works by local television broadcasters.[203] This analogy was felt best because it shows the relative payments by broadcasters for exactly the same copyrighted works as carried by cable operators.

The music claimants argued that the data concerning these payments, complied by the FCC, is not subject to the statistical manipulation that they claimed marked other evidentiary showings in the proceeding and therefore had significant probative value. That report sets forth commercial television stations' operating expenses. Music claimants argued that the only issue before the Tribunal was the value of copyrighted works to cable operators. Stations have many expenses which are not related to expenses for copyright works and hence not related to this issue. Therefore, Music claimants contended that only three of the stations program expense categories were relevant: (1) music license fees; (2) rental and amortization of film and tape; and (3) other program and performing rights.[204] These are the only FCC program expense categories which include amounts paid for copyright rights by local televisioin broadcasters.[205]

Music claimed that other expense categories in the FCC report were not pertinent.[206] Rather, they are cost elements incurred in the day-to-day operations of a television station, including salaries for all program department personnel, travel and entertainment, and the like. Music argued that the costs incurred in producing a program do not represent the marketplace value of that program. An expense program with little audience appeal has less value in the market than a much cheaper program with great audience appeal.

Music presented evidence purporting to show that locally originated programming is of minimal value and therefore has no effect on the computation of relative shares shown by FCC data.

Harm

The music claimants argued that they suffered harm from distant cable carriage in several ways. They claimed copyright owners of music are harmed on an individual basis, because the importation of a certain program by distant signal into a given market, forecloses the likelihood that a television station in the market will buy the program and air it. The music contained in the excluded program will be also excluded.[207]

The fact that performing rights in music are licensed on a non-exclusive, blanket basis does not mean that, on a collective basis, Music is harmed less than the program producers and syndicators: If both the particular program and its music are denied a chance to be sold to a broadcaster in the cable system's market, a different program—with different music—will be

sold to fill that time slot.[208] In this respect, the harm to both Music and program producers and syndicators from cable importation can be said to be equal.[209]

Testimony was presented with respect to additional harm. The competition from distant signals received in a given market reduces the audiences for the local television stations in that market. With a station's audience smaller, its advertising revenues are reduced.[210] The reduction in local stations' advertising revenues causes direct harm to Music because the music license fees paid by local television broadcasters are based upon a percentage of advertising revenues.[211]

Benefit

Music runs throughout all programming, not only movies and syndicated shows, but also public affairs programming; [212] sports; [213] public broadcasting; [214] and even religious and devotional programming.[215] The Music claimants contended that because of this, music benefits cable systems in exactly the same way, and to the same extent, that programs themselves benefit cable systems.

Quality and Time

Music testified that because ASCAP, BMI, and SESAC represent virtually all copyrighted music, music of the "highest" quality, judged on any basis, is included in Music's claim. To the degree that certain programming is deemed of "higher" quality than other programming, the music it contains is also of "higher" quality. Many of the programs cited by public broadcasting as being of "high" quality were primarily devoted to music.[216]

Because music runs throughout all television programming, a time factor cannot be isolated as such. To the degree that time is used as a basis for evaluating a share for a specific type of programming, however, music must automatically be included in that evaluation.

Music proposed the following allocation for all claimants: [217]

Claimant group	Television (percent)	Radio (percent)	Total (percent)
Music	6.50	2.50	9.00
Program producers and syndicators	72.00	.....	72.00
Joint sports claimants	11.50	.....	11.50
Public broadcasting service	3.75	.....	3.75
U.S. commercial and Canadian broadcasters	3.00	0.50	3.50
National public radio	.....	0.25	0.25
Total	96.75	3.25	100.00

Canadian Broadcasting Claimants

The Canadian broadcasting claimants propose that a share of the royalty fund be awarded to their group for all programming carried on Canadian television and radio stations.

The case on behalf of Canadian broadcasters was presented by the Canadian Broadcasting Corporation ("CBC"). CBC presented witnesses and studies in support of a claim for 4.8% of the royalty fund for television and 0.5% of the fund for radio, for a total of 5.3%.

Testimony was presented by three witnesses on (1) the nature of CBC television and radio programs (2) the data on the programming broadcast on a Canadian television station during the FCC's Composite week and (3) the extent to which Canadian television and radio signals are carried on United States cable systems.

CBC claimed all its programming qualified as either local or non-network and stressed its role as a major broadcaster. CBC relied on the MPAA fee-generated approach as a basis for quantifying the Canadian claim.

CBC proposed the following allocation for all claimants:[218]

Music claimants	[1]3.0
PBS	2.5
Canadian claimants	4.8
NPR	0.5
MPAA	84.0
JSC	8.0
NAB	8.0
Other claimants	0
	[1]100.0

[1] Percent.

National Public Radio (NPR)

NPR Claimed a share of 3.78%.[219]

NPR stated that there were difficulties in establishing this share because of the limited data cable systems declare on their statements of Account.[220] Nevertheless, NPR contended that there was sufficient evidence to justify its award according to the Tribunal's criteria.[221]

The marketplace, as such, is difficult to establish in the case of a noncommercial product;[222] therefore, NPR's case established itself primarily as the measure of the value and benefit of NPR programming to cable operators.[223]

An Arbitron Study, "Ratings of Specific Cable Program Services," was submitted which showed that cable subscribers gave more high ratings to distant FM station service than to distant television signals.[224] With respect to the distant carriage of public radio, NPR presented evidence to the effect that: In 1979 the vast majority of cable systems carried radio; in the NPR survey of over 250 cable systems this was 88.9%; and of the Form 3 systems in that survey 98.7%.[225] As for distant carriage, the NPR survey showed that of all cable systems approximatley half, or 2000 cable systems, carried NPR on a distant signal basis,[226] and that among Form 3 system NPR carriage on a distant signal basis was 63%, or approximately 643 systems, and that as a select signal its carriage was 43%.[227] The percentage as a distant signal of those NPR stations carried on cable systems in general was 77%.[228] Each NPR station is carried on the average by 12 cable systems.[229] NPR contended that this carriage alone was sufficient to establish that cable operators consider its programming a benefit.[230] Each week NPR stations produce on the average 150 hours of original programming.[231]

NPR also cited evidence of the appeal of its programming to subscribers [232] and argued that its programming appeals to "upscale" subscribers who might not be otherwise interested in the programming offered by cable.[233] As a result, it can be assumed that NPR programming is a force which attract subscribers [234] and that it contributes in retaining them, thereby reducing "churn".[235] In the NPR survey, 12% of the cable systems charged separately for radio service; and of them, the percentage of their subscribers paying extra for this service was 7.6%.[236] It cannot be assumed that radio use in general is below that level.[237]

NPR considered that a major benefit of NPR programming was its uniqueness, and that in the marketplace similar programming is not available other than through NPR.[238] This stems partly from the absence of commercials and partly from the particular theme and cohesion of NPR programming.[239] In addition, NPR signals are broadcast directly to only 60% of the population and in 30 of the 100 largest markets there are no NPR signals whatsoever.[240] The benefit to cable operators is being able to retransmit NPR programming is in direct proportion to its unavailability. The wise diversity among NPR stations, however, also causes them to benefit cable and be of value to subscribers, even when a signal is retransmitted within a market where an NMPR station may alrady exist.[241]

One measure of the value of NPR programming is the amount listeners pay. In 1979 over 400,000 listeners donated an average of $23 to NPR.[242] As a percentage of all subscriber fees to cable systems, those for radio represented 1.49% of the total; as a percentage of fees paid for television services alone, 2.16%.[243] When it occurs,

the cost of audio service is generally 10 percent of that for video service.[224]

Other indications of value were: that radio signals represent virtually the sole source of audio service, as compared with television signals which represent a much smaller proportion of total video service;[245] that cable operators incur significant expense to import radio signals, ten to fifteen percent of their investment to retransmit television signals;[246] that the introduction of other cultural services on cable indicates that there is a demand for such a service;[247] and that this demand is also reflected by the success of NPR in marketing its programming through other channels, such as cassettes.[248]

NPR considered that with respect to itself the criterion of quality was a very valid measure.[249] Such a measure has been used previously before other agencies and in other proceedings, and the test of its appropriateness has been the nature of the work[250] In the case of NPR, this is satisfied by the fact that NPR programming is the "state of the art," its production incurs a high cost,[251] and its quality of presentation can be clearly recognized.[252] NPR programming is unique and has exceptional breadth and appeal.[253] Furthermore the number of awards NPR has received, with respect to any other radio programming, establishes its critical acclaim[254]

NPR contended that with respect to harm, unlike other claimants, NPR was able to demonstrate concrete examples.[255] To the extent that NPR's signal is used without compensation, NPR's harm is peculiar to it, in that NPR is noncommercial and its signal is being used by someone else for commercial gain.[256] Importation reduces the size of the audience from which NPR might expect contributions. It provides a service to those who might otherwise donate for the creation of a local public radio station,[257] hampering the expansion of the NPR system.[258]

With respect to the suggestion that NPR is a network and that for purposes of the compulsory license its programming is exempt, NPR cited the Tribunal's decision in the 1978 proceeding with respect to PBS; the exemption for network programming does not apply to noncommercial programming because the Copyright Act is clear in making a distinction between the two.[259]

NPR contended that while cable operators benefited from radio retransmission in general, NPR was nevertheless more valuable relatively than commercial radio[260] and that the ratio between their shares should be two-thirds for NPR to one-third for commercial radio.[261] NPR produced 600,000 hours of original programming during 1979. With respect to commercial radio no evidence was forthcoming of anything comparable.[262] Commercial radio consists primarily of music, broken by advertising time, and its news is an edited version of the wire services. In consequence, commercial radio may justly claim only for disc jockey time.[263]

"Formatting" further reduces the value of commercial radio.[264] NPR contrasted the uniqueness of its programming with that of commercial radio and cited the Carnegie Commission Study of 1977 which found that 85% of all commercial radio stations fell within 5 formats, while NPR in 98% of the cases was an alternative to those formats.[265] NPR cited the number of claims filed by its stations as evidence of the value the stations themselves placed upon their programming; 60% of NPR stations filed as opposed to 1.6% commercial stations.[266] NPR cited NPR's distant signal carriage as an indication of how highly prized it is in markets which are naturally already dominated by commercial radio.[267] The following chart is a comparison of incidents of carriage:[268]

	Incidents of carriage	Incidents of distant carriage	Percentage of carriage that is distant
Commercial radio	575	251	25.74
NPR	220	170	77.27

NPR considered that the fact that it was able to sell its programming in other markets an indication of its superior value over commercial programs.[269] NPR receives 100 times more awards than commercial radio.[270] NPR claimed that commercial radio is not harmed by distant signal retransmission, because "formatting" presupposes a given niche in a given market and therefore the retransmission into that market of any signal that is not appropriate to that niche could not be presumed to have any impact on it.[271]

NPR argued that music's share of radio programming should be related to the percentage its license fees are of programming costs. In the case of commercial radio this is 10% and in the case of NPR it is 3%.[272] NPR presented evidence which showed that less than 30% of NPR's programming consists of copyrighted music.[273] This is in contrast with commercial radio, nearly all of whose music is copyrighted.[274] NPR also asserted that no harm has been shown to music from radio retransmission.[275]

As for CBC's share, NPR considered that it was unsubstantiated and should be minimal.[276]

The following was the distribution NPR proposed for radio claimants:[277]

NPR	3.78
NAB	1.80
CBC	.10
Music	.32
Total	6.00

And television claimants:[278]

MPAA	[1] 65–73
Sports	10–15
NAB	3–5
PBS	5–8
Music	3–3.7
CBC	.1–.3

[1] Percent.

Phase II—Allocation Among Program Supplier Claimants

MPAA and Associated Program Suppliers

MPAA and associated program suppliers contended that in Phase II their share of the program suppliers category should be 98.5%.[279]

The group of syndicators and producers whom MPAA represented agreed voluntarily among themselves to the methodology on which this claim was based and MPAA contended that it was the only methodolgy providing an allocation in phase II on a coherent basis among all claimants.[280] The other parties did not integrate their claims within an overall scheme, but instead stipulated them only in context with themselves.[281] The voluntary settlement negotiated by MPAA was premised on the assumption that those with whom the agreement was initially reached were obliged contractually to present the interests of the copyright owners.[282] MPAA and associated program suppliers stated their confidence that these contractual obligations would be respected and, in the exchanges of information that have taken place so far, have found no reason to believe that they have not been.[283] MPAA contended that the Copyright Act specifically encouraged voluntary agreements both in spirit and purpose and that the agreement that was reached was based upon this premise.[284]

Not all of the programming of the parties who settled was included in the sampling technique upon which the MPAA methodology was based.

However, the parties settled regardless.[285] 58 parties settled; however, because of the terms of the agreement, these individual shares are not visible. The settling program suppliers were just as protective of their rights within the context of the settlement as those parties were who did not settle.[286] Of those who settled,

some received no share at all.[287] Technical variances in the claims of individual parties to the settlement should not be used against the settlement as a whole: [288] No allusion was made to them until the end of the Phase II proceeding, the discrepancies were easily correctible; [289] and other evidence showed that the distant signal retransmission of the programming involved took place.[290]

MPAA and associated program suppliers contended that the large number of individual claimants within their category precluded balancing among each one of them the factors and criteria employed by the Tribunal in making an allocation in Phase I.[291] Because of the use of these criteria in determining overall shares in Phase I, however, awards made in Phase II would reflect them inherently.[292]

MPAA argued that its method of distribution was even-handed and administratively feasible, that it was characterized internally by openness and free exchange of information,[293] and that it allocated among all claimants on a consistent basis, incorporating the Tribunal's criteria.[294] This was in contrast to parties who were not members of the settlement. Their claims were presented without reference to the context of the overall syndicated program category.[295] They attacked the MPAA/Nielsen data without recognizing that the data produce not the 70% share which is to be distributed among individual syndicators in Phase II, but the share MPAA argued should be awarded to the entire syndicated Programmers category in Phase I, in other words 84.5%.[296] The other parties submitted shares that lacked proportion.[297]

Christian Broadcasting Network, Inc. (CBN)	[1] 7.00
Heritage Village Church (PTL)	11.72
Old Time Gospel Hour (OTGH)	4.00
Mutual of Omaha	1.03
Multimedia, Inc.	2.50
SIN, Inc.	2.30
NAB	5.00
Total	[1] 33.55

[1] Percent.

The MPAA settlement was based upon the viewing figures for each syndicated program. Not all of the 58 partiers who settled were MPAA members. The viewing figures for individual programs were transformed into fractions of the viewing for all syndicated programs, and the share of a particular syndicator or producer was an aggregation of the shares of programming found attributable to him.[298] MPAA reconfirmed that it considered the study, which served as the basis for these viewing figures, was accurate within a narrow range of statistical error,[299] and contended that any study which under these circumstances is not based upon sampling is unrealistic and prohibitively expensive.[300] MPAA did not deny that the use of sweep weeks might cause some programming to be missed, but questioned whether programming not carried in sweep weeks could be considered significant in terms of value anyway.[301]

MPAA and associated program suppliers contended that the thoroughness with which they sought to identify and credit all programming whose viewing was shown in the Nielsen survey was testified to by the fact that, at the end, only 5% remained unidentified.[302] This "unclaimed" fund, in the view of MPAA, should be allocated in the same proportion as the shares are awarded.[303]

MPAA considered that parties other than those it represents should receive 1.5% of the programmers share.[304] MPAA and associated program suppliers proposed the following allocation of the program syndicators' share:[305]

MPAA and associated program suppliers	[1] 98.5
Devotional claimants	0
SIN	.165
Multimedia	
Mutual of Omaha	.106
NAB	.04
Unclaimed	5.00

Multimedia Program Productions, Inc.

Multimedia Program Productions, Inc. (Multimedia) proposed that its share out of the program suppliers category be 3%, or within a range of 2–3%.[306]

Multimedia presented evidence to show that justification of its case was fully supported by the Tribunal's criteria.[307] The Nielsen viewing data, upon which negotiations were held between Multimedia and MPAA were considered confidential and therefore not admitted as evidence of the marketplace value of Multimedia programming.[308] In order to provide a marketplace value benchmark, Multimedia presented instead a study comparing *Donahue* advertising revenues with those of the broadcast industry totals for 1979.[309] The resultant percentage between *Donahue* and total industry advertising revenues was 1.403%;[310] in Multimedia's view, an understatement.[311] *Donahue's* spill-over effect onto the advertising time surrounding other programs was not shown in these figures,[312] and more programming than just *Donahue* was represented by Multimedia.[313] Advertising rates, however, have been recognized in other parts of the proceeding as a valid measure of value.[314] Additional measures of value were the extensive carriage and high ratings of *Donahue* [315] and the requests by viewers for transcripts.[316]

Multimedia contended that cable operators received significant benefit from the retransmission of *Donahue* in that it is a trigger program which will specifically attract subscribers.[317]

Viewers of the retransmission of WGN's signal in 1979 had the benefit of being able to call into the show directly, which the viewers of the syndicated show could not.[318] The immediacy and timeliness of *Donahue* benefits cable operators, and it is used in promotions.[319] Multimedia cited in particular the interest of United Video.[320] *Donahue* has a unique women's audience [321] and its inclusion in *The Today Show* is a sign of its popularity.[322] *Donahue's* daytime shares in 1979 were from 36% to 39% and its audience measure in households from 5,900,000 to 7,200,000.[323]

Multimedia contended that its programming provided ample evidence of quality; [324] first of all by the number of awards won, not only by *Donahue*, but also by *Young People's Specials*,[325] also by its news and public affairs content.[326]

Multimedia cited that the move that *Donahue* was forced to make in 1982 from WGN to WBBN was clear evidence of the harm it suffers from cable retransmission.[327] This move was directly related to the interference that the retransmission of WGN's signal caused *Donahue's* national syndication sales effort.[328] *Donahue* was harmed additionally because in 1979 the FCC ruled that its live nature precluded it from eligibility for syndicated exclusivity protection.[329] Cable importation has made renewal of syndication contracts more difficult,[330] and, as with sports, harm from cable retransmission is magnified because of the ephemeral nature of *Donahue*.[331] The regular version of the *Donahue* show bears no resemblance to the short segments which appear in *The Today Show*, and therefore the duplication which exists in this case cannot be said to be similar to the duplication that results from cable retransmission.[332]

Multimedia presented evidence according to which, with respect to time, Multimedia should be allocated 3.13% of all non-network, non-locally produced commercial programming.[333] It was contended that this percentage of broadcast time also reflected Multimedia's percentage of distant signal programming.

Multimedia proposed the following allocation of the program syndicators share: [334]

MPAA	85.000
Multimedia	3.000
NAB	1.200
SIN	0.500
CBN	0.500
Mutual	0.300
PTL	.050
OTGH	.025
Unclaimed	9.475

National Association of Broadcasters

The National Association of Broadcasters (NAB) proposed that in Phase II its share of the program suppliers' allocation be 5%.[335]

NAB recognized the dominance of the traditional syndicators and considered that with respect to station syndicated programming harm and benefit were difficult to assess but nevertheless felt its claim was justified on the basis of a consideration of all factors.[336]

The basis of this claim was first the value and benefit station syndicated programming represented.[337] Such programming is unique, timely, and first-run.[338] It is not subject to the duplication that is typical of national syndicators, and therefore is intrinsically more valuable.[339] NAB considered that the proximity of the stations originating this programming, and therefore its regional appeal, was also of benefit to cable operators.[340] Local stations are a source of creativity and innovation.[341] The awards station syndicated programming has won attest to its quality,[342] and it has educational value.[343]

The harm suffered is the same as that caused by cable retransmission to all copyright owners generally,[344] however, in addition, station syndicated programming is subject to further specific types of harm.[345] The regional nature of cable importation causes its impact to occur precisely in that area where stations most frequently conducted the intra-group exchange of their syndication.[346] Unlike national syndication, station syndication has no other market, and no other financial base, than the area it is originally sold in.[347] Nor does it have the specific compensating balances with respect to cable that national syndicators enjoy, i.e., pay cable.[348] On superstations national syndicators are able to demand a higher price, and therefore, even in the traditional sense of harm, from cable importation, station syndication is harmed relatively more because it doesn't have this opportunity.[349]

The amount of station syndicated programming in circulation in 1979, according to NAB, was hard to quantify.[350] Some programming follows the pattern of traditional syndication; some is exchanged by means of barter arrangements; some is a collective effort by co-owned stations; and some is organized on the basis of intra-group exchanges.[351] Some distribution takes place among co-owned stations or among *ad hoc* networks created for that purpose, in some instances similar to regional sports networks.[352] NAB cited examples of station syndication that received wide distribution[353] and objected to using the MPAA/Nielsen study as a means of measuring the extent of station programming.[354] Network affiliates, upon which much station syndicated programming is carried, were underrepresented in that study[355] and the use of sweep weeks resulted in a false measure of carriage.[356] Examples were cited of programming the study failed to include.[357] Finally, in NAB's judgment, the Tribunal's rejection in Phase I of any single measure such as viewing as a basis for allocation precluded the use in Phase II of such a measure.[358]

NAB proposed the following allocation of the program syndicators' share:[359]

Multimedia	[1] 2.0
SIN	1.0
Mutual of Omaha	0.5
CBN	0
OTGH	0
PTL	0
NAB	5.0
MPAA	91.5

[1] Percent.

Spanish International Network, Inc.

Spanish International Network, Inc. (SIN) proposed that it receive a share, out of the program syndicator's total, of $311,000.[360]

SIN considered that the amount that it would have received under the MPAA/Nielsen formula did not reflect what it considered its programming to be worth and that, in addition, from SIN's experience Nielsen ratings have always under-represented the actual viewing of Spanish speaking audiences.[361] SIN also argued that it should not be discriminated against because it failed to be party to a voluntary settlement.[362] In SIN's view, its programming is unique and easily differentiated; in awarding a claim the Tribunal is both assisted by this fact and obliged to take it into account.[363]

In 1979, SIN was the single source of Spanish language television programming; it was broadcast in its primary areas on an exclusive basis; and was recognized and paid for as such by cable operatiors.[364] SIN is the copyright holder for 60% of the programs claimed and has received authorization to represent the remainder.[365] Therefore SIN assumes responsibility for any distribution embraced within its share.[366] SIN considered that the Tribunal's 1978 ruling that a single formula was not appropriate with regard to the allocation among all claimants, did not preclude using a single formula as the basis for allocation to a single claimant and that MPAA's use of a single formula in 1978 for distribution among its members was a precedent.[367] SIN, therefore, urged that its claim be based upon a fee-generated formula.[368] Other claimants involved much more complex circumstances, and a formula appropriate for SIN would not necessarily be appropriate for them.[369]

Because of limited time, SIN based its calculation upon Form 3 systems.[370] SIN identified a total of 135 systems that were able to pick up programming from SIN's five major distributors and verified in their Statements of Account to what extent this occurred. Then, as an average of fees paid for all distant signals on a given system, SIN calculated the fee which should be attributed to SIN and added the fees so derived for all systems.[371]

SIN did not consider that the Tribunal had made any specific ruling requiring the distribution in Phase II to be based upon the criteria enunciated in Phase I.[372] However, SIN felt its claim satisfied these criteria.[373] SIN suffers the same harm all copyright owners suffer under the compulsory license.[374] Cable operators would have to purchase SIN programming if the compulsory license did not exist, and SIN is deprived of this revenue.[375] SIN's audiences are fractionalized.[376]

SIN considered benefit and marketplace were equivalent and that the value of its programming was established by the fact, and in the extent, of its carriage.[377] SIN's programming cannot be considered any less valuable because FCC rules permit carriage of specialty stations under relatively unrestricted circumstances.[378] SIN programming is diverse, covers the entire broadcast day, and focuses on a specific audience which has value to the cable operator.[379] This value is SIN's loss,[380] and the compulsory license permits no other way of measuring that value except through the fee-generated formula.[381] SIN finally cited its tape sales as an additional benchmark of its value.[382]

Mutual of Omaha

Mutual of Omaha claimed that its allocation of the program syndicators' share should be $140,000.[383]

Mutual considered that this share was fully justified in terms of the Tribunal's criteria,[384] and that the share offered it by MPAA was insufficient.[385] It is difficult to assess the value of commercial time when it is bartered, which occurs in the case of "Wild Kingdom" because no fees are exchanged; instead a certain portion of the commercial time is reserved by Mutual for itself.[386] Mutual therefore reconstructed what it felt was the commercial value of its programming on the basis of its cost of production and on the basis of a comparison with the value of other commercial programming in terms of the cost per 1000 commercial minutes delivered.[387] This produced for 1981 a value for "Wild Kingdom" of $14,000,000.[388] Mutual considered that the extensive syndication of "Wild Kingdom" was also an indication of its value; it being one of the top three syndicated shows in the United States.[389] Mutual cited in addition the expense of producing "Wild Kingdom".[390] Its value to cable operators is evidenced by their demands to be licensed to carry it, which Mutual has declined.[391] "Wild Kingdom's" extensive carriage by cable is also another indication.[392]

Mutual suffers harm to the extent that cable importation fractionalizes its audience and frustrates its very careful and expensive marketing strategy of focusing its advertising.[393] Cable importation prevents Mutual from guaranteeing the syndicated exclusivity stations demand, and therefore its efforts at syndication are impaired.[394] Mutual's efforts to customize its commercials to each State, required by the differences in State insurance laws, are also confused.[395]

Mutual did not base its claim entirely upon time, however presented evidence based upon b.i. Associates print-outs to document the time its programming was carried.[396] Mutual considered that the quality of "Wild Kingdom" is amply recognized and has won national awards.[397]

Christian Broadcasting Network, Inc.

The Christian Broadcasting Network, Inc. (CBN) proposed that its share be from 3.4 to 7%.[398] CBN considered that the Tribunal should not take into account the source of a claimant's funding when making an allocation.[399] Funds come from viewers anyway ultimately,[400] and in the commercial world broadcasters do not always pay for programming.[401] CBN's decision not to use advertising is based upon reasons that ar e not related to money, concerns such as retaining control of its programming.[402] The spiritual value of its programming is also not a basis upon which the Tribunal may judge its award; to do so being unconstitutional.[403]

CBN concluded that its claim was justified entirely on the basis of the five Tribunal criteria[404] and that the assertion of its rights was the same as that of any other copyright owner.[405] The evaluation of its claim should not be affected by the fact that it does not have the same resources as other claimants.[406] CBN's marketplace value emerges from the consideration of such factors as production and distribution costs,[407] the fact that it is equivalent to first-run syndication and doesn't benefit from having its production financed by the networks,[408] the amount that CBN pays to have its programming broadcast,[409] and the value viewers place on it in that they are willing to pay to support it.[410] CBN's programming receives distribution over 135 stations.[411] CBN, however, did not consider that the value of its programming could be measured by viewing.[412]

With respect to benefit, CBN considered that its programming offered particular advantages to cable operators because its appeal is to a very specific audience.[413] The nature of CBN's programming also serves to enhance the goodwill between cable operators and the communities they serve.[414] CBN programming also benefits cable operators because they are allowed to pick it up under the FCC rule regarding specialty programming and they can fill a channel that they might not be able to otherwise.[415] The extent of carriage of CBN programming is a further indication of its benefit; it is carried on 9 of the top 25 fee-generating stations.[416]

With respect to harm, CBN contended that distant signal importation fractionalized its audience and, by reducing its "lead in" value as a means of retaining audiences for other programs, resulted in stations demanding a higher price to carry CBN programming.[417] Viewers are confused by cable importation, and the method of CBN's bicycling is disrupted.[418] This results in overexposure, and CBN's relations with its donors are damaged.[419] The fact that in some instances CBN programming overlaps with itself, independent of cable, is not a sign that harm in general does not exist, because these instances are particular.[420] Cable importation interferes with CBN's attempt to distribute its satellite service, and this harm, like that of reduced gate receipts to sports interests because of cable, injures CBN as an entire organization.[421] The quality of CBN programming is inherent in the cost of its production, in the fact that it is not rerun, in its technical advancement,[422] and in the nature of the programming itself, which is not restricted to religious subjects.[423]

CBN considered that significant support for its claim derived from the amount of time its programming occupied,[424] enhanced further by the absence of commercials.[425] While not advocating time as the means for allocation, CBN nevertheless did offer a formula which it suggested could serve as an objective benchmark.[426] The number of hours of CBN programming was divided by the number of hours of all television programming, adjusted to compensate for the DSE value given by the Copyright Act to network programming and for the fact that since 1972 the importation of network affiliates signals has been reduced because of an FCC ruling. The result was a share for CBN of 4.039%.[427] CBN considered that its formula accurately reflected the degree to which independents play a greater role with respect to the importation of distant signals than do network affiliates.[428]

$$R = \frac{995}{14,377 + 1,311} = 4.039\%^{429}$$

CBN proposed the following allocation of the program syndicators' share:[430]

	Percent
MPAA	0 to 68.
CBN, Inc	3.4 to 7.0.
PTL Television Network	3.4 to 7.0.
Old Time Gospel Hour	0.5 to 2.5.
NAB	0.1 to 2.5.
SIN	1.5 to 2.5.
Mutual of Omaha	0.5 to 1.5.
Multimedia	1.5 to 3.0.

PTL

Heritage Village Church and Missionary Fellowship, Inc. (PTL Television Network) proposed that its share of the program suppliers allocation be 7%.[431]

PTL considered that its claim was justified on the basis of the five Tribunal criteria[432] and that its award should not be affected by the fact that it is a religious programmer.[433] Unlike other claimants, who have not gone beyond the simple presumption of harm contained in the establishment of the compulsory license, PTL presented proof of harm that it viewed as concrete.[434] In PTL's view, the assessment of its harm should not be affected by how its programming is financed and distributed.[435] Religious programmers choose not to mix advertising with their

programming in order to retain freedom of expression.[436]

The method by which PTL purchases its time from broadcasters permits it very rarely to have access to prime time for its programming. In consequence, to reach prime time and the audience that permits, PTL has an independent satellite service [437] and the placing of this service has been made significantly more difficult by the importation of PTL programming from other markets.[438] PTL has therefore been deprived of access to prime time [439] and cited evidence to show what deprivation is worth in terms of the value of prime time.[440] PTL is caught between either having to abandon its attempts to reach prime time, or else to cease its broadcasts in areas which are not covered by cable television.[441] An additional harm stems from the interruption that distant signal importation causes to PTL's method of bicycling its programming.[442] PTL is also hampered in its efforts to keep track of which of its contributions are due to which broadcast in which locality.[443] In addition, when stations know that their signal is being exported outside their market by cable they charge PTL higher rates.[444] The impact of these effects on PTL is enhanced, because unlike the syndicators, PTL is a small organization,[445] and the benefit that cable might otherwise represent, because of its expanded coverage, is offset by the difficulty and extra cost PTL has in placing its satellite service.[446] PTL's efforts to avoid duplication with respect to its own programming offers proof also that it is harmed by the duplication caused by cable importation.[447]

PTL considered that benefit and marketplace, as they relate to the value of its claim, should be considered together.[448] PTL benefits cable operators in that its programming represents diversity and contrast with respect to other kinds of programming, and PTL's programming cannot be judged by ratings because ratings are above all a commercial measure of success.[449] PTL suggested that movies' high ratings may be due in part, not to their innate popularily but to their historically dominate availability.[450] The determination of value also, according to PTL, is not necessarily related to the time individuals may spend watching given programs.[451] PTL offers choice and a balanced selection to viewers and cable operators.[452] PTL's carriage is extensive both on television stations, 72 out of 100 independents, and on cable systems, 869 Form 3 systems carry it as a distant signal.[453] Broadcast stations, according to PTL, must perceive some benefit, which must also be true presumably of cable systems, because if they considered airing commercial time more remunerative, they would obviously do that instead, as they are under no obligation to sell to PTL.[454]

PTL considered that its programming satisfied the Tribunal's criterion of quality, and presented evidence in support.[455] One such measure is the voluntary nature of the donations which support PTL.[456]

Time was presented by PTL as a factor that, although not of overriding importance, nevertheless might substitute where the other criteria were unclear as guidance.[457]

Religious programming in this respect occupies 20% greater time than other programming because it does not have commercials,[458] a distincition that has much greater importance between claimants within the same category in Phase II than it did between claimants of different categories in Phase I.[459]

PTL presented its time-based formula, not as one that it argued should necessarily be accepted as such, but rather as one that had the advantage above all of being based on objective data. PTL's methodology was identical with that of CBN, drawing its data from the FCC composite week and discounting network affiliate time by .25 DSE value in the Copyright Act and by the amount PTL judged network affiliate distant signal carriage has been reduced following a 1972 FCC ruling.[460] The following were the resultant formulas:[461]

PTL Club

$$R = \frac{2{,}012}{10{,}310.8 + 14{,}376.4}$$

= 8.15% of entire fund
or
11.6% of Movie & Program Syndicators 70% share

Spanish Language PTL Club

$$R = \frac{23}{10{,}310.8 + 14{,}376.4}$$

= .09% of entire fund
or
.12% of Movie & Program Syndicators 70% share

PTL proposed the following allocation of the program syndicators' share:[462]

	Percent share of 70% award
MPAA	0
SIN	1
Mutual of Omaha	1
Multimedia	3
PTL	7
CBN	7
OTGH	4
NAB	5
Soprano	0
Unclaimed	72
Total	100

Old Time Gospel Hour

Old Time Gospel Hour (OTGH) proposed that its share of the program syndicators' allocation in Phase II be 4%.[463]

While presenting its claim as an independent party, OTGH nevertheless followed the arguments offered by the other religious claimants. In 1979 OTGH, CBN, and PTL were roughly equivalent in terms of gross operations—$50 million per year.[464]

The justification upon which OTGH considered its award based was the Tribunal's criteria.[465] OTGH suffers harm that is related specifically to the fact that it relies on donations for its support.[466] Cable importation has reduced OTGH from being a prominent program alternative into being only one of many choices.[467]

OTGH has been additionally harmed in that it has not received any benefit from cable; its programming is primarily sold on network affiliates and due to an FCC ruling those signals which are retransmitted by cable are predominantly those of independents. While OTGH's own programming is fractionalized, it receives no benefit from any additional audience.[468] OTGH suffers also from the simultaneous duplication of its programming.[469] OTGH, however, was not able to provide any measurement of its carriage on cable.[470] OTGH considered that the extensive carriage of its programming was testimony as to its value [471] and that the audience it provided was of particular benefit to cable.[472] OTGH contended that with respect to quality its programming was superior to other syndicated programming.[473]

OTGH proposed the following allocation of the program syndicators' share:[474]

	Percent
MPAA	0
NAB	0
Old-Time Gospel Hour	4
Christian Broadcasting Network	4
PTL Television Network	4
Multimedia	3
Mutual of Omaha	1
Spanish International Network	.75
Unclaimed	83.25
Total	100.00

Soprano Co.

Soprano Co. presented testimony whereby in 1973 it secured the copyright ownership of the musical work entitled "Movin and Groovin." Soprano stated that Broadcast Music, Inc. (BMI) has the license to this work. Soprano witness testified that derivatives of "Movin and Groovin" were secondarily transmitted and listed several programs to support his testimony.[475] The Soprano Co. claim is for 25% of the music allocation.

Distribution Criteria

The Tribunal in the 1978 cable royalty distribution proceeding adopted the criteria to be applied in that and subsequent cable royalty distribution proceedings. The criteria, an analysis of the criteria, and the relative weight accorded each factor are set forth in the 1978 distribution opinion.[476] We have applied those criteria to the record evidence in this proceeding.

In this proceeding, claimants presented to the Tribunal a wide range of evidence to justify their proposed allocation. We have been presented studies and other evidence based on television viewing, cable royalty fee generation, attitudinal surveys of cable operators, advertising rates, broadcast station expenditures, economic regression analyses, distant signal programming time, innovative and quality programming, and technical equipment. We have not found a single formula or rationale adequate to reach our determination and allocations in this proceeding.

In adopting our criteria, we have taken into account the legislative history of the Copyright Act which assumes that the carriage of distant signals by cable systems is harmful to the copyright owners of the works being transmitted. The record of this proceeding, including proposed findings of several parties, indicates that the "harm" test is of limited utility in allocating royalty fees among categories of claimants.[477]

Program Syndicators

The centerpiece of the Program Syndicators case was the Special Report of Nielsen analyzing the time occupied by and the viewing of different categories of programming. We regard this Report as the single most important piece of evidence in this record. We have concluded that this study does have probative value in establishing the entitlement of claimants in accordance with some, but not all, of the criteria. It is a useful "starting point" for the application of the criteria to the record evidence, but we have not accepted it as a talisman which fully reveals and determines the application of the criteria.

A major reason for the Tribunal being unable to accord the Nielsen "hard numbers" the weight urged upon us by MPAA is that we share the views advanced by certain other claimants, notably Joint Sports and NAB, that cable operators are interested in selling subscriptions and that viewership is of limited relevance to cable operators.[478]

In assessing the weight to be accorded the Nielsen Report we have also considered the evidence as to the methodology of the study, the selection of the station sample on a fee generated basis previously found deficient by the Tribunal, the use of "sweep periods", and the role of MPAA in the design and execution of the survey. The methodology chosen could have resulted in the exclusion of claimants having distant carriage of their programming unless the programming happened to be picked up in the 49 station survey. The procedures followed also could have enhanced the showing of the syndicators to the disadvantage of other claimants, such as by the use of "sweep periods".

The Tribunal in the 1978 cable royalty proceeding opinion set forth our conclusions concerning the general nature of the harm sustained by program syndicators as a result of the cable compulsory license.[479] While our record contains testimony describing the operations and economics of the series and movie syndication market, and the possible adverse impact of cable carriage on such markets, we do not find in the record such a distinctive showing of harm that would justify the Tribunal viewing the syndicators claim more favorably than that of some other claimants by the application of the harm criteria. Although the program syndicators presented a plausible theoretical argument as to harm, they were unable to present factual evidence of such harm in 1979, while NAB presented evidence seeking to establish that program syndicators were not harmed in 1979 by cable importation.

It is argued that viewing figures are a relevant measure of harm as those programs which attract a bigger audience will generally command a higher price, and that the viewing of distant signal programming cuts into the viewing of programs sold in the local markets by syndication. Even if viewership of distant signal programs is an appropriate measure of harm, it would be change in audience, not absolute audience levels, which would have to be considered.[480]

The program syndicators sought to justify their entitlement under both the benefit and marketplace criteria by principal reliance on the Nielsen data. In notable contrast to the Joint Sports claimants, the program syndicators did not present testimony by cable operators in an effort to establish the benefit of their programs to cable systems, or evidence as to the appeal of their programs. In judging the program syndicators case against that of the sports claimants, we found this omission to warrant a downward adjustment of the "hard numbers" proposed by MPAA.

Our record establishes that movies are a significant inducement to subscribe to cable television, but the record also suggests that the appeal of distant signal movies may now be reduced by the availability of movies on pay cable operations. The record has not persuaded us that syndicated series are highly valued either by cable operators or cable viewers. While MPAA is correct in observing that the "duplication" of programs is not restricted to the syndicators category, it is clear that the duplication in syndicated series programs significantly reduces their value to cable operators.

During the direct case of the program syndicators, Mr. Jack Valenti recommended for our consideration a study "Cable Copyright and Consumer Welfare: The Hidden Cost of the Compulsory License", May, 1981 by Harry M. Shooshan, et al., which was made part of this record. Of the subjects discussed with which the Tribunal is directly acquainted, we have not found the study creditable and have given it no weight in reaching our determination.[481]

The Tribunal has utilized the Nielsen numbers as a "starting point" and then reduced the requested allocation of the program syndicators to 70% because of perceived deficiencies in the methodology, and our application of the criteria to all the record evidence relating to the program syndicators.

Joint Sports

As in the 1978 royalty proceeding, the direct case of the Joint Sports claimants was structured and presented to focus on the marketplace considerations we have found most persuasive and useful. We have accepted the contention of Joint Sports that the criteria justify and compel an award to them greater than would be warranted solely by their share of broadcasting hours or by total viewing numbers. We have also been persuaded of the special appeal of sports to cable operators and viewers.[482] This appeal has been recognized by other claimants.[483]

In assessing the Joint Sports claim, we have given consideration to the

testimony of individuals either in or with experience in the cable industry as to the appeal and value of sports programming. While such attitudinal evidence cannot be the sole basis of our allocation, we have concluded, particularly in relation to other evidence before us, that it should be a factor in our determinations. We find that the availability of sports programming on distant signals is an important factor in determining whether individuals will subscribe or continue to subscribe to cable.

While we have included the attitudinal evidence as one factor in our determinations, we find nothing in the evidence that would provide any basis for directly linking this evidence to the determination of any particular royalty percentage for the sports claimants. We find the assessment of Mr. Simmons that cable operators in the marketplace would spend about 35% of their programming budget for sports telecasts unsupported by any competent evidence in this record. Likewise, with regard to the BBDO survey, expressions of preference as to the value of sports or any other category of programming cannot be directly quantified or converted into a royalty share allocation.

We have reviewed the trends reflected in the 1978 and 1979 BBDO studies and concluded that there is support for a finding that cable operators assign a declining value to distant signal carriage of movies, with a corresponding rise in the value of sports.

In applying the criteria to the sports programming covered by the claims, we have given consideration to the ephemeral nature of sports telecasts. In contrast to movies and syndicated series which may produce revenues repeatedly in different markets, once a sports event has been telecast, it is thereafter usually of no further monetary value.

In reaching our sports award, we have considered the evidence that those television stations which were the flagship stations of professional sports clubs were carried as a distant signal to a significantly greater extent than those stations that are not flagships. While various factors influence a cable operator's decision to import a distant signal, the record provides support for a finding that the status of a station as a flagship of one or more sports teams is an important consideration. Evidence of other parties, such as the Arbitron Study, further establishes the value of sports programming and provides record support for our award to sports.

We have not found the Lexecon "multiple regression analysis" to be helpful in reaching our determination. Our record adequately established various technical and conceptual limitations of that study, such as the treatment of the alternative dependent variables.

By applying the criteria to all the record evidence relevant to the sports claim, we have determined to award 15% of the royalty fees to the sports claimants. As discussed elsewhere, we have allocated all royalties for sports programming to the Joint Sports claimants.

Public Broadcasting Service

In assessing the case of the Public Broadcasting Service (PBS), we have been guided by the record evidence which in our view suggests that approximately 93% of the royalty fees should be awarded to commercial claimants. We find that this allocation also conforms to the criteria.

Our record suggests that when full-time distant signals are considered, public television signals account for over 10% of the aggregate instances of all distant signal carriage. As with other claims, we have given limited weight to total number of program hours. Consequently, we have made a downward adjustment of PBS' proposed 8% award. The evidence also establishes that there is substantial duplication of PBS programming and that a significant percentage of such programming is carried at the same time by all PBS affiliates. These factors compel a further reduction of the claim.

We have been unable on the basis of the record to evaluate the claim on the basis of commercial marketplace factors. We have concluded that these commercial factors, such as the size of the viewing audience, cannot provide an appropriate measure of the value of public television signals to cable operators. We have chosen to assess the claim in accordance with the public policy considerations which govern the operations of public broadcasting. These include the production of a range of programs, not directed to the attainment of large audiences, which provide an alternative to much of the product of commercial television. The availability of this diverse programming in our view is of benefit to cable systems.

As to the nature, diversity, and innovative quality of this programming, the PBS direct case included extensive testimony.

By applying the criteria to the record evidence, we have awarded 5.25% of the royalty fees to PBS.

U.S. Television Broadcasters

As we have interpreted the Copyright Act,[484] the only copyrighted programs for which television broadcasters may receive royalty fees are for the distant carriage of station programming and for sports programming "when contractual arrangements specifically provide that such royalties should be distributed to broadcaster claimants.[485]

After hearing all testimony on the sports issue presented by the NAB, the Tribunal on September 30, 1981, granted the declaratory ruling requested by the Joint Sports Claimants, whereby we affirmed our previous decision "that cable royalties for sports programming shall be awarded to the sports claimants except when contractual arrangements specifically provide that such royalties should be distributed to broadcaster claimants." [486]

In our opinion in the 1978 cable distribution proceeding, we stated:

> The record is void of any useful evidence that local broadcasters are harmed by cable carriage in distant markets of their locally produced programs, or that distant cable systems benefit from their carriage of locally produced news and public affairs program. We are unable on the basis of this record to find any significant marketplace value for such programs. Finally, we have accorded only secondary value to time related considerations.[487]

The NAB case this year was presented in an effective and coherent manner, but our review of this record has not caused us to alter the basic conclusions we reached in the earlier proceeding. We have accorded time-related considerations only secondary value, which compels us to make only a limited award to commercial television broadcasters. We share and adopt the analysis of the NAB case presented by certain other categories of claimants.[488]

We have in making our allocation to commercial television broadcasters considered their evidence concerning the percentage of commercial distant signals originating from cities located less than 150 miles from the cable community, or distant signals licensed to communities located more than 150 miles, but within the same state as the cable system. In determining our award to this category we gave consideration to the benefit to cable operators, and subscriber interest in station news and public affairs programming from nearby stations or from more distant stations in the same state. Our review of the record evidence, however, has not persuaded us that this programming is of more than marginal value to cable operators, or a significant factor in the decision of the public to subscribe to a cable system.

In contrast to our review of the Joint Sports case, we have determined that the application of the criteria requires a

downward adjustment of the "hard numbers", whether viewed from either the NAB perspective of total programming hours weighted by number of subscribers, or the time and viewing data of the program syndicators.

By the application of the criteria to the record evidence we have made an award to U.S. television broadcasters of 4.5%.

Music

We have made a single award to music for all distant signal carriage of their copyrighted works for which they have established an entitlement under the Copyright Act and the evidence presented in this proceeding.

Music's presentation of their case for royalties for carriage of music on distant television signals rested on an analysis of selective broadcast station expenditures as disclosed in FCC data. They urged that only expenditures for (1) music license fees, (2) rental and amortization of film and tape and (3) other program and performing rights are relevant to our purposes. Music failed to include six other program expense categories in the application of this guide to our determination. It is our conclusion that this exclusion inflates the proposed allocation to music. Our record indicates that as a percentage of all categories, Music's share of broadcast program expenses which in 1979 was 3.7% has declined since 1978.[489]

For the reasons discussed elsewhere we have not made any award to the broadcaster claimants for distant carriage of commercial radio signals, and have made an award to NPR. We find in the record in the cases of several parties sufficient evidence for use to include in our award to music some compensation for the significant performance of copyrighted music on distant radio signals. The useful evidence on this issue is based on time, and even within that standard the record is not clear. The record admits of different time estimates. However, the total of copyrighted music is such as to warrant an award to music. Taking these factors into consideration, and reflecting the limited weight we have accorded to pure time considerations, we have made an allocation of 4.25% of the royalty fund to music.

Canadian Claimants

We have made in Phase I a single award covering all Canadian claimants, except commercial radio.

In examining the Canadian broadcasting claimants case, we note that the claims are not limited to local news and public affairs programs, but encompass a broad range of movies, syndicated series and sports events. The showings as to the Tribunal's criteria made by these separate claimant categories to some extent can be applied to the Canadian claim where the same programming is involved. We also observe that the definition of "network station" in 17 U.S.C 111(f) applies only to affiliates of United States networks, and thus CBC network programs are eligible for cable royalties.

The Canadian claimants have acknowledged that much of the evidence concerning the basis of the Canadian claim suffers from various limitations.[490] The claim is particularly deficient in failing to establish the number of Canadian signals that were carrier "beyond the local service area" of their primary transmitter. We also have declined to employ fee-generated formulas, as urged upon us by the Canadians.

The majority of the Canadian signals retransmitted by U.S. cable systems are from stations forming part of either the CTV or CBC television networks. We have accepted the position that network programming is generally more valuable than most local programming. We also, however, in assessing the marketplace value of the Canadian signals, note that in accordance with Canadian law a majority of the programming on Canadian television stations must be produced with the primary purpose of serving the Canadian national audience. We have also taken into account that a substantial number of television stations in Canada present programming in the French language, and that the record does not establish the benefit of such programs to U.S. residents.

We find that the state of the record with regard to radio signals is even more unsatisfactory than the record on U.S. radio signals. We have chosen to treat Canadian radio signals in a manner consistent with our disposition of the U.S. radio claims, making no award for commercial radio.

By the application of the criteria to the record evidence, we have made an award of .75% to the Canadian claimants.

National Public Radio

While we have concluded that our record justifies an award to NPR while making no award to commercial radio, we have some concerns as to the case presented on behalf of NPR. As stated in the PBS findings, "Much of the case presented by NPR consists of affidavits and hearsay information concerning which there has not been an adequate evidentiary exploration on the hearing record."[491]

Our different treatment of NPR and commercial radio finds record support in the proposed findings of other claimants.[492]

The evidence does indicate that NPR is a producer and syndicator of innovative, distinctive and quality radio programming that is transmitted by a number of cable systems as a distant signal. As with our review of the PBS claim, some customary guides to judging the marketplace value of program product are not useful. The record supports a finding that the programming has a special appeal, which justifies an award.

We have made an award of .25% to NPR.

Commercial Radio

Our review of the evidence presented by any party in this proceeding has not persuaded us to make any award to commercial broadcaster claimants for the distant carriage of radio signals. We do not read the Copyright Act as requiring this agency to make an award to the copyright owners of every program that may be transmitted as a distant signal.

As summarized elsewhere, the Tribunal in this proceeding did receive some random evidence as to radio carriage by cable systems, radio services offered by cable television, and radio station formats. We find none of this evidence supports an award based on even a flexible application of the criteria. We have been unable to discern any significant marketplace value or benefit from distant commercial radio carriage.

Mr. Mankiewicz, President of NPR, in his appearance testified as to the limited appeal to cable of commercial radio signals:[493]

> I suppose there are some but it is difficult to imagine the appeal in community 'A' of an additional top 40 station whose signal is bought from community 'B'. Since commercial radio stations, with very few exceptions, are using one of five, or, perhaps, at the most, six formats which are present in every commercial market, our feeling is that the appeal of an imported commercial station signal is very limited.

We concur in the assessment of the commercial radio evidence presented by PBS:[494]

> It is a fair summary of the record to say that radio signal carriage can be provided by cable systems at nominal costs and, while such carriage may reflect some element of value and benefit to the subscribers, as of 1979 at least radio carriage was not a significant consideration in either the local or distant cable marketplace.

Phase II

The Tribunal considered Phase II issues under the Program Syndicators, U.S. Television Broadcasters, and Music categories.

Program Syndicators

MPAA and Associated Program Suppliers

The MPAA and associated program suppliers (Program Suppliers) who entered into voluntary distribution agreements restricted their direct Phase II case as summarized elsewhere. In effect, Program Suppliers relied on the evidence presented in Phase I on behalf of all Syndicators.

We agree with MPAA that voluntary agreements promote the objectives of the Copyright Act and public policy generally. The Tribunal welcomes voluntary agreements, however, when a Phase II case is presented, the Tribunal has the task of deciding the issues on the basis of the evidence before us, and the private agreements reached by parties in voluntary settlements cannot substitute for the Tribunal's judgment.

On the basis of all relevant evidence in this record, we have awarded 96.8% to the MPAA and associated program suppliers.

Late in the Phase II proceeding, NAB, Multimedia and other parties raised questions concerning asserted deficiencies in a number of the claims of Program Suppliers. It was asserted that certain claims failed to meet one or more of our minimal filing requirements. Multimedia and devotional claimants stated that no royalty fees could be awarded to these claimants, and that adjustments would be necessary in any award to the MPAA and assoicated program suppliers.

Program suppliers acknowledge that a number of their claims do not meet the requirements of our rule, but urge that we should ignore these "technical imperfections". As has been observed in the comments submitted on this subject at our request, it is difficult to reconcile this recommendation with the consistent course of action of MPAA in this proceeding.[495]

The Tribunal believes that a flexible application of our rules and procedures is compatible with due process, and assists our examination of the complex issues involved in our proceedings. It appears that MPAA now agrees.

We are satisfied that evidence in this record establishes that programs of each of the claimants with defective claims were carried as distant signals. We decline to bar an award to these claimants.

Multimedia Program Productions, Inc.

The record evidence presented by Multimedia Program Productions, Inc., (Multimedia) supports a finding as to the marketplace value, particular benefit to cable operators, and quality of its programs. It does not support the requested 3% allocation.

The issue between Multimedia and those program syndicators associated with MPAA rests both on the evidence presented by Multimedia and on a difference of views of a Phase II proceeding and the function of this Tribunal in resolving a Phase II controversy. In the current proceeding the program suppliers relied on evidence presented in Phase I to achieve the maximum award for all program syndicators vis-a-vis other categories of claimants; however, in Phase II the Tribunal must judge disputes that pit program syndicators who apply the Tribunal criteria to themselves individually against those who rely upon the criteria as they apply to program syndicators in general as a category. Our view is that in the event of a Phase II issue, we must evaluate the record evidence presented by the competing claimants to establish the particular application to each claim or group of claims of all the criteria.

We must look to the Phase II record to ascertain what showing has been made to establish particular entitlement to royalty fees.

We reject in Phase II as in Phase I the application of a single formula as the basis of our decision. Our Phase II allocation cannot be made solely on the basis of a single formula, such as the Nielsen viewing data, which is at most a "useful 'starting point' for the application of the criteria", and which we have found does not reflect all the criteria.

Turning to the Multimedia case, we have reduced the marketplace value placed by Multimedia on the "Donahue" program. Our review of the record establishes, in the words of NAB that "it is clearly an important syndicated program to television stations" and that its value is enhanced because it is "a first-run daily show with few repeats."[496] but, we also agree with NAB that its "value to cable systems on a distant signal is substantially reduced, however, by its wide availability on local television stations."[497]

Our comparative analysis of the Multimedia programming with that of MPAA and associated syndicators has been restricted by the state of the record. Multimedia is not responsible for the limitations under which the Tribunal has operated in Phase II. As was stated by NAB, "In evaluating the entitlement of 'Donahue', for example, the Tribunal should know the allocation MPAA proposes for 'The Merv Griffin Show' and 'The Mike Douglas Show'."[498]

Our award to Multimedia reflects the record evidence presented concerning its programs, including the "Young People's Specials". Again, as stated by NAB, these programs "are fresh, creative syndicated product entitled to royalty recognition."[499] We do not assert that these programs are unique. Programs of equal marketplace appeal and quality may be included under the claims of other program syndicators. However, specific evidence was not presented.

During the rebuttal portion of the Program Suppliers Phase II case, counsel for Multimedia interposed an objection when Program Suppliers counsel asked their witness, Mr. Cooper, to state the percentage award that would go to Multimedia by the application of the Nielsen viewing formula.[500] The Tribunal sustained this objection.[501]

Multimedia asserted that the figures were the basis for private negotiation between MPAA and themselves, and the Tribunal upheld their claim of confidentialty.

Prior to the Tribunal's ruling, the following colloquy occurred:

> Commissioner Brennan: Mr. Lutzker, would you seriously consider withdrawing pending objection if Mr. Cooper's coalition made available all the Nielsen numbers for the claimants in the program syndicator category? . . .[502]
>
> Mr. Lutzker (counsel for Multimedia): . . . If that infomation were available and in the record for all parties, I wouldn't have any objection. . . .[503]
>
> Mr. Cooper: It is my concern, Commissioner Brennan, according to the statute, the statute encourages voluntary agreements, that in the event we were to disclose the information to the individual claimants, that we would not be able to enter into voluntary agreements. . . .[504]
>
> Mr. Lutzker: I think that as I have stated in response to Commissioner Brennan's question, if the full data is revealed, I would certainly withdraw my objection with respect to Multimedia. If less than the full data is revealed, my concern remains that the Tribunal was receiving piecemeal information.[505]

Program Suppliers on January 15, 1982, filed a Motion to Dismiss Certain Claims Filed by Multimedia For Lack of Ownership. The Motion enumerated eight programs owned in 1979 and 1980 by Show Biz, Inc., but not by Multimedia. Although Multimedia filed a valid claim, no claim was filed by Show Biz. Program Suppliers sought dismissal of Multimedia's claim for the Show Biz

programs, arguing that Multimedia is not the owner of such programs for purposes of the 1979 distribution.

Multimedia in Opposition to the Motion To Dismiss argued that as Multimedia had filed a valid claim it may assert a claim regarding 1979 for which Show Biz would have been barred. Multimedia cited our rule in 37 CFR 302.7 which provides that for filing purposes the entity submitting a claim is required to identify itself, not its programs.

Our claim rules do not provide support for Multimedia's theory. 17 USC 111(d)(5)(A) requires that a claim be filed in the month of July by "every person claiming to be entitled to compulsory license fees for secondary transmissions." Show Biz did not file a claim. Multimedia could not acquire by purchase a right to the 1979 cable royalties for cable carriage of Show Biz programs, as Show Biz had no cable royalty rights to transfer.

On the basis of all the record evidence relating to the Multimedia claim we made an award of 1.6%.

National Association of Broadcasters

The NAB case suffered deficiencies shared by other Phase II cases. The Tribunal considers that the data NAB presented with respect to the secondary carriage of station syndication was insufficient.

NAB has advanced several theories, which if supported by more than a minimal evidentiary showing, may justify our further consideration. It is argued that certain station-syndicated programming is more valuable to cable operators than reruns of series and movies because of the asserted greater "intrinsic value, timeliness and freshness" of station-syndicated programs.[506] They also argue that station-syndicated programs are more valuable to cable operators than some typical syndicated shows because station-produced programs are not as widely syndicated. The Tribunal in this proceeding has concluded that extensive syndication in broadcasting markets reduces the value of a program to cable systems on a distant basis.

On the basis of all the record evidence relating to station syndicators we have awarded NAB .8%.

Spanish International Network (SIN)

The Spanish International Network (SIN) case has been seriously weakened by significant evidentiary deficiencies. To some extent this may be attributed to the lack of previous participation in the Tribunal's cable royalty proceedings. It has been established that SIN does not own approximately 40% of the programs carried on SIN stations.[507] We have assessed this claim on the basis of the entire record.

SIN has advanced various arguments as to why the use of a fee generated formula is the appropriate basis for a cable royalty allocation to them, regardless of what may be the Tribunal's judgment concerning the use of such a formula generally. MPAA has argued that "in view of the fact that SIN programming is broadcast by specialty stations, use of the fee generated approach is particularly inappropriate in evaluating the proper share to be allocated for cable's carriage of such programs." [508]

We need not reach this issue in the current proceeding. The record establishes that the formula presented by SIN contains such incomplete and unreliable data that it could not be utilized for distribution purposes, regardless of what conclusion we might reach as to its rationale.

We are satisfied that the entire record supports an award to SIN. We conclude that SIN's Spanish language programming is of particular marketplace value and benefit to cable operators in attracting Spanish-speaking subscribers.

We make an award of .7% to SIN.

Mutual of Omaha

After excluding from any consideration the evidence related to a time-weighted, fee generated computer print-out,[509] the Mutual case consisted of evidence as to the number of stations that broadcast over the air "Wild Kingdom" and the quality of its programming.

We find that the value of "Wild Kingdom" on a distant signal is materially diminished by its extensive coverage on television stations, located in almost every television market.[510] We also find that the program is an advertising vehicle and that Mutual receives some benefit from distant carriage.[511]

Mutual's quality claim rests on the instructional nature of "Wild Kingdom" and the awards it has received. It views its program favorably as compared to quiz shows or certain syndicated programs.[512] MPAA argues that the Tribunal "should give no weight to this argument" and that we should not throw "subject matter into the quality equation." [513] We believe that the task of the Tribunal in the event of a Phase II controversy is to determine the proportionate value of particular programs based on the same criteria we applied in assessing the value of the category grouping of the same programs in Phase I.[514]

On the basis of the entire record evidence relating to Mutual of Omaha, we award this claim .1%.

Devotional Claimants

Although CBN, PTL, and Old Time Gospel Hour (OTGH) are individual claimants and presented separate cases, similar issues are posed by these claims. We therefore discuss them jointly.

We have not found the cases of these claimants to be persuasive. We regard as a fundamental distinction the practice of these syndicator claimants to buy time on television stations to broadcast their programs, while other syndicated programs are purchased by the stations. Although, as discussed elsewhere, we have not found the evidence on the harm criteria to provide much assistance in allocating royalty shares, cable carriage may well benefit these claimants because the expanded carriage provides greater exposure and the potential of increased contributions from viewers. The record establishes that these claimants rely upon direct contribution for the support of the programs and other activities.

PTL and CBN sought to justify in part their claim by a showing of purported harm to their statellite network by distant signal carriage of their programs. It is claimed that the distant signal importation of television broadcast containing their programs has made it more difficult to place their network and its prime time programming on cable systems. Whatever the situation may be, we hold that any harm suffered by a satellite network, whether or not the harm can be linked to distant signal importation, is not a harm for which the Tribunal can provide compensation under the provisions of Section 111 of the Copyright Act. We find nothing in our disposition of the sports claim to provide an analogy to the argument advanced here.

We also have not found convincing the theory advanced by OTGH that we should distribute royalty fees to compensate it for alleged harm resulting from fractionalization of its audience because of distant signal importation of other programs.

On the basis of the evidence before us we have not discovered a marketplace value for the programs of these claimants. CBN and PTL also sought to justify their claim by the use of time based formulas. As we said in the 1978 proceeding:

> We conclude that an allocation of royalties mainly based on the amount of time occupied by particular categories of programming would ignore market consideration and produce a distorted value of programming.[515]

We reaffirm our finding that time based formulas do not provide useful guidance for our distribution functions. In our view, the evidence in this record concerning the time formulas of CBN and PTL provide further support for our holding.

We make no award to CBN, PTL and OTGH.

U.S. Television Broadcasters

Great Trails Broadcasting Corporation, licensee of WHAG–TV, Hagerstown, Maryland, submitted a written case requesting an allocation to it from the Phase I award to U.S. commercial television. Great Trails did not submit any evidence during Phase II. NAB maintains that "Great Trails was not the copyright owner of any distant signal programming in 1979".[516]

On the basis of the record evidence we make no award to Great Trails Broadcasting Corporation.

Music

Soprano Company. The Tribunal received testimony and other evidence in support of the claim of Soprano Company. The evidence clearly established that the claim was based on a dispute concerning a possible infringement of copyright and other issues beyond the jurisdiction of the Tribunal. We make no award to Soprano Company.

Italian Book Corporation. The Italian Book Corporation claims 1% of the royalty fees awarded to the performing rights societies.[517] It is asserted that musical compositions in the Italian Book's catalog "have also been performed on television in motion pictures and otherwise". No evidence was presented. We make no award to the Italian Book Corporation.

Unclaimed Funds

In the Tribunal's opinion in the 1978 royalty distribution proceeding we resolved that "the record provides no objective basis for redistribution of royalty fees among categories of claimants to reflect unclaimed royalties in particular categories.[518]

In this proceeding, the unclaimed funds issue arose in Phase II. Not including possible defective claims, Multimedia found an unclaimed pool amounting to 9.425%.[519] Program Suppliers found an unclaimed fund of "approximately 5%".[520] Because of their conclusions concerning the evidence of Program Suppliers, the devotional claimants in their proposed findings allocated up to 83.25% of the royalty funds to the unclaimed category.[521]

We have not employed any single formula in our Phase II allocation and have not found it necessary to create an unclaimed fund. We have made these allocations based on the entire record. No claimant or group of claimants has received a "windfall share".

DISTRIUBUTION OF CABLE ROYALTY FEES

[Financial statement of royalty fees for compulsory licenses for transmissions for cable systems for 1979]

Royalty fees deposited	$15,795,263.78
Interest income	1,785,083.13
Gain on matured securities	3,510,798.05
Total	21,091,144.96
Less:	
Operating costs of the Copyright Office	273,216.00
Refunds issued	113,785.84
Approximate CRT administrative costs	451,000.00
Total	432,003.84
Approximate amount for distribution on Mar. 31, 1982	20,659,141.12

Allocations

The Tribunal has adopted the following allocation to categories of claimants in Phase I of the specified percentage of the royalty fees available for distribution:

		Percent
1.	Motion Picture Association of America and other program syndicators	70.00
2.	Joint Sports Claimants and NCAA	15.00
3.	Public Broadcasting Service (for all purposes)	5.25
4.	U.S. Television Broadcasters	4.50
5.	Music Performing Rights Societies	4.25
6.	Canadian Television Broadcasters	0.75
7.	National Public Radio	0.25

The allocations adopted by the Tribunal under Phase II for the individual claimants is as follows:

	Percent
Program Syndicators:	
Motion Picture Association of America	96.8
Multimedia Program Productions, Inc.	1.6
National Association of Broadcasters	0.8
Spanish International Network	0.7
Mutual of Omaha	0.1
Christian Broadcasting Network	0.0
PTL Television Network	0.0
Old Time Gospel Hour	0.0
Music:	
Soprano Co.	0.0
Italian Book Company	0.0

The Tribunal for lack of any justification has not awarded cable fees to claimants who:

1. Were not associated with a Phase II voluntary agreement, or

2. Could not reasonably on the basis of this record be treated according to the terms of voluntary agreements, or

3. Which did not submit adequate entitlement justification.

(17 U.S.C. 111(d) and 803(b))

March 2, 1982.

Frances Garcia,

Chairman.

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FOOTNOTES

[1] Proposed Findings and Conclusions of the MPAA and Member Companies, p. v and 154.
[2] Ibid, p. iv, 27 and 154.
[3] Ibid, p. 5.
[4] Ibid, p. 154.
[5] Ibid, p. 155.
[6] Ibid, p. 155.
[7] Ibid, p. 155.
[8] Ibid, p. 155.
[9] Ibid, p. v, 5 and 158.
[10] Ibid, p. 28.
[11] Ibid, p. 31.
[12] Ibid, p. 156.
[13] Ibid, p. 32.
[14] Ibid, p. 32.
[15] Ibid, p. 33.
[16] Ibid, p. 35.
[17] Ibid, pp. 35 and 36.
[18] Ibid, p. 37.
[19] Ibid, p. 38.
[20] Ibid, p. 30.
[21] Ibid, p. 39.
[22] Ibid, pp. 40 and 157.
[23] Ibid, p. 42.
[24] Ibid, pp. 41 and 44.
[25] Ibid, p. 45.
[26] Ibid, p. 45.
[27] Ibid, p. 47.
[28] Ibid, p. 47.
[29] Ibid, p. 48.
[30] Ibid, p. 49.
[31] Ibid, p. 49.
[32] Ibid, p. 6.
[33] Ibid, p. 7.
[34] Ibid, p. 7.
[35] Ibid, p. 8.
[36] Ibid, p. 8.
[37] Ibid, p. 8.
[38] Ibid, p. 9.
[39] Ibid, p. 9.
[40] Ibid, p. 10.
[41] Ibid, p. 10.
[42] Ibid, p. 11.
[43] Ibid, p. 11.
[44] Ibid, p. 12.
[45] Ibid, p. 13.
[46] Ibid, p. 14.
[47] Ibid, p. 16.
[48] Ibid, p. 16.
[49] Ibid, p. 17.
[50] Ibid, p. 18.
[51] Ibid, p. 19.
[52] Ibid, pp. 19 and 20.
[53] Ibid, p. 20.
[54] Ibid, p. 23.
[55] Ibid, p. 24.
[56] Ibid, p. 25.
[57] Ibid, p. 25.
[58] Ibid, p. 26.
[59] Ibid, p. 27.
[60] Ibid, pp. 158–170.
[61] Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p.8.
[62] Ibid., pp. 9 and 11.
[63] Ibid., pp. 2–4.
[64] Ibid., p. 2.
[65] Ibid., p. 17.
[66] Ibid., p. 16.
[67] Ibid., p. 17.
[68] Ibid., p. 18.
[69] Ibid., pp. 19 and 30.
[70] Ibid., p. 34.
[71] Ibid., p. 20.
[72] Ibid., pp. 21, 31 and 35.
[73] Ibid., pp. 23 and 32.
[74] Ibid., p. 24.

[75] ibid., pp. 24 and 36.
[76] Ibid., pp. 25 and 35.
[77] Ibid., p. 26.
[78] Ibid., pp. 27 and 28.
[79] Ibid., p. 36.
[80] Ibid., p. 37.
[81] Ibid., p. 38.
[82] Ibid., p. 39
[83] Ibid., p. 40.
[84] Ibid, p. 42.
[85] Ibid, p. 43.
[86] Ibid, p. 51.
[87] Ibid, p. 54.
[88] Ibid, p. 55.
[89] Ibid, p. 77.
[90] Ibid, pp. 80, 84 and 85.
[91] Ibid, p. 83.
[92] Ibid, p. 86.
[93] Ibid, p. 91.
[94] Ibid, p. 91.
[95] Ibid, p. 93.
[96] Ibid, p. 94.
[97] Ibid, pp. 95 and 96.
[98] Ibid, p. 45.
[99] Ibid, p. 9.
[100] Ibid, p. 46.
[101] Ibid, p. 47.
[102] Ibid, p. 48.
[103] Ibid, pp. 49 and 50.
[104] Ibid, p. 61.
[105] Ibid, p. 63.
[106] Ibid, p. 64.
[107] Ibid, p. 66.
[108] Ibid, pp. 67–70.
[109] Ibid, p. 76.
[110] Ibid, p. 70.
[111] Ibid, p. 100.
[112] Ibid, pp. 99 and 101–104.
[113] Ibid, pp. 103 and 104.
[114] Ibid, pp. 104–106.
[115] Ibid, p. 107.
[116] Ibid, p. 109.
[117] Ibid, p. 112.
[118] Ibid, pp. 110 and 113.
[119] Ibid, pp. 110–111.
[120] Ibid, p. 113.
[121] Ibid, p. 114.
[122] Ibid, p. 115.
[123] Ibid, p.116.
[124] Ibid, p.117.
[125] Ibid, pp. 117–118.
[126] Ibid, pp. 1 and 2.
[127] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, p.22.
[128] Ibid, pp. 29 and 30.
[129] Ibid, p. 43.
[130] Ibid, pp.43 and 75.
[131] Ibid, p.76.
[132] Ibid, p.119.
[133] Ibid, pp. 26 and 40.
[134] Ibid, pp. 39, 85 and 86.
[135] Ibid, pp. 7, 8, 21 and 38.
[136] Ibid, pp. 27 and 38.
[137] Ibid, p. 9.
[138] Ibid, pp. 79–80.
[139] Ibid, p. 118.
[140] Ibid, p. 37.
[141] Ibid, p. 48.
[142] Ibid, p. 50.
[143] Ibid, p. 127.
[144] Ibid, pp. 128 and 129.
[145] Ibid, p. 129.
[146] Ibid, p. 130.
[147] Ibid, p. 132.
[148] Ibid, pp. 9 and 10.
[149] Ibid, p. 125.
[150] Ibid, pp. 21, 22, and 123.
[151] Ibid, pp. 10 and 86.
[152] Ibid, p. 131.
[153] Ibid, pp. 21 and 131.
[154] Ibid, p. 127.
[155] Ibid, pp. 8, 46 and 81.
[156] Ibid, p. 46.
[157] Ibid, pp. 46 and 8.
[158] Ibid, pp. 8 and 81.
[159] Ibid, p. 82.
[160] Ibid, p. 83.
[161] Ibid, p. 84
[162] Ibid, pp. 121 and 122.
[163] Ibid. p. 122.
[164] Ibid, p. 45.
[165] Ibid, p. 45.
[166] Ibid, pp. 22, 32, and 133.
[167] Ibid. pp. 33 and 134.
[168] Ibid, pp. 10, 35, 36, 37, and 134.
[169] Ibid, p. 53.
[170] Ibid, p. 130.
[171] Ibid, p. 120.
[172] Ibid, p. 24.
[173] Ibid, p. 24.
[174] Ibid, p. 153.
[175] Ibid, p. 25.
[176] Ibid, p. 151.
[177] Ibid, pp. 25, 154, and 155.
[178] Ibid, p. 156.
[179] Ibid, pp. 156–159.
[180] Ibid, p. 160.
[181] Ibid, p. 161.
[182] Ibid, pp. 15 and 16.
[183] Ibid, pp. 27–28.
[184] Ibid. p. 30.
[185] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 1.
[186] Tr. pp. 3918–21.
[187] Tr. pp. 4009.
[188] PB Exhibit II.
[189] Ibid.
[190] Ibid.
[191] Ibid.
[192] Tr., pp. 4948–55; PB Exh. RR.
[193] Tr., pp. 5518–22.
[194] Sports Exh. 1, pp. A–20, A–25, B–19, B–25.
[195] NAB Exh. W, p. 8, PB Exh. KK; Tr. pp. 3367–68.
[196] NAB Exh. W., p. 7
[197] Tr. 4968, *et seq.*
[198] Tr. pp. 4987–4992.
[199] Tr. p. 3835.
[200] Tr. pp. 4299–30.
[201] Tr. pp. 2127–31.
[202] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 2.
[203] Tr. 9/81, p. 4071
[204] Music Exhibits 1, 2.
[205] Tr. 9/81, pp. 4072–4073.
[206] Tr. 9/18, pp. 4072–4073.
[207] Tr. 9/18, p. 4155.
[208] Tr. 9/18, pp. 4155–4156.
[209] Tr. 9/18, p. 4180.
[210] Tr. 7/29, pp. 1975–1976.
[211] Tr. 9/18, pp. 4156–4157.
[212] Tr. 7/30, p. 2256.
[213] Tr. 9/18, pp. 4158–4160.
[214] Summary of Testimony of Lawrence K. Grossman, PB Exhibits G, H, and EE.
[215] OTG Exhibit C.
[216] PB Exhibits G, H, and I.
[217] Proposed Findings of Fact and Conclusions of Law by Music, p. 26.
[218] Proposed Findings of Fact and Conclusions of the Canadian Claimants, p. 10.
[219] Proposed Findings of Fact and Conclusions of Law of National Public Radio, p. 59.
[220] Ibid, pp. 2, 27 and 28.
[221] Ibid, p. 10.
[222] Ibid, p. 10.
[223] Ibid, pp. 4, 5, 11, 42, and 43.
[224] Ibid, pp. 12 and 42.
[225] Ibid, pp. 12 and 13.
[226] Ibid, pp. 13, 25 and 42.
[227] Ibid, pp. 5, 14 and 42.
[228] Ibid, pp. 5 and 14.
[229] Ibid, pp. 5, 25 and 42.
[230] Ibid, p. 24.
[231] Ibid, p. 9.
[232] Ibid, pp. 17–18.
[233] Ibid, p. 21.
[234] Ibid, p. 26.
[235] Ibid, p. 29.
[236] Ibid, p. 29.
[237] Ibid, pp. 42–43.
[238] Ibid, pp. 4 and 15.
[239] Ibid, p. 16.
[240] Ibid, p. 19.
[241] Ibid, p. 20.
[242] Ibid, p. 24.
[243] Ibid, pp. 28, 29 and 43.
[244] Ibid, p. 43.
[245] Ibid, pp. 30 and 43.
[246] Ibid, pp. 21, 22 and 43.
[247] Ibid, p. 22.
[248] Ibid, pp. 5 and 23.
[249] Ibid, p. 34.
[250] Ibid, pp. 34–35.
[251] Ibid, p. 9.
[252] Ibid, p. 36
[253] Ibid, p. 37.
[254] Ibid, pp. 5, 37 and 38.
[255] Ibid, p. 31.
[256] Ibid, p. 32.
[257] Ibid, p. 32.
[258] Ibid, p. 32.
[259] Ibid, p. 40
[260] Ibid, p. 4.
[261] Ibid, pp. 4 and 44.
[262] Ibid, pp. 4 and 44.
[263] Ibid, pp. 45 and 46.
[264] Ibid, p. 47.
[265] Ibid, p. 49.
[266] Ibid, pp. 4 and 50.
[267] Ibid, p. 53.
[268] Ibid, p. 54.
[269] Ibid, p. 55.
[270] Ibid, p. 55.
[271] Ibid, p. 51.
[272] Ibid, pp. 6, 56 and 57.
[273] Ibid, pp. 6 and 58.
[274] Ibid, p. 57.
[275] Ibid, p. 52.
[276] Ibid, pp. 6 and 58.
[277] Ibid, p. 6.
[278] Ibid, p. 7.
[279] Program Supplier's Proposed Findings of Fact & Conclusions of Law on Phase II Issues, pp. 1 and 52.
[280] Ibid, pp. 4 and 5
[281] Ibid, p. 5.
[282] Ibid, p. 6.
[283] Ibid, p. 7.
[284] Ibid, p. 7.
[285] Ibid, p. 11.
[286] Ibid, p. 12.
[287] Ibid, p. 12.
[288] Ibid, p. 7.
[289] Ibid, p. 7.

[290] Ibid, p. 8.
[291] Ibid, p. 9.
[292] Ibid, p. 9.
[293] Ibid, p. 7.
[294] Ibid, pp. 8, 13, and 14.
[295] Ibid, pp. 2, 3, 4, and 13.
[296] Ibid, p. 4.
[297] Ibid, p. 3.
[298] Ibid, pp. 5, 12, and 13.
[299] Ibid, p. 10.
[300] Ibid, pp. 9 and 10.
[301] Ibid, p. 11.
[302] Ibid, p. 6.
[303] Ibid, p. 6.
[304] Ibid, pp. 1 and 2.
[305] Ibid, pp. 52–59.
[306] Proposed Phase II Findings of Fact & conclusions of Multimedia Program Productions, Inc., pp. 22 and 46.
[307] Ibid, pp. 45–46.
[308] Ibid, p. 9.
[309] Ibid, p. 7.
[310] Ibid, p. 7.
[311] Ibid, p. 8.
[312] Ibid, p. 8.
[313] Ibid, pp. 7 and 8.
[314] Ibid, pp. 8 and 9.
[315] Ibid, p. 2.
[316] Ibid, p. 3.
[317] Ibid, pp. 10 and 11.
[318] Ibid, p. 11.
[319] Ibid, p. 12.
[320] Ibid, p. 12.
[321] Ibid, p. 13.
[322] Ibid, p. 13.
[323] Ibid, p. 14.
[324] Ibid, p. 20.
[325] Ibid, p. 3, 5, 20, 21, and 22.
[326] Ibid, p. 3 and 21.
[327] Ibid, p. 15.
[328] Ibid, p. 15.
[329] Ibid, p. 16.
[330] Ibid, p. 17.
[331] Ibid, p. 17 and 18.
[332] Ibid, p. 18.
[333] Ibid, p. 19.
[334] Ibid, p. 53.
[335] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, pp. 7, 8, and 28.
[336] Ibid, pp. 7 and 8.
[337] Ibid, p. 25.
[338] Ibid, pp. 6, 25 and 26.
[339] Ibid, pp. 7 and 26.
[340] Ibid, pp. 7, 26 and 27.
[341] Ibid, p. 7.
[342] Ibid, pp. 6 and 26.
[343] Ibid, p. 25.
[344] Ibid, p. 27.
[345] Ibid, p. 27.
[346] Ibid, p. 27.
[347] Ibid, pp. 27 and 28.
[348] Ibid, p. 28.
[349] Ibid, pp. 19–20.
[350] Ibid, p. 20.
[351] Ibid, pp. 21 and 22.
[352] Ibid, pp. 23–24.
[353] Ibid, pp. 24–25.
[354] Ibid, pp. 5 and 12.
[355] Ibid, p. 5.
[356] Ibid, pp. 16–17.
[357] Ibid, p. 17.
[358] Ibid, pp. 5–6.
[359] Ibid, p. 34.
[360] Phase II Proposed Findings and Conclusions of SIN, Inc., p. 34.
[361] Ibid, pp. 3, 4, 5, 10, 30 and 31.
[362] Ibid, p. 34.
[363] Ibid, pp. 11, 31, 33, and 34.
[364] Ibid, pp. 11, 14 and 31.
[365] Ibid, pp. 31 and 33.
[366] Ibid, p. 13.
[367] Ibid, pp. 9 and 33.
[368] Ibid, pp. 10 and 11.
[369] Ibid, pp. 13, 14, 31, and 32.
[370] Ibid, p. 6.
[371] Ibid, p. 6, 7 and 8.
[372] Ibid, p. 15.
[373] Ibid, pp. 14, 15, 32 and 33.
[374] Ibid, p. 15.
[375] Ibid, pp. 15, 16.
[376] Ibid, p. 16.
[377] Ibid, pp. 12, 16, 17 and 24.
[378] Ibid, p. 18.
[379] Ibid, pp. 11 and 21.
[380] Ibid, p. 21.
[381] Ibid, p. 17.
[382] Ibid, p. 23.
[383] Statement of John H. Bull, Vice President of Bozell & Jacobs, Inc., p. 8.
[384] Ibid, p. 2.
[385] Prehearing Statement, Mutual of Omaha Insurance Company, p. 1.
[386] Statement of John H. Bull, p. 2.
[387] Ibid, pp. 2–3.
[388] Ibid, p. 4.
[389] Ibid, p. 4 and Prehearing Statement, p. 2.
[390] Statement of John H. Bull, p. 5.
[391] Ibid, p. 5.
[392] Prehearing Statement, p. 2.
[393] Statement of John H. Bull, p. 6.
[394] Ibid, p. 6.
[395] Ibid, p. 7.
[396] Ibid, p. 8 and Prehearing Statement, p. 2.
[397] Statement of John H. Bull, pp. 5 and 8.
[398] CBN Proposed Phase II Findings of Fact & Conclusions of Law, p. 51.
[399] Ibid, pp. 6, 7, 8, 18, 19, and 48.
[400] Ibid, p. 6.
[401] Ibid, pp. 6, 7 and 8.
[402] Ibid, p. 8.
[403] Ibid, p. 47.
[404] Ibid, pp. 3, 48.
[405] Ibid, p. 47.
[406] Ibid, p. 51.
[407] Ibid, p. 10.
[408] Ibid, p. 10.
[409] Ibid, p. 10.
[410] Ibid, p. 10.
[411] Ibid, p. 11.
[412] Ibid, pp. 17 and 18.
[413] Ibid, pp. 19 and 48.
[414] Ibid, pp. 19, 20 and 48.
[415] Ibid, pp. 20 and 48.
[416] Ibid, p. 21.
[417] Ibid, p. 12.
[418] Ibid, p. 13.
[419] Ibid, pp. 13 and 14.
[420] Ibid, p. 14.
[421] Ibid, pp. 16 and 19.
[422] Ibid, pp. 22 and 23.
[423] Ibid, pp. 23 and 50.
[424] Ibid, pp. 25 and 26.
[425] Ibid, p. 25.
[426] Ibid, p. 26.
[427] Ibid, pp. 26–30 and 50–51.
[428] Ibid, p. 51.
[429] Ibid, p. 26.
[430] Ibid, pp. 55–56.
[431] Phase II Proposed Finding of Fact & Conclusions of Law of Heritage Village Church & Missionary Fellowship, Inc., p. 40.
[432] Ibid, p. 8.
[433] Ibid, p. 23.
[434] Ibid, p. 9.
[435] Ibid, p. 13.
[436] Ibid, p. 15.
[437] Ibid, p. 9
[438] Ibid, p. 10.
[439] Ibid, p. 11.
[440] Ibid, p. 13.
[441] Ibid, p. 11.
[442] Ibid, pp. 11–12.
[443] Ibid, p. 12.
[444] Ibid, pp. 12–13.
[445] Ibid, p. 14.
[446] Ibid, pp. 14–15.
[447] Ibid, p. 20.
[448] Ibid, p. 15.
[449] Ibid, pp. 16–17.
[450] Ibid, p. 17.
[451] Ibid, p. 18.
[452] Ibid, pp. 18–19.
[453] Ibid, p. 19.
[454] Ibid, p. 19.
[455] Ibid, pp. 20–22.
[456] Ibid, p. 22.
[457] Ibid, p. 24.
[458] Ibid, p. 24.
[459] Ibid, p. 25.
[460] Ibid, pp. 26–29.
[461] Ibid, p. 29.
[462] Ibid, p. 2.
[463] Phase II Proposed Findings of Fact & Conclusions of Law of Old-Time Gospel Hour p. 11.
[464] Ibid, p. 10.
[465] Ibid, p. 11.
[466] Ibid, p. 6.
[467] Ibid, p. 6.
[468] Ibid, p. 7.
[469] Ibid, p. 7.
[470] Ibid, p. 10.
[471] Ibid, p. 5.
[472] Ibid, p. 8.
[473] Ibid, p. 10.
[474] Ibid, p. 48.
[475] Reply and Proposed Finding of Fact and Conclusion of Soprano Co., p. 2.
[476] 45 FR 63035–37.
[477] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting, p. 4 "At this point it is accurate to say that there is little concrete evidence of record with regard to the Congressional presumption of harm, although a number of parties have tendered, evidence and arguments concerning theories and 'ancedotal' instances of what they believe to be harm that has been caused by the distant carriage of television signals." Joint Sports findings, p. 112 "In their inability to quantify harm, the sports interests are certainly no different from the other claimants in this proceeding. None of these parties has been able to provide proof of harm with that degree of precision that an administrative agency might desire."
[478] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, pp. 48–50; Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p. 6.
[479] 45 FR 63037.
[480] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, p. 52.
[481] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, pp. 50–51.

[482] As cable operator Dolan testified:

(E)verything that you do with a cable system, you do in an effort to improve the subscriber's perception of value of what you are doing for him, because he's sending you money every month, and he is not under contract, and he will subscribe in the first place, and continue to subscribe from month to month, according to what he thinks of the service, his views of it.

This does not have anything to do at all with program tonnage. It has to do with what he regards to be an attraction. Tr. 1219–20.

[483] Reply Of The Motion Picture Association Of America, Inc., And Member Companies To Proposed Findings And Conclusions Of Other Claimant Categories, at p. 6. "No one has challenged the fact that sports programming is attractive"; NAB Findings at p. 106 "There is evidence in the record that distant signal sports are more important to cable operators than is reflected by the time occupied by sports programs" and at 107, "The perception of cable operators that sports is an important reason for subscribing to cable television is confirmed by the Arbitron NEM Study."

[484] 45 FR 63031–35.

[485] We discuss here only the broadcasters entitlement under Phase I.

[486] 45 FR 63034–5 for our discussion of the legal issues relating to royalties for sports programming.

[487] Ibid, 63038.

[488] "The substance of NAB's claim, stripped of its attempted patina of sophistication, is time alone", Proposed Findings and Conclusions of the MPAA and Member Companies, p. 90; "Incredibly, the NAB has come back this year and again proposed that the Tribunal should accord primary importance to the time factor", Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, pp. 118–19; "The NAB produced witnesses whose testimony, like the NAB's case, had a familiar ring: it was primarily based on time considerations", Proposed Findings of Fact and Conclusions of Law by Music, p. 25.

[489] Tr. 4143.

[490] Proposed Findings of Fact and Conclusions of the Canadian Claimants, p. 8 "No claim was made that the data were fully accurate."

[491] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 98.

[492] Proposed Findings and Conclusions of the MPAA and Member Companies, p. 168, "it is concluded that NPR is entitled to 0.25% of the 1979 cable royalty fund on the basis of some slight benefit from carriage of its programs on a distant signal basis. NAB failed to make a sufficient showing on behalf of commercial radio as to any of the Tribunal's primary or secondary factors, and thus should not be given any allocation for distant carriage of commercial radio."; Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p. 166 "the theory espoused by the NPR is essentially the same as the sports interests."

[493] Tr. p. 458.

[494] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, pp. 97–98.

[495] MPAA and associated program suppliers filed in Phase II: Motion To Dismiss Certain Claims Filed By Multimedia Program Productions, Inc., For Lack of Ownership; Motion To Dismiss Claims of Golden West Broadcasters; Motion To Dismiss For Failure To State A Valid Claim (NAB); Motion to Dismiss Sin Claim; Motion To Dismiss Mutual of Omaha Claim; Motion To Bar Sin from presenting certain evidence relating to its fee-generated formula; Motion To Dismiss Sin Rebuttal Case.

[496] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 30.

[497] Ibid.

[498] Ibid, p. 29.

[499] Ibid, p. 30.

[500] Tr. 9909; 9923.

[501] Tr. 9947.

[502] Tr. 9920.

[503] Tr. 9921.

[504] Tr. 9922.

[505] Tr. 9936.

[506] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 25.

[507] Tr. 9390.

[508] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 31.

[509] Mutual failed to comply with the Tribunal's directive of Jan. 21, 1982 to provide an intelligible explanation of the computer printout.

[510] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 32.

[511] Prposed Phase II Findings of Fact & Conclusions of Multimedia Program Productions, Inc., p. 51.

[512] Tr. 9626.

[513] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 49.

[514] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 12.

[515] 45 FR 63037.

[516] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 2

[517] Letter of Dennis Angel, Jan. 18, 1982.

[518] 45 FR 63042.

[519] Proposed Phase II Findings of Fact & Conclusions of Multimedia Program Productions, Inc., p. 52.

[520] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 6.

[521] Phase II Proposed Findings of Fact & Conclusions of Law of Old-Time Gospel Hour, p. 48.

DEPARTMENT OF EDUCATION

Office for Civil Rights

Final Annual Operating Plan for Fiscal Year 1982

AGENCY: Education Department.

ACTION: Notice of Final Annual Operating Plan for Fiscal Year 1982.

SUMMARY: The Office for Civil Rights (OCR) issues its Annual Operating Plan (AOP) for Fiscal Year 1982. The AOP describes the activities that OCR plans to conduct in FY 1982 with respect to compliance and enforcement, technical assistance, and program management.

FOR FURTHER INFORMATION CONTACT: Kristine M. Marcy, Director, Planning and Compliance Operations Service, Office for Civil Rights, Department of Education, (RM. 5074, Switzer Bldg.), 400 Maryland Avenue, SW., Washington D.C. 20202. Telephone: (202) 245–0301.

SUPPLEMENTARY INFORMATION: The Office for Civil Rights (OCR) issued its proposed Annual Operating Plan (AOP) for FY 1982 for public comment in the **Federal Register** on September 30, 1981, (46 FR 47810–47813). The comments received on the proposed AOP are summarized below. Each is followed by the response of the Assistant Secretary for Civil Rights.

Comment. By projecting a given level of complaint receipts, the AOP becomes self-fulfilling; i.e., it guides the level of activity to be undertaken by creating or producing a certain number of complaints.

Response. In projecting complaint receipts based on historical trends, OCR attempts to identify, both for its own internal planning purposes and for the interested public, how much of its resources may be consumed by complaint investigation activities and how much will remain to be allocated to other activities. Because OCR has some discretion as to the levels of other activities it will pursue, the Assistant Secretary believes it is first necessary to project OCR's complaint workload in order to adequately plan these other activities. The projection is not intended for other purposes, and OCR regrets any implication that the projection might in itself create a complaint workload or guide the level of complaint investigation activities.

Comment. OCR should indicate the accuracy of its previous estimates in predicting the actual number of complaints received during a fiscal year (FY).

Response. The AOP for FY 1981 projected 4090 complaint receipts.

Actual receipts totaled 2876. The AOP for FY 1982 takes into consideration recent trends in projecting complaint receipts.

Comment. The AOP should identify plans for expediting complaint processing in order to free staff resources to pursue other, more effective, compliance activities.

Response. The Assistant Secretary is hopeful that OCR's implementation in each of its regional offices of a process called Early Complaint Resolution (ECR) will facilitate the resolution of complaints. ECR was begun during the first quarter of FY 1982, and full implementation is expected during the second quarter.

ECR is intended for use in those cases in which a good chance of success is expected. It is designed to enable parties to a complaint to resolve the issues between themselves promptly and voluntarily without an OCR investigation.

In addition to implementing the ECR process, OCR intends to continually review, modify and evaluate its operations in order to identify and correct impediments to efficient case processing.

Comment. Given OCR's declining resources, which have resulted in reductions in OCR's compliance review program, OCR should seek additional resources for FY 1982.

Response. The funds provided for FY 1982 will enable OCR to allocate 53 investigative staff years to post-funding compliance reviews. This level of effort will permit OCR to conduct compliance reviews on a wide range of important issues, the selection of which was based on survey results and previous compliance reviews and complaint investigations.

Comment. The AOP should specify the number of compliance reviews that OCR expects to initiate in FY 1982 for each type of issue.

Response. The amount of investigator time needed to complete a compliance review depends upon a number of variables including the issue, the size of the institution being investigated, and the data that are required. Thus, the Assistant Secretary finds it impossible to project an accurate number of compliance reviews that can be undertaken with the investigator time available.

Comment. The AOP should specify how many investigator years will be dedicated to each statutory jurisdiction—that is, Title VI, Section 504 and Title IX—within each compliance review issue.

Resonse. OCR dedicates to each statutory jurisdiction approximately one-third of the investigator years available for each issue. The exceptions are clearly indicated in the AOP when the issue description specifies only a single jurisdiction.

Comment. OCR reviews of graduate and professional school admissions policies should be coupled with reviews of financial aid policies.

Response. The Secretary wishes to point out that this year OCR has introduced separate reviews of student services, which include investigations of financial aid policies and practices.

Comment. OCR should target compliance reviews so that an appropriate number of multi-jurisdictional review sites are selected solely or primarily on the basis of suspected problems under each of OCR's statutory jurisdictions, and secondarily investigated under the other jurisdictions. Title IX was specifically mentioned with respect to this comment.

Response. It is the policy of the Department to focus OCR compliance reviews on institutions that appear to have the most severe compliance problems. Moreover, since severe problems exist under all statutes in OCR's jurisdiction, there has not been a need to consider targeting for any specific jurisdiction.

There appears to be no need at this time for OCR to single out concerns related to compliance with Title IX; for example, a sample of sites nominated for FY 1982 compliance reviews revealed that 62 of 84, or approximately 74 percent, included potential compliance problems under Title IX.

Comment. The AOP should clarify why only one investigator year is assigned to reviews of intercollegiate athletics when so many investigations of this issue are taking place and were not completed by the end of FY 1981.

Response. Only five compliance reviews related to intercollegiate athletics remain to be completed in FY 1982. The Assistant Secretary does not anticipate any difficulty completing them with the resources available. The other intercollegiate athletics investigations being conducted are complaint investigations and are covered by the staff allocations under that activity.

Comment. Since complaints related to Title IX are filed less frequently than complaints related to other statutes under the jurisdiction of OCR, the office should assign more time to compliance reviews involving sex discrimination issues.

Response. The Assistant Secretary regrets that OCR is unable to accommodate this request. As similarly indicated in the AOP for FY 1981, the amount of investigative time (53 investigator years to complete carryover reviews and initiate new ones) limits any significant increase in time for reviews of compliance with Title IX. Any substantial increase in compliance review time for Title IX would leave virtually no time available for reviews related to Section 504 and Title VI.

Comment. In planning its compliance review program, OCR should ensure that its reviews are successful in identifying discrminatory practices and securing corrective actions.

Response. The Assistant Secretary believes that OCR's compliance reviews have generally been effective in identifying and correcting violations of civil rights laws. In fiscal years 1980 and 1981, the percentages of compliance review closures resulting in corrective actions were 77 and 74, respectively. In contrast, during FY 1981 only 55 percent of the investigated complaint closures (not including those complaints closed for administrative reasons) resulted in change.

Comment. Age discrimination should be included within the scope of compliance reviews involving graduate and professional school admissions, vocational rehabilitation services, and other issues in which age discrimination appears to be a serious problem.

Response. The Assistant Secretary has delayed the inclusion of age discrimination issues in OCR's compliance review program pending publication of final Department of Education regulations enforcing the Age Discrimination Act of 1975. OCR is currently reviewing proposed regulations for the Department. The Secretary tentatively plans to publish these proposed regulations in the **Federal Register** in March 1982.

Comment. The AOP should specify separate allocations of investigative staff resources to each type of "other monitoring" activity (i.e., reviews of methods of administration of vocational education and monitoring of remedial action plans resulting from complaint investigations and compliance reviews). Also, the number of plans to be monitored should be identified.

Response. FY 1982 is the first year of OCR's involvement in monitoring the oversight activities of 56 States and Territories concerning the civil rights compliance of their subrecipients of Federal assistance for vocational education. The Assistant Secretary believes it is difficult to project a specific allocation of staff resources because of the lack of experience on which to base that projection. Thus, the Assistant Secretary made a single

projection of five staff years to cover these monitoring activities, as well as the monitoring activities involving remedial action plans. At the same time, however, the Assistant Secretary believes that this AOP represents an improvement over the AOP for FY 1981, which set aside no specific allocation of staff resources for "other monitoring" activities.

With respect to the suggestion that the APO estimate the number of remedial action plans to be monitored, the Assistant Secretary is unable to accommodate this request. Essentially, these activities are conducted on an irregular basis and are prompted when OCR has an indication that there is a need for renewed OCR involvement.

Comment. The AOP should include major plans for the development and review of policies, identifying new policies OCR plans to issue and existing policies targeted for review.

Response. Because the timing of major policy statements can be affected by many factors, the Secretary is reluctant to set dates for the issuance of those types of statements. Currently, for example, the Secretary—in response to Presidential initiatives—has given priority to the Department's regulation review process. This affects the time available to OCR for policy development activities and makes difficult the exact scheduling of those activities.

With respect to identifying plans for regulations review, the Secretary issues semi-annually (as required by the Regulatory Flexibility Act and Executive Order 12291) an agenda of proposed regulations the Department has issued or expects to issue and of current regulations under review. The most recent agenda was published on November 3, 1981.

Comment. The AOP should specify all the major technical assistance activities OCR plans to conduct in FY 1982.

Response. The Assistant Secretary accepts this recommendation. This AOP includes an expanded description of OCR's FY 1982 technical assistance activities and projections of staff resources to be devoted to these activities.

The annual operating plan of the Office for Civil Rights for fiscal year 1982 is as follows:

I. Introduction

The basic purpose of the Office for Civil Rights (OCR) is to ensure that no person is unlawfully discriminated against by recipients of Federal education funds in the delivery of services or the provision of benefits on the basis of race, national origin, handicap, sex or age. The jurisdictional authorities under which OCR operates include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Covered under these authorities are 50 State education agencies, 16,000 local education agencies, 3200 institutions of higher education, 50 State rehabilitation agencies and their subrecipients, as well as other institutions such as libraries and museums which receive financial assistance from the Department of Education (ED). The job of protecting the civil rights of 12 million minority group members, 4 million handicapped persons and 26 million women who attend public schools or postsecondary institutions as well as the one million handicapped persons in vocational rehabilitation programs rests almost exclusively with OCR, as does the responsibility of guaranteeing these rights for future students.

OCR's strategy to ensure compliance with Federal civil rights statutes involves two basic types of activities: compliance activities and technical assistance activities. Nearly all of OCR's compliance activities (complaint investigations, compliance reviews, *Lau* plan monitoring, and monitoring State higher education system desegregation) are required by various statutes, regulations and court orders. OCR has some discretion, however, as to where it will conduct its compliance review activities and what issues those reviews will cover. OCR concentrates these investigative activities on those recipients which are believed to be in serious noncompliance with major civil rights requirements, primarily identified by OCR civil rights compliance survey data.

Through the transfer of information, material and skills, OCR encourages recipients to voluntarily comply with, and beneficiaries to understand their rights under, Federal civil rights statutes. OCR staff, including headquarters staff and the Regional Technical Assistance Staff, ED program office staff and contracted personnel are the major vehicles used by OCR to deliver technical assistance.

Compliance activities and technical assistance activities are often combined in a case-specific context. The application of technical assistance can be a positive factor any time after the initiation of a complaint investigation or compliance review. At some point during the investigative process or following its conclusion, technical assistance can be provided in response to a request from a recipient or as a result of an inquiry by investigative staff as to whether a recipient would be interested in such assistance. As a result, resolution of a compliance issue may be achieved which is satisfactory to the complainant and recipient. Through the application of both compliance and technical assistance activities, OCR can often obtain voluntary compliance on the part of ED recipients while avoiding confrontational situations.

The following narrative and tables describe the activities that OCR plans for FY 1982.

II. Regional Investigatory Activities

A total of 371 investigative staff years will be assigned to compliance and enforcement work in FY 1982 as follows:

	Investigator time	
	Staff years	Percentage
Complaint investigations	285	77
Compliance reviews	53	14
Lau monitoring	10	3
Adams monitoring	18	5
Other monitoring	5	1
Total	371	100

A. Complaint Investigations

Table One, below, shows projected complaint receipts, closures, and opening and ending inventories by jurisdiction. In order to determine the level of investigative staff resources required to process these complaints, the following projections were made.

—OCR had a pending caseload of 1533 complaints as of October 1, 1981.

—During FY 1982, OCR will receive 3592 complaints.

—During FY 1982, OCR will close 3592 complaints.

—OCR will have a pending caseload of 1533 complaints as of October 1, 1982.

Based on these projections, 285 investigator years will be allocated to complaints.

This plan anticipates fewer pending complaints as of October 1982 than did the proposed plan. This revised expectation results from a lower number of pending complaints as of October 1981 than was expected. The number of complaint receipts projected for FY 1982 has remained unchanged. OCR will still attempt to close as many complaints as are received during FY 1982 so that the pending complaint workload does not rise. Further, it should be noted that some complaint investigations, because of the nature of the complaints, are expanded in scope so that in reality they are similar to, and as inclusive as compliance reviews.

B. Compliance Reviews

A total of 53 investigator years will be available to conduct compliance reviews in FY 1982. This activity will include completing reviews started in previous years and initiating new reviews. The issues to be covered in the reviews conducted during FY 1982 are presented in Table Two, below. These issues were identified on the basis of survey results, findings from previous complaint investigations and compliance reviews, and related research findings. Table Two also indicates the number of investigator years to be assigned to each issue and an approximate number of new reviews to be initiated during FY 1982. Shortly after the beginning of each quarter of FY 1982, OCR will make available to the public, upon request, information on the specific types of compliance reviews it will initiate during that quarter.

C. Monitoring Activities

During FY 1982, OCR will review recipients to determine whether they are complying with the terms of compliance agreements. These activities will include *Adams* higher education desegregation and *Lau* plan monitoring.

1. *Adams* Higher Education Desegregation Plan Monitoring—OCR is currently monitoring higher education desegregation plans of six States. In FY 1982, 18 investigator years will be allocated to monitoring the desegregation activities of 15 States.

2. *Lau* Plan Monitoring—OCR is required to monitor the implementation of *Lau* plans by recipients. In FY 1982, 10 investigator years will be allocated to monitoring approximately 50 such plans.

3. Other Monitoring—OCR will pursue other monitoring activities in FY 1982 which include reviewing the oversight activities of 56 States and Territories concerning the civil rights compliance of their vocational education subrecipients. OCR will also monitor remedial action plans resulting from its own investigations and reviews conducted in previous years. It is projected that these activities will consume five investigator years.

D. Summary

Table Three summarizes the allocation of investigator years by recipient group. Table Four summarizes the allocation by jurisdiction.

III. Technical Assistance Activities

Over 20,000 education institutions which receive Federal funds must comply with a number of complex civil rights requirements. Because of the numbers involved, OCR is unable to investigate the policies or practices of each recipient. In order to encourage these institutions to voluntarily comply with the law, OCR, either through headquarters or regional staff, provides technical assistance to recipients and works with ED program staff to help recipients understand their civil rights obligations. The major focus of the regional technical assistance program is to combine outreach, targeting and networking strategies to maximize the impact of the technical assistance program and increase the information available to recipients. The majority of activities involve training and on-site consultations designed to develop recipient problem solving skills and resolving issues that hinder compliance. These assistance activities serve as an integral part of OCR's compliance activities by extending the range of OCR's impact beyond those recipients who are directly covered by an OCR investigation and by enabling OCR to accomplish its mission more efficiently and effectively. By combing a forceful compliance review program with an effective assistance program, OCR will be able to make substantial progress toward achieving broad compliance with civil rights statutes.

During FY 1982, OCR will plan and coordinate efforts to implement expanded technical assistance activities to all education recipients and beneficiaries. Our intent is to: (1) Increase the States' capacity to address civil rights compliance concerns; (2) provide accurate compliance related information; (3) utilize innovative techniques, planning and training; and (4) foster voluntary compliance on civil rights matters among education recipients. OCR believes that this strategy will greatly increase the impact of its technical assistance program. OCR also expects to work very closely with State officials or their delegated agencies to increase the States' ability to participate in compliance negotiations. OCR will also solicit the support of ED program offices, professional organizations, educational associations, civil rights groups and consumer agencies in this effort.

A total of 42 OCR professional staff years will be allotted to these activities during FY 1982 including both headquarters staff and Regional Technical Assistance Staff. In addition, another 79 staff years (professional and support) will be available during FY 1982 as a result of contracts totalling approximately $4.8 million which were awarded during FY 1981. These contract expenditures were divided among three of OCR's jurisdictional authorities, with Section 504 receiving 67 percent, Title VI receiving 21 percent and Title IX receiving 12 percent.

IV. Program Management Activities

In order to effectively carry out its compliance, enforcement and technical assistance activities, OCR conducts a comprehensive legal, management and evaluation program that includes:

—Formulating regulations, policies and investigation manuals;

—Providing technical guidance on cases and reviews referred from regional offices;

—Conducting hearings before Administrative Law Judges on the compliance of Federal fund recipients with civil rights requirements;

—Monitoring State higher education desegregation and *Lau* plans;

—Meeting with school district representatives, college and university officials, complainants and civil rights groups to discuss OCR activities;

—Conducting OCR national surveys and data collection projects to obtain information on recipients and beneficiary populations;

—Operating a data base management system to assure that complaint processing time frames are met;

—Providing basic training to new investigators as well as training on policy initiatives for experienced investigators and legal staff;

—Conducting systematic on-site reviews of technical assistance contractors' activities;

—Directing and monitoring the implementation of Regional Technical Assistance workplans; and

—Developing Requests for Proposals, and participating in the selection of contractors, for technical assistance activities selected for implementation by contract.

TABLE 1.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Projected FY 1982 Complaint Workload]

	Title VI [1]	Title IX	Section 504	Age	Total
Pending Oct. 1, 1981	252/64	443	765	9	1,533
FY 1982 Projected Receipts	791/179	503	2083	36	3,592
Fy 1982 Closures (total)	826/179	611	1940	36	3,592
Pending 10/1/82	217/64	335	908	9	1,533

[1] Race/national organization.

NOTE.—Project FY 1982 complaint receipts were distributed according to the proportions each jurisdiction represented in the complaints received from 10/1/80 to 9/30/81. Similarly, the projected FY 1982 closures were distributed according to the proportions each jurisdiction represented in the closures between 10/1/80 and 9/30/81.

TABLE 2.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Compliance reviews scheduled]

Issue	Description of violation	Investigator years planned
Elementary and Secondary Education		
Within School Discrimination: Classroom Assignments, Tracking and Ability Grouping, Special and Physical Education and Secondary School Athletics.	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses (including industrial arts and home economics), classrooms, special programs, ability groups, and physical education programs. (Special programs would include those for the educable mentally retarded as well as those for the gifted or talented, e.g., advanced mathematics or science.) This issue would also cover biased counseling and appraisals of students as well as unequal opportunties involving athletics.	13
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and courses.	4
Special Purpose Schools: Program Availability and Least Restrictive Environment.	Discrimination in admissions, accessibility, treatment or employment in State administered special purpose schools on the basis of race, national origin, sex and/or handicap.	4
Unserved Special Education	Discrimination in the provision of a free and appropriate education on the basis of handicap	3
School Segregation	Discriminatory assignment of students to schools on the basis of race or national origin	2
Identification of and Services to Limited-English-Proficient (LEP) Children.	Discrimination against non-English-speaking (NES) or limited-English-proficient (LEP) children	4
School Discipline: Expulsions and Suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap	2
Postsecondary Education		
Program Accessibility for the Handicapped	Lack of program accessibility and accommodations for handicapped students in postsecondary school programs	3
Graduate and Professional Schools: Admissions	Discrimination on the basis of sex, race and/or national origin in admissions to graduate and professional schools	5
Intercollegiate Athletics: Overall Progam Equality	Lack of comparable intercollegiate athletic facilities and programs for women based on their interests and abilities	1
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and courses.	4
Student Services	Discrimination on the basis of race, national origin, sex and/or handicap in the provision of services such as financial aid, housing, counseling and tutorial services, health services and insurance benefits, and/or student employment and placement services.	4
Vocational Rehabilitation Services	Discrimination in the provision of services and benefits to individuals on the basis of handicap, race and/or national origin.	4

TABLE 3.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Investigator Years Allocated to Each Type of Recipient]

Type of reciepient	Complaints	Compliance reviews	Monitoring			Total	Percent
			Adams	Lau	Other		
Elementary and Secondary Schools	200	32	0	10	3	245	66
Postsecondary Education Institutions	85	21	18	0	2	126	34
Total	285	53	18	10	5	371	100

TABLE 4.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Investigator Years Allocated to Each Jurisdiction]

Jurisdiction	Complaints	Compliance reviews	Monitoring			Total	Percent
			Adams	Lau	Other		
Title VI:							
Race	66	8	18	0	1	93	25
Nat'l Origin	14	11	0	10	1	36	10
Title IX	48	15	0	0	2	65	17
Section 504	154	19	0	0	1	174	47
Age	3	0	0	0	0	3	1
Total	285	53	18	10	5	371	100

Dated: February 21, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-6214 Filed 3-5-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

American Petrofina, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with American Petrofina, Inc. ("FINA"). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period January 1, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Fina has agreed to make payments totalling $14,010,000 in cash remedies.

As required by the regulation cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties; the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

Comments: To be considered, comments must be received by 5:00 p.m. on April 7, 1982.

Address comments to: Fina Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 5109, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3115, Washington, D.C. 20461, Phone: (202) 633–9165

Copies of the Consent Order may be received free of charge by written request to: Fina Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E–190, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: Fina is a major refiner subject to the audit jurisdiction of the OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). Fina engages in, among other things, the importation, production, refining and marketing of crude oil and refined petroleum products. An audit conducted by OSC of Fina included a review of Fina's records relating to compliance with the Regulations during the period January 1, 1973 through January 27, 1981 (the audit period). During the audit, questions and issues were raised and enforcement documents were issued. This Consent Order resolves all administrative and civil issues not previously resolved concerning the allocation and sale of covered petroleum products during the audit period, whether or not raised in a previous enforcement action.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Fina's compliance with the applicable Regulations. OSC's audit reviewed Fina's pricing and allocation policies and procedures and the manner in which Fina applied the Regulations with respect to, among other things, its production, refining, processing, importation and marketing of crude oil and covered products. While a number of challenges to Fina's application of the regulations resulted from this audit, DOE has no reason to believe, based upon the intensified audit which preceded the agreement to enter into this Consent Order, that Fina would be liable for overcharges in sales of petroleum products after 1974. However, it was DOE's preliminary view that overcharges were identified in calendar year 1974.

At the conclusion of the audit, OSC raised this and other issues with respect to Fina's compliance with the Regulations. Notwithstanding DOE's position, Fina maintains that it has correctly construed and applied the Regulations and that there were no overcharges in any period. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Fina audit, and thus, that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To remedy any violations that may have occurred during the audit period, Fina has agreed to the following:

1. Fina will make available a total of $14,000,000 for distribution to those individuals or firms (or their successors in interest) that in 1974 purchased motor gasoline directly from Fina's refining and marketing subsidiary, American Petrofina Company of Texas ("APCOT"). No such purchaser will be qualified to participate in this distribution (i) if, in 1974, the purchaser was a refiner, was controlled by Fina, or acted merely as a consignee or commission agent for Fina, or (ii) if, prior to the effective date of this Consent Order, Fina has been released from the claims of such purchaser or its successor in interest arising under Section 210 of the Economic Stabilization Act of 1970 (ESA) or DOE regulations and relating to purchases of petroleum products from Fina in 1974.

Fina will notify and offer a share of the $14,000,000, to each qualifying individual or firm that purchased motor gasoline from Fina's marketing subsidiary, American Petrofina Marketing, Inc., during December 1981.

In addition, qualified 1974 purchasers who did not purchase motor gasoline from Fina in December 1981, can become eligible for a share of the $14,000,000. In order to become eligible, these individuals or firms (or their successors in interest) must submit to Fina a Statement of Intent to Participate in the Distribution to Fina on or before April 7, 1982. Individuals or firms submitting Statements to Participate must include a representation which sufficiently indicates that the individual or firm purchased motor gasoline from Fina in 1974 or is the sole successor in interest to the 1974 purchaser with respect to all claims against Fina arising out of such purchases. The Statement must also be accompanied by a full explanation of the basis for these representations with respect to the interest of the submittor together with copies of any contracts, agreements, or other documents evidencing such interest.

The share to be offered to each eligible 1974 purchaser shall be determined by multiplying $14,000,000 by the percentage derived when the eligible firm or individual's volume of motor gasoline purchased from APCOT in 1974 is divided by the total volume of motor gasoline purchased from APCOT in 1974 by all qualified 1974 purchasers.

Fina will extend these offers of shares within fifteen (15) days after the effective date of the Consent Order by mailing a notice, approved by DOE, to each eligible individual or firm.

Once an offer has been extended to an eligible individual or firm by Fina, the individual or firm can accept the offer only by executing and returning to Fina within forty-five (45) days of the effective date of the Consent Order a duly authorized and fully effective release of Fina form all claims by that individual or firm arising under Section 210 of the ESA and the DOE Regulations with respect to Fina's sales of petroleum products to that purchaser.

Having accepted Fina's offer by its timely return of the release, the individual or firm will then receive from Fina its share of the $14,000,000 according to the following schedule: (1) One-third (⅓) of its share within seventy-five (75) days after the effective date of the Consent Order; (ii) The second one-third (⅓) of its share not later than August 31, 1982; and (iii) the final one-third (⅓) not later then December 31, 1982. Fina, of course, may accelerate share payments to any or all qualifying individuals or firms.

Should Fina not receive an effective release from such individual or firm within forty-five (45) days after the effective date of the Consent Order, or receive satisfactory proof or adequate assurances of its effectiveness and validity within seventy-five (75) days after the effective date of the Consent Order, Fina shall have no further obligation to such individual or firm under the Consent Order. In such cases, Fina shall pay the amount that would otherwise represent the individual or firm's share to the United States Treasury not later than August 31, 1982. Further, shares of qualified purchasers who do not file a statement of intent within 30 days of this notice on or before April 7, 1982) will also be remitted to the U.S. Treasury not later than August 31, 1982.

Should a claim against Fina by an individual or firm otherwise eligible to share in the $14,000,000, arising under section 210 of the ESA or the DOE regulations, become the subject of a Federal District Court Judgment within Forty-five (45) days from the date of execution of the Consent Order, and should Fina's obligation to pay the individual or firm be less under the judgment than under the share provisions of the Consent Order, then Fina's obligation under the Consent Order to the individual or firm will be limited to the amount of the judgment. Fina may elect to pay the difference between the individual or firm's share under the Consent Order and the amount of such judgment to either the individual or firm or the Unites States Treasury on or before August 31, 1982.

Within thirty (30) days after the effective date of this Consent Order, Fina shall pay ten thousand dollars ($10,000) to the United States Treasury as a compromise in lieu of civil penalties, in full settlement of any such penalties for which Fina may be or may have been liable.

The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties for any newly discovered regulatory violations committed by Fina, but only on the ground that Fina knowingly concealed such violations. Thus, DOE would be free to institute enforcement proceedings where, for example, Fina had misled DOE during the course of an audit. This provision would not warrant subsequent enforcement proceedings merely because the company had inadvertently failed affirmatively to disclose certain material during the course of an audit.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Fina has waived its right to administrative or judicial review. The Consent Order does not constitute an admission by Fina nor a finding by OSC of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on April 7, 1982, will be considered by OSC before determining whether to adopt the Consent Order as a final order. Any modifications to the Consent Order that, in opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment. After consideration of public comments by DOE, the Consent Order will be made final and effective by actual notice to that effect to Fina. Pursuant to 10 CFR 205.199J(c), DOE will promptly publish in the **Federal Register** notice of any action taken on this Consent Order and an appropriate explanation of the action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C. March 2nd, 1982.

Milton C. Lorenz,

Special Counsel, Economic Reglatory Administration.

[FR Doc. 82-6224 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Barkett Oil Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Barkett Oil Company, Incorporated, 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Barkett Oil Company with pricing violations in the amount of $783,793.14, connected with sales of motor gasoline during the period January 1, 1980 through March 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.W., Atlanta, Georgia 30367, Telephone (404) 881-2661. On or before March 23, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 24th day of February 1982.

Leonard F. Bittner,

Director, Atlanta Office, ERA.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6223 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Lawrence Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Lawrence Oil Company, Incorporated, 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Lawrence Oil Company with pricing violations in the amount of $361,828.06, connected with sales of motor gasoline during the period January 1, 1980 through March 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director,

Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2661. On or before March 23, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 24th day of February 1982.

Leonard F. Bittner,

Director, Atlanta Office, ERA.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6222 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

John W. McGowan; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with John W. McGowan as a final order of the Department.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Leonard F. Bittner, Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta Ga 30309, (phone) (404) 881–2781.

SUPPLEMENTARY INFORMATION: On December 31, 1981, in Vol. 46, No. 251, at page 63369 (46 FR 63369), the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with John W. McGowan.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. One comment was received questioning the payment of overcharge payments to the U.S. Treasury. Inasmuch as there were no identifiable parties that suffered financial harm, this form of restitution is the only meaningful alternative, and therefore, the Consent Order is herewith issued as signed.

Issued in Atlanta, Georgia on the 24th day of February, 1982.

Leonard F. Bittner,

Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6219 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TC82-10-000]

El Paso Natural Gas Co.; Petition for Relief

March 4, 1982.

Take notice that on February 3, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC82–10–000 pursuant to § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) a petition for relief for 19 Category C customers served by Applicant from authorized overrun gas penalties assessed against and paid by said customers during the period July 1, 1977, through April 30 1981, all as more fully set forth in the filing tendered with the Commission and open to public inspection.

Applicant states that by order issued March 26, 1981, in Docket No. RP72–6, *et al.*, the Commission approved a Stipulation and Agreement Settling Proceedings and Prescribing Permanent Allocation Plan which, *inter alia*, established procedures for the allocation of its available gas supply among its customers. Applicant explains that Article XII of such stipulation and agreement provided that customers classified as Category C customers under its permanent allocation plan would be granted relief from payment of both daily and seasonal unauthorized overrun gas penalties assessed against but not paid by said customers during the period July 1, 1977, through the effective date of the stipulation and agreement which was May 1, 1981. Applicant points out that the stipulation and agreement made no similar provision for Category C customers which incurred and also paid overrun penalties during the same period. Applicant states that in its opinion the exclusion of those Category C customers which paid unauthorized overrun penalties results in discriminatiory treatment as between similarly classified customers.

Accordingly, Applicant submits that the Commission should grant the requested relief for the 19 customers from the unauthorized overrun gan penalties assessed against and paid by said customers during the period July 1, 1977, through April 30, 1981, in accordance with the unathorized overrun gas provisions set forth in Applicant's FERC Gas Tariff in effect during such period.

The following tabulation identifies the assessed overrun penalties paid by each of the nineteen Category C customers for which relief would be provided upon grant of the authorization requested herein:

Category C customers	Penalty charges assessed and paid
Amoco Production Co.	$9,475.00
Apache Power Co.	7,275.00
Aztec Oil & Gas Co. (Southland Royalty)	20,707.50
BTA Oil Producers	1,315.00
Compania Minera de Cananea	7,147.50
Denver, city of	9,130.00
Energy Reserves Group, Inc	4,427.50
Gulf Oil Corp.	7,250.00
Hixon Development Co.	4,467.50
Magma Natural Gas Co.	6,837.50
Paul Lime Division of Can-Am Corp.	14,055.00
Plains, city of	370.00
Safford, city of	3,635.00
Shell Oil Co.	12,600.00
Surburban Propane Gas Corp.	1,062.50
Sun Oil Co.	27,152.50
Texco, Inc	1,365.00
Warpec Pipeline, Inc.	985.00
Warren Petroleum Co., a division of Gulf Oil Corp.	155,272.50
Total	294,530.00

Applicant states that it would make appropriate refunds and accounting adjustments to recompense those Category C customers identified above for their respective penalty charges assessed and paid. It is stated that the above mentioned Category C customers do not expect to receive interest on the refund amounts. Applicant explains that of the total $294,530.00 it is to refund $129,760.00 which would have no rate impact while the remaining $164,770.00 (an amount equivalent to total overrun penalty payments made after September 5, 1978) would be debited to Account No. 101–338, Unsuccessful Exploration and Development Costs, pursuant to Article V of Applicant's Stipulation and Agreement approved August 28, 1981, at Docket No. RP79–12, Docket No. CP80–367 and Docket Nos. CI80–311 through CI80–320.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 26, 1982, 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) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6138 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-184-000]

Florida Gas Transmission Co.; Application

March 4, 1982.

Take notice that on January 28, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-184-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 3.5 miles of 4½-inch pipeline connecting Applicant's Umatilla Lateral with its Leesburg Lateral and certain facilities necessary to establish new delivery points for the City of Leesburg, Florida (Leesburg), and Peoples Gas System, Inc. (PGS), both existing customers of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Leesburg's requirements have increased since 1959 and that Applicant is no longer able to meet its peak hour requirements. Accordingly, Applicant proposes to construct approximately 3.5 miles of 4½-inch pipeline in order to connect its Umatilla and Leesburg Laterals.

In addition, Applicant proposes to construct and operate a new delivery point, the Haines Creek delivery point, to enable Leesburg to serve residential and commercial gas users through a distribution system within Leesburg's service area though not physically connected to its existing distribution system.

It is stated that by letter agreement dated October 7, 1981, Applicant agreed to provide a new delivery point for PGS. It is further asserted that the agreement provides for the establishment of an additional delivery point for PGS' Triangle Division in Lake County, Florida, in order to help PGS improve its existing system's efficiency and to enable PGS to accommodate high priority load growth.

Applicant maintains that the addition of the foregoing new delivery points would not result in any change to either Leesburg's or PGS' volumetric entitlement.

The total cost of the proposed facilities is estimated at $545,410. It is stated that of the total amount Applicant would be responsible for $309,110 which would be financed from funds on hand and that Leesburg would contribute $114,600 and PGS would contribute $121,700.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 26, 1982, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6139 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-340-000]

Florida Power & Light Co.; Filing

March 3, 1982.

Take notice that Florida Power & Light Company (FPL), on February 22, 1982, tendered for filing an Amendment to Supplementary Agreement entitled "Amendment Number One to Supplementary Agreement Number One To Contract Between FPL and Jacksonville Electric Authority for the Transmission of Power and Energy in the Implementation of the Power Sale Agreement Between Jacksonville Electric Authority and Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Company Services, Inc."

FPL states that under the Amendment to Supplementary Agreement, it will provide for increased levels of transmission service during a special extended test period that commenced September 1, 1981, to Jacksonville Electric Authority in the implementation of its Power Sale Agreement with Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Company Services, Inc.

FPL requests waiver of the Commission's Regulations to the extent necessary to permit the Amendment to Supplementary Agreement to become effective January 1, 1982.

According to FPL, copies of the filing were served on the Managing Director of the Jacksonville Electric Authority.

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 March 19, 1982. 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. 82-6140 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-338-000]

Montana Power Co.; Filing

March 3, 1982.

Take notice that the Montana Power Company (Montana) on February 22, 1982, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the Los Angeles Department of Water and Power (Los Angeles). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Burbank.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $11,040,386.61 based upon energy delivered from April 28, 1981 through December 31, 1981. Montana states that the rate for firm energy under the Letter Agreement was negotiated.

An effective date of April 28, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

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 March 18, 1982. 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. 82-6141 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-337-000]

The Montana Power Co.; Filing

March 3, 1982.

Take notice that the Montana Power Company (Montana) on February 22, 1982, tendered for filing in accordance with section 35 of the Commission's regulations, a Letter Agreement with amending previously filed Letter Agreements, with Pacific Gas & Electric Company (Pacific). Montana states that this amendment provides for the sale of additional firm energy between Montana and Pacific.

Montana indicates that the proposed amendment would increase revenues from jurisdictional sales by an estimated $9,732,112.36, based upon energy delivered through November 30, 1981, under this Amendatory Agreement.

An effective date of August 27, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, 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 March 18, 1982. 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. 82-6142 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 82-341-000]

Tampa Electric Co.; Filing

March 3, 1982.

Take notice that Tampa Electric Company (Tampa Electric), on February 23, 1982, tendered for filing an amended Agreement for Interchange Service Between Tampa Electric and the City of Vero Beach (Vero Beach), together with Service Schedules A, B, and C thereunder. This filing would amend Tampa Electric's Rate Schedule FERC No. 11.

Tampa Electric states that Service Schedules A, B, and C provide for emergency, scheduled short-term, and economy energy interchange service, respectively, between Tampa Electric and Vero Beach.

Tampa Electric Proposes an effective date of February 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Vero beach and the Florida Public Service 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 and 1.10). All Such petitions or protests should be filed on or before March 19, 1982. 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.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-6143 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-339-000]

Tucson Electric Power Co.; Filing

March 3, 1982.

Take notice that Tucson Electric Power Company ("Tucson") on February 18, 1982, tendered for filing Amendment No. 1 to the 1980 Nonfirm Energy Agreement Between Tucson and Texas-New Mexico Power Company, formerly Community Public Service Company ("TNP"). The primary purpose of this Amendment No. 1 is to extend the term of the Agreement by advancing the termination date from December 31, 1981 to May 31, 1982 inclusive. Tucson states that copies of the filing were served upon TNP.

Any person desiring to be heard or to make any application with reference to said Amendment 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 March 18, 1982. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this Amendment are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6144 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF82-75-000]

Wheelabrator-Frye Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 3, 1982.

On February 12, 1982, Wheelabrator-Frye Inc., located at Liberty Lane, Hampton, New Hampshire 03842, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a solid waste recovery and electric generating facility that will be located in Peekskill, New York. It will have a capacity of approximately 55 megawatts, and will dispose of approximately 1200 to 2000 tons of municipal waste per day. There will be no other facility owned by the applicant using biomass as its primary energy source located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6145 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Adjustment, Rate Extension, Public Hearing, and Opportunities for Public Review and Comment.

AGENCY: Southeastern Power Administration (Southeastern or SEPA), DOE.

ACTION: Notice of proposed rate adjustment and rate extension for the Jim Woodruff Project, notice of public hearing and opportunity for review and comment.

SUMMARY: Southeastern proposes a new Wholesale Power Rate Schedule JW-1-A to replace the existing JW-1 (Revised) rate schedule. The new rate schedule will be applicable to SEPA power sold to existing preference customers in the Florida Power Corporation service area. Southeastern also proposes to extend Wholesale Power Rate Schedule JW-2-B, which is applicable to SEPA power sold to Florida Power Corporation.

Opportunities will be available for interested persons to review the present rates, the proposed new rate, and the supporting studies, to participate in a hearing and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 1, 1982. A public information and public comment forum will be held in Tallahassee, Florida, on April 20, 1982.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10:00 a.m. on April 20, 1982, in Room 41 of the U.S. Courthouse, 110 East Park Avenue, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by order issued April 9, 1981, in Docket No. EF80-3031 confirmed and approved Wholesale Power Rate Schedules applicable to Jim Woodruff Project power for a period ending August 19, 1982.

Discussion

Existing rate schedules are supported by a May 1979 repayment study and other supporting data all of which are contained in FERC Docket EF80-3031. A repayment study prepared in March of 1982 shows that the existing rates are not adequate to recover the costs of the project within the repayment period. Additionally a revised repayment study with a $500,000 revenue increase in each future year demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to raise the rates to the preference customers to a level which will recover the additional $500,000.

In the proposed rate schedule JW-1-A, the capacity charge has been increased from $1.50 per kilowatt per month to $2.00 per kilowatt of monthly billing demand, and the energy charge has been increased from 4.5 mills to 6.0 mills per kilowatt-hour. The rate to the Florida Power Corporation was not increased primarily because rate schedule JW-2-B includes rates which have automatically escalated during the period that the rates have been in effect. Southeastern proposes that this new rate and the extended rate remain in effect from August 20, 1982, until August 19, 1987.

In developing the rate adjustment, Southeastern considered revenue requirements as determined by the March 1982 system repayment studies. The studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635, as is the 1979 repayment study and the proposed rate schedule.

Issued in Elberton, Georgia, March 1, 1982.

Harry C. Geisinger,

Administrator.

[FR Doc. 82-6225 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL-2067-4]

National Drinking Water Advisory Council; Open Meeting

Under section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council establishd under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held at 9:00 a.m. on March 24, 1982, and at 8:30 a.m. on March 25, 1982, at EPA Headquarters, Room 3906, Mall Area, 401 M Street, SW., Washington, D.C. 20460. Council Subcommittees will be meeting at EPA Headquarters on March 23, 1982.

The purpose of the meeting is to install five new members of the Council. Discussions will be held on the reauthorization of the Safe Drinking Water Act, research and ground water issues.

This two day meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements are generally limited to 15 minutes followed by a 15 minute discussion period. It is preferred that there be one presentor for each statement. Any outside parties interested in presenting an oral

statement should petition the Council in writing. The petition should include the topic of the proposed statement, the petitioner's telephone number, and should be received by the Council before March 12, 1982.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact, Ms. Charlene Shaw, Executive Assistant, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The telephone number is: Area Code 202/426-8877.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-6194 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal, Maritime Commission, Washington, D.C. 20573.

Hawk World International Corporation, 2959 N. Airfield Dr., Suite 230, DFW Airport, TX 75261, Officers: John D. Sifuentes, President/Treasurer, Brenda Sifuentes, Secretary, Alvin Stutes, Vice President

George Thielen, d.b.a. GT International, P.O. Box 38489, Denver, CO 80238

Dated: March 3, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6188 Filed 3-5-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2236]

Independent Freight Forwarder Licenses; Mary Y. Upton d.b.a. Houston Expeditors; Notice of Reinstatement of License

By Commission Order served January 21, 1982, Mary Y. Upton d.b.a. Houston Expeditors, Independent Ocean Freight Forwarder License No. 2236 was revoked effective January 15, 1982, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published in the **Federal Register** on January 27, 1982 at 47 FR 3879.

An appropriate surety bond has been received in favor of Mary Y. Upton d.b.a. Houston Expeditors, and compliance with section 44 of the Shipping Act, 1916 and 510.15 of General Order 4 has been achieved.

Therefore, by virture of authority vested in me by the Federal Maritime Commission as set forth in 10.01(a) of Commission Order No. 1 (Revised), dated November 12, 1981, Independent Ocean Freight Forwarder License No. 2236 shall be reissued to Mary Y. Upton d.b.a. Houston Expeditors, effective January 15, 1982. A copy of this notice shall be published in the **Federal Register** and served Mary Y. Upton d.b.a. Houston Expeditors.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-6254 Filed 3-5-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Eagle Holding Corp.; Formation of Bank Holding Company

American Eagle Holding Corporation, Piedmont, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Rolling Hills State Bank, Piedmont, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6178 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Citizens Bank Holding, Inc.; Formation of Bank Holding Company

Citizens Bank Holding, Inc., Mukwonago, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Bank of Mukwonago, Mikwonago, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6179 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Citizens Union Bancorp of Shelbyville, Inc.; Formation of Bank Holding Company

Citizens Union Bancorp of Shelbyville, Inc., Shelbyville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Union Bank of Shelbyville, Shelbyville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6180 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council, Meeting of Consumer Advisory Council

The Federal Reserve's Consumer Advisory Council will discuss at its April meeting the impact of the current economic environmental on credit conditions within the community, with a view to assessing developments under the Community Reinvestment Act. The Council has a concern that current economic conditions may be having a disproportionately adverse effect on the availability and affordability of credit for consumers, neighborhood reinvestment and other community needs.

As discussed more fully below, the Council is soliciting views from community and consumer groups, public advocates, creditors of all types, federal, state and local governments, and other interested parties. Comments must be received by April 7, 1982.

The Council's 30 members represent consumers and the financial industry. The Council advises and consults with the Federal Reserve Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other non-monetary issues on which the Board seeks its views.

Matters on which comments are being requested are as follows:

1. What problems are you facing in this economic environment in providing or obtaining credit for consumer purchases (for example, automobile loans or appliance purchases), neighborhood reinvestment (for example, mortgage credit, rehabilitation loans, home improvement loans or second mortgage loans), and other community purposes?

2. Are particular segments of the population affected more than others, and if so, in what ways?

3. What has been the impact of the current economic environment on existing community credit programs?

4. What programs have been devised by government, businesses, consumer groups or others to address credit problems due to the current economic environment? What efforts have been undertaken by non-creditors in helping to deal with these problems (for example, by labor unions, suppliers of goods and services, private foundations, and corporations)? How successfully have these programs and efforts been?

5. What programs could be devised to better address the credit problems of local communities, including low- and moderate-income neighborhoods?

The Council's meeting will be held on April 28 and 29, 1982, in Washington, D.C. The item discussed in this notice is one of several that will be on the Council's agenda. Meeting times and other agenda items will be announced at a later date.

Persons wishing to submit to the Council their views regarding the above topic may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than Wednesday, April 7, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, March 3, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-6174 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Continental Illinois Corp.; Acquisition of Bank

Continental Illinois Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Oakbrook Terrace, Oakbrook Terrace, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6181 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

First Maryland Bancorp; Acquisition of Bank

First Maryland Bancorp, Baltimore, Maryland, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Omni Bank, N.A., Millsboror, Delaware. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6182 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Home Interstate Bancorp; Formation of Bank Holding Company

Home Interstate Bancorp, Signal Hill, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Home Bank, Signal Hill, California. The factors that are considered in acting on the

application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6183 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Independent Bankshares, Inc.; Formation of Bank Holding Company

Independent Bankshares, Inc., Madison, Wisconsin, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Lake City Bank, Madison, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6184 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Smith Center Bancshares, Inc.; Formation of Bank Holding Company

Smith Center Bancshares, Inc., Smith Center, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Smith Center, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6185 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14956-B]

Alaska Native Claims Selection

On December 2, 1974, the White Mountain Native Corporation, for the Native village of White Mountain, filed selection application F-14956-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of White Mountain.

As to the lands described below, the application submitted by White Mountain Native Corporation is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 20,114 acres, is considered proper for acquisition by White Mountain Native Corporation and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 7 S., R. 22 W.
Sec. 6, excluding the Fish River;
Sec. 7.
Containing approximately 1,189 acres.
T. 7 S., R. 23 W.
Secs. 11, 12, 14, and 15, excluding the Fish River;
Secs. 21 and 22, excluding the Fish River;
Sec. 27;
Sec. 28, excluding the Fish River;
Secs. 33 and 34.
Containing approximately 6,150 acres.
T. 8 S., R. 23 W.
Secs. 3, 4, and 5;
Secs. 8, 9, and 10;
Secs. 15, 16, and 17;
Sec. 18, excluding the Fish River;
Secs. 19 to 24, inclusive;
Secs. 26, 27, 28, and 29.
Containing approximately 12,775 acres.
Aggregating approximately 20,114 acres.

Within the described lands, only the following inland water body, is considered to be navigable:

The Fish River and its interconnecting sloughs.

All other named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–030166, issued to Sigfried Aukongak located within lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with section 9, Additional Condition or Stipulation No. 1 of the permit.

White Mountain Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 103,964 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 11,236 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to White Mountain Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the NOME NUGGET.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 7, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

White Mountain (Mountain) Native Corporation, White Mountain, Alaska 99784.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–6191 Filed 3–5–82; 8:45 am]

BILLING CODE 4310–84–M

Outer Continental Shelf; Availability of the Final Supplement to the Environmental Impact Statement, Proposed Five-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final supplement to the final environmental impact statement relating to a proposed revision of the Five-Year Outer Continental Shelf (OCS) Oil and Gas Lease Sale Schedule.

Single copies of the final supplemental environmental impact statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10278; Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130; Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 West 6th Street, Los Angeles, California 90017; Office of the Manager, Alaska Outer Continental, P.O. Box 1159, Anchorage, Alaska 99510; and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final supplemental environmental impact statement will also be available for review in public libraries located throughout the coastal States. Information regarding the locations of libraries where copies of the statement will be available may be obtained from the OCS Offices listed above.

Robert F. Burford,

Director, Bureau of Land Management.

Bruce Blanchard,

Director, Office of Environmental Project Review.

March 3, 1982.

[FR Doc. 82–6206 Filed 3–5–82; 8:45 am]

BILLING CODE 4310–84–M

Competitive Coal Leasing—Powder River Federal Coal Production Region; Qualified Surface Owner Consents

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing deadline for qualified surface owner consents, Powder River Federal Coal Production Region.

SUMMARY: On March 3, 1982, final rules were adopted amending those portions of the Federal coal management regulations that establish deadlines for the submission of qualified surface owner consents prior to Federal coal lease sales for lands to which the consents apply. In accordance with those final rules, the public is hereby notified that the deadline for filing consents for lands to be offered for competitive coal lease sale in the Powder River Federal Coal Production Region on April 28, 1982, is April 5, 1982.

DATE: Consents must be filed on or before April 5, 1982.

ADDRESSES: Consent must be filed with the appropriate Bureau of Land Management State Office, either the Montana State Office, Bureau of Land Management, 222 N. 32nd Street, P.O. Box 30157, Billings, Montana 59107, or the Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Walter Rewinski, Bureau of Land Management (540), Washington, D.C. 20240, (202) 343–6821; Jeanette Bejot, Montana State Office at the address listed above, (406) 657–6291; or Patty Cooley or Marla Bohl, Wyoming State Office at the address listed above, (307) 778–2336.

SUPPLEMENTARY INFORMATION: The Federal coal management regulations at 43 CFR Part 3427 require qualified surface owner consents for surface-minable split estate lands offered for competitive coal lease sale to be filed with the appropriate Bureau of Land Management State Ofice prior to the lease sale for the lands to which the consents apply. Final rules adopted on March 3, 1982, specify that the deadline for filing consents for lands to be offered in regional Federal coal lease sales would be established on a sale-by-sale basis and that the filing deadline would be announced in a notice published in the **Federal Register.**

On February 23, 1982, the Secretary of the Interior announced his decision to offer 17 Federal coal tracts in the Powder River Federal Coal Production Region for competitive lease sale on April 28, 1982. Qualified surface owner consents for lands subject to consent within those tracts must be filed with the appropriate Bureau of Land Management State Office on or before April 5, 1982, to receive consideration. Any required consents filed after April 5, 1982, will be accepted but will not be acted upon before the lease sale. Any tracts containing lands covered by consents filed after the deadline will be withdrawn from the lease sale.

Further information on the tracts to be offered for lease sale in the Powder River Region or on the surface owner consent requirements for those tracts may be obtained from the Montana and Wyoming State Offices of the Bureau of Land Management at the addresses listed above.

Robert J. Burford,

Director, Bureau of Land Management.

March 2, 1982.

[FR Doc. 82-6163 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2869, Block 40, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 1, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6123 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

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 carries pursuant to 49 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 Sepcial 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 statement within 45 days after the date of notice of 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 and application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicants 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 or 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 non-complying applicant shall stand denied.

Dated: March 2, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14746, filed February 12, 1982. DELTA CALIFORNIA INDUSTRIES, INC. (DCI) (333 Heggenberger Rd., Oakland, CA 94621—control—WYCOFF COMPANY, INC. (Wycoff) (2410 South 2700 West, P.O. Box 3662, Salt Lake City UT 84110). Representatives: Jack R. Turney, Jr., 2001 Massachusetts Ave, N.W., Washington, DC 20036 and James M. Harbison, Jr., 402 Pierce Ave., P.O. Box 391, Houston, TX 77001). DCI, a non-carrier holding and terminal company, seeks authority to acquire control of Wycoff through Delta Mountain Express, Inc. (DME) and Delta Mountain Properties, Inc. (DMP), both non-carrier subsidiaries of DCI formed for the transaction. The operating rights to be controlled are contained in certificates issued to Wycoff in MC–89684 and sub-numbers thereunder, which authorize the transportation of *general commodities,* usual exceptions, over a network of regular and irregular routes in CA, OR, NV, ID, WY, CO, and UT. DCI controls Delta Lines, Inc. (MC–56640) and Thunderbird Freight Lines, Inc. (MC–69512), both common carriers of *general commodities,* over regular and irregular routes, in CA, AZ, OR, NV, NM, CO, WY, WA, ID, and MN. DCI also controls Distribution Concepts, Inc. (MC–153418) a contract carrier of *general commodities,* between points in the United States, and Nevada-California Express, Inc. (FF–130) a freight forwarder of *general commodities,* between points in CA, UT, OR, WA, ID, and MN. Nevada-California Express, Inc. is to be transferred to Wycoff immediately prior to consummation.

DCI is controlled by Meridian Express Company, (Meridian) a non-carrier holding company. Meridian also controls Merchants Fast Motor Lines, Inc., a motor common carrier, pursuant to certificates issued in MC–2228 and sub-numbers thereunder, and Oil Transport Company, a motor common carrier pursuant to certificates issued in MC–111740 and sub-numbers thereunder. DME and DMP join in the application as the directly participating non-carrier applicants. Meridian, along with non-carrier private investment entities WEDGE Transportation, Inc., Imperial Fund Corporation, Minefa Holdins B.V., Issam Investments N.V., and Issam M. Fares, seek authority to control Wycoff through the acquisition of control by DCI.

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved.

(2) Application for temporary authority has been file.

(3) A directly related application under 49 U.S.C. 11301 and 11302 has been filed in F.D. 29856, Delta California, California Industries, Inc.—Assumption of Obligation as Guarantor. Delta seeks authority to assume obligation as guarantor of purchase money notes of DME and DMP aggregating $1,776,813.

(4) By decision of January 28, 1982. applicant's petition seeking waiver of certain of the Commission's procedural regulations at 49 CFR 1100.240 was granted.

[FR Doc. 82–6148 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, 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.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later became unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–39

Decided: February 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160402, filed February 4, 1982. Applicant: JRU, INC., 2020 West 6th, Mishawaka, IN 46544. Representative: Richard E. Palicki, 10066 Helena Drive, Granger, IN 46530, 1–219–679–4045. As a *broker* of general commodities, (except household goods), between points in the U.S.

MC 160423, filed February 4, 1982. Applicant: RELIABLE CARRIERS, INC., 2098 Kellog Ave., Memphis, TN 38114 Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004 (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Bolivar, Hickory Valley, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Serles, Lacy, and

Kenwood, TN; Grand Junction, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor and Water Valley, MS; Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 160513, filed February 10, 1982. Applicant: JUNIOR M. HENDERSON, AND RAYANNA L. HENDERSON, d.b.a. HENDERSON TRUCKING, 4101 E. Maple, P.O. Box 1763, Des Moines, IA 50306. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160523, filed February 10, 1982. Applicant: INTERSTATE 87 MESSENGER SERVICE, INC., 31 Waterbury Ave., Stamford, CT 06902. Representative: Mr. W. J. Lucken, c/o Connecticut Transp. Service, Inc., 244 Bridgeport Ave., Milford, CT 06460, 203–874–6759. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160553, filed February 12, 1982. Applicant: ROBERT W. MARKLE, 8913 North 17th Lane, Phoenix, AZ 85021. Representative: (same address as applicant) 602–943–1557. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP1–35

Decided: February 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160580, filed February 16, 1982. Applicant: CHANDLER ENTERPRISES INCORPORATED, 1319 St. Cloud Avenue, Lynchburg, VA 24502. Representative: Richard Chandler (same address as applicant) (804) 846–3662. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160601, filed February 17, 1982. Applicant: ROBERT W. CISCO, 226 Carondelet St., Suite 1116, New Orleans, LA 70130. Representative: Robert W. Cisco (same address as applicant) (504) 528–9308. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–49

Decided: February 25, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160579, filed February 16, 1982. Applicant: DERISI TRUCKING & LEASING, INC., 34 Burgess Place, Wayne, NJ 07470. Representative: Anthony E. Young, 29 South LaSalle St., Chicago, IL 60603 (312) 782–8880. As a *broker and general commodities* (except household goods), between points in the U.S.

MC 121699 (Sub-16), filed February 17, 1982. Applicant: VOLUNTEER EXPRESS, INC., 1325 Elm Hill Pike, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004, 202–347–8862. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size and weight require the use of special handling or equipment), between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Boliver, Middleburg, Hickory Valley and Grand Junction, TN; Michigan City, Lamar, Hudsonville Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, and Water Valley, MS; Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY; Kenwood, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Searles, and Lacy, TN, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, at each point authorized herein, that all rail service, at each point to be served, has actually terminated.

Note.—The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service. Applicant intends to tack and join authority sought herein with its regular route authority contained in docket MC–121699 Sub 15 X.

MC 160589, filed February 16, 1982. Applicant: LANCE HARRINGTON, Rural Route #1, Storm Lake, IA 50588. Representative: Lance Harrington (same address as applicant) (712) 732–3753. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6161 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–193

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160736 (Sub-1–1TA), filed February 24, 1982. Applicant: DAVID R. BELL, d.b.a. DAVID R. BELL TRUCKING, 7718 Kendall Road, Pavilion, NY 14525. Representative: David R. Bell (same as applicant). *Contract carrier:* irregular routes: *Agricultural fertilizer and soil conditioners* from port of entry on the International boundary Line at the Niagara River between U.S. and CD in NY to points in the Counties of Monroe, Livingston and Wyoming, NY under continuing contract(s) with Genesee Lime Products, Inc. of Rochester, NY. Supporting shipper: Genesee Lime Products, Inc., 1891 Long Pond Road, Rochester, NY 14606.

MC 160655 (Sub-1–1 TA), filed February 22, 1982. Applicant: MICHAEL V. PETROLE, d.b.a. COMMERCIAL MOTOR FREIGHT CO., 1309 Bergenline Avenue, Union City, NJ 07087. Representative: Michael V. Petrole (same as applicant). *Contract carrier:* irregular routes: *Wearing apparel on hangers and/or in cartons, piece goods, accessories, trimming, supplies and equipment used in the manufacturing of wearing apparel,* between the facilities of Suzette Fashions Inc., Jersey City, NJ on the one hand, and on the other, El Paso, TX, continuing contract(s) with Suzette Fashions Inc. of Jersey City, NJ. Supporting shipper: Suzette Fashions Inc., 14 Burma Road, Jersey City, NJ 07305.

MC 117685 (Sub-1–2TA), filed February 26, 1982. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Coffee* (1) From San Francisco, CA, to Blaine, WA; Fort Erie and Rouses Point, NY, Chicago, IL New Orleans, LA, Laredo and Houston, TX, Jacksonville and Miami, FL, and Los Angeles, CA; (2) From Laredo, TX, to Los Angeles and San Francisco, CA, Blaine, WA, Fort Erie and Rouses Points, NY, Chicago, IL, New Orleans, LA, Houston, TX, and Jacksonville and Miami, FL; (3) From Houston, TX to Blaine, WA, Fort Erie and Rouses Point, NY, Chicago, IL New Orleans, LA, Laredo, TX, Jacksonville and Miami, FL, Los Angeles and San Francisco, CA; (4) From Jacksonville, FL to Blaine WA, Fort Erie and Rouses Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Miami, FL, and Los Angeles and San Francisco, CA; (5) From Miami, FL to Blaine, WA, Fort Erie and Rouses Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Jacksonville, FL, Los Angeles and San Francisco, CA; (6) From Baltimore, MD, to Blaine, WA, Fort Erie and Rouse Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Miami and Jacksonville, FL, and Los Angeles and San Francisco, CA; and (7) From Chicago, IL, to Blaine WA, Fort Erie and Rouses Point, NY, New Orleans, LA, Laredo and Houston, TX, Jacksonville, and Miami, FL, and Los Angeles and San Francisco, CA. Supporting shipper: Wechsler Coffee Co., 99 Wall St., New York, NY 10005.

MC 151941 (Sub-1–8TA), filed February 26, 1982. Applicant: DELMONT E. HARTT, INC., U.S. Route 2, P.O. Box 26, Etna, ME 04435. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract Carrier:* irregular routes: *Meat and meat products* between the facilities of John Morrell & Co. located at Sioux City and Estherville, IA, Fairmont and Worthington, MN, and Sioux Falls, SD, on the one hand, and, on the other, points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC under continuing contract(s) with John Morrell & Co. of Chicago, IL. Supporting shipper: John Morrell & Co., 208 S. LaSalle, Chicago, IL 60604.

MC 159975 (Sub-1–2TA), filed February 26, 1982. Applicant: GEORGE KYER & SON, INC., 341 Maple Avenue, Oradell, NJ 07649. Representative: Robert G. Parks, 20 Walnut St, Suite 101, Wellesley Hills, MA 02181. *Bananas* from Albany, NY to points in MA, RI, NH, CT, NY and NJ. Supporting shipper: Chiquita Brands, Incorporated, 15 Mercedes Drive, Montvale, NJ 07645.

MC 97244 (Sub-1–2TA), filed February 24, 1982. Applicant: MASS. TRANSPORTATION, INC., 187 Sidney Street, Cambridge, MA 02139. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Cocoa beans, chocolate liquors, cocoa butter, vegetable fats and chocolate confection,* between Mansfield, South Boston, and Woburn, MA, on the one hand, and, on the other, Norfolk, VA, Philadelphia, PA, Wilmington, DE, Buffalo, NY and Pennsauken, NH. Supporting shipper: Merckens Chocolate, a Division of Nabisco, Inc., 150 Oakland Street, Mansfield, MA 02048.

MC 135069 (Sub-1–2TA), filed February 24, 1982. Applicant: ROCKAWAY TRUCKING, INC., Route 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *Clay, concrete, glass or stone products, metal and metal products, tableware, candles and plastic articles,* between Beacon Falls and Hampton, CT on the one hand, and, on the other, Orlando and Hallandale, FL, New Orleans, LA, Charlotte, NC, Murfreesboro, TN, Cohoes, NY, North Conway, NH, Kittery, ME, Mt. Kisco, NY, Flemington, NJ, Lanscaster, PA, Palm Springs and Carmel, CA, Port Chester, Bronx and Corning, NY, Muskogee, OK and Chicago, IL, under continuing contract(s) with Dansk International Designs, Ltd., Mt. Kisco, NY. Supporting shipper: Dansk International Designs, Ltd., Radio Circle Road, Mt. Kisco, NY 10549.

MC 41581 (Sub-1–1TA), filed February 25, 1982. Applicant: WAGNER TOURS, INC., 865 Belmont Avenue, North Haledon, NJ 07508. Representative: Ronald I. Shapss, Esq. 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Passengers and their baggage* between Franklin Lakes, NJ and White Plains, NY under continuing contract(s) with IBM Corporation, Princeton, NJ. Supporting shipper: International Business Machines Corp., P.O. Box 10, Princeton, NJ 08540.

MC 151004 (Sub-1–9TA), filed February 26, 1982. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06601. Representative: John F. Ryan (same as applicant). *Contract carrier:* irregular routes: *Clock parts* between Ashland, MA and Dallas, TX under continuing contract(s) with Dallas Lighthouse for the Blind, Inc., Dallas, TX. Supporting shipper: Dallas Lighthouse for the Blind, Inc., 3940 Capitol Avenue, Dallas, TX 75206.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 160280 (Sub-II–1TA), filed February 2, 1982. Originally published in **Federal Register** on February 17, 1982.* Applicant: FDD, INC., 2020 Bruck St., Columbus, OH 43207. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 20036. *Contract: irregular: general commodities (except classes A and B explosives, household goods, and commodities in bulk,* between Columbus, OH, on the one hand, and, on the other, pts. in CA,

*The purpose of this republication is to add, "between Columbus, OH, on the one hand, and, on the other, pts, in", which was not published originally.

GA, CO, IL, NJ, NY, SC, TX, MA, and UT, under continuing contract(s) with the Distribution Division of Franklin Chemical Industries, Inc., Columbus, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Distribution Division of Franklin Chemical Industries, Inc., P.O. Box 07802, Columbus, OH 43207.

MC 145282 (Sub-II–8TA), filed February 3, 1982. Originally published in Federal Register on February 17, 1982.[1] Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. *Building materials, machinery and related commodities, metal products and materials, supplies and equipment used in the manufacture or distribution of such commodities,* between pts. in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI for 270 days. Intends to interline at all ports of entry on the U.S.-Canaidan border within the scope of this application. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 153961 (Sub-II–2TA), filed February 4, 1982. Originally published in Federal Register on February 17, 1982.[1] Applicant: LEEWAY FLEET LINES, INC., 1321 Arch Street, Suite 1010, Philadelphia, PA 19107. Representative: Curtis Lee (same as applicant). *Passengers and their baggage, in charter and special operations,* beginning and ending at pts. in PA and NJ and extending to pts. in AL, CT, DE, FL, GA, DC, IN, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, RI, SC, TN, VA, VT, WV for 180 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 1936 (Sub-II–1TA), filed February 25, 1982. Applicant: B & P MOTOR EXPRESS CO., 825 W. Federal St., P.O. Box 119, Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular: Food and related products* between points in the U.S. under continuing contract(s) with Omani Foods International, Ltd., of Rolling Meadows, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Omani Foods International, Ltd., 505 Newport Dr., Suite 404, Rolling Meadows, IL 60008.

MC 160682 (Sub-II–1TA), filed February 22, 1982. Applicant: BARRETT EXPRESS, INC., 820 North 9th St., Stroudsburg, PA 18360. Representative: James C. Barrett, 3 Front St., Clarks Summit, PA 18411. *General commodities, (except Classes A & B explosives, household goods as defined by the Commission and commodities in bulk),* between Monroe County, PA, on the one hand, and, on the other, pts. in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC for 270 days. Applicant intends to interline at Allentown, Scranton, Wilkes-Barre and Philadelphia, PA; Elizabeth, NJ; and Bradford, CT. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 63417 (Sub-II–17TA), filed February 22, 1982. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, (same as applicant). *Plastic or rubber products* between Essex County, MA, on the one hand, and on the other, points in the U.S. in or east of ND, SD, NE, KS, OK, TX for 270 days. Supporting shipper: Voltek, Incorporated, 100 Shepard St., Lawrence, MA 01843.

MC 61470 (Sub-II–3TA), filed February 22, 1982. Applicant: BRYAN TRUCK LINE, INC., 1222 E. Wilson St., Bryan, OH 43506. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *General commodities (except classes A & B explosives, household goods and bulk commodities),* between facilities used by Interstate Distribution, Inc., and Interstate Cold Storage Corp., at or near Columbus and Napoleon, OH; Ft. Wayne and Indianapolis, IN on the one hand, and, on the other, points in IL, IN, MI, OH, and PA for 270 days. Supporting shippers: Interstate Distribution, Inc., 7725 Nelson Rd., Ft. Wayne, IN 46803; Interstate Cold Storage Corp., 7725 Nelson Rd., Ft. Wayne, IN 46803.

MC 160752 (Sub-II–1), filed February 25, 1982. Applicant: ELIZABETH T. CRAMER, d.b.a. C & C TRUCKING CO., PO Box 52, Goldsboro, MD 21636. Representative: James H. Sweeney, PO Box 9023, Lester, PA 19113. *Contract,* irregular: *cellulose products, materials, equipment and supplies used in the manufacture and distribution of cellulose products,* between Little Creek, DE on the one hand, and, on the other, points in the US under a continuing contract(s) with Reclamation Center, Inc., of Little Creek, DE. Supporting shipper: Reclamation Center, Inc., PO Box 400, Little Creek, DE 19961.

MC 160629 (Sub-II–1TA), filed February 18, 1982. Applicant: CHARLES W. FLETCHER, d.b.a. FLETCHER DELIVERY SERVICE, Route 11, Box 262, Roanoke, VA 24019. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Cleaning compounds, except in bulk,* between the facilities of WEN-DON Corporation at Roanoke, VA, on the one hand, and, on the other, points in KY, MD, NC, OH, PA, TN, VA, and WV for 270 days. Supporting shipper: WEN-DON Corporation, P.O. Box 13905, Roanoke, VA 24034.

MC 160481 (Sub-II–1TA), filed February 22, 1982. Applicant: HARRISON FREIGHT, INC., 18709 Marks Rd., Strongsville, OH 44136. Representative: Lewis J. Ringler, 300 Leader Bldg., Cleveland, OH 44116. *Contract; irregular: General commodities (except hazardous materials, Class A and B explosives, commodities in bulk, commodities which because of size require special equipment and household goods),* between pts. in the U.S. (except AK and HI), for 270 days, under continuing contract(s) with Midland Steel Products, Cleveland, OH and Unibus, Inc., Strongsville, OH. Supporting shipper(s): Midland Steel Products, 10615 Madison Ave., Cleveland, OH 44102; Unibus, Inc., 15282 Foltz Industrial Parkway, Strongsville, OH 44136.

MC 149451 (Sub-II–1TA), filed February 22, 1982. Applicant: ASHLAND AND SHAMOKIN AUTO BUS COMPANY, d.b.a. KING COAL TOURS, Rt. 61 Kulpmont Highway, Mount Carmel, PA 17851. Representative: Elliott Bunce or Andrew J. Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Passengers and their baggage,* beginning and ending at Ashland, Berwick, Bloomsburg, Coaldale, Jim Thorpe, Kulpmont, Lansford, Lehighton, Lewisburg, Mahanoy City, Wilton, Montgomery, Mt. Carmel, Muncy, Shamokin, Shenandoah, Sunbury, Tamaqua, Watsontown, and Williamsport, PA, and extending to Atlantic City, NJ, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: Playboy-Elsinore Associates, d.b.a. The Playboy Motel, 2500 Boardwalk, Atlantic City, NJ.

MC 107012 (Sub-II–213TA), filed February 24, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy, 30 West, P.O. Box 988, Fort

[1] The purpose of this republication is to include "to interline . . . ." phrase, which was left out of original publication.

[1] The purpose of this republication is to delete the destination states of AR and IL and add the destination state of DC.

Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A and B explosives and household goods as defined by the Commision)* between points in the U.S., under continuing contract(s) with Merillat Industries, Inc., Adrian, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Merillat Industries, Inc., 2075 W. Beecher Rd., Adrian, MI 49221.

MC 155261, (Sub-II–2TA), filed February 25, 1982. Applicant: ROBERT PARRY, 620 Powell Avenue, Clarks Summit, PA 18411. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517. *Contract,* irregular: *Salt and salt products,* between Livingston and Schuyler Counties, NY and Lackawanna County, PA on the one hand, and, on the other, points in VA, MI, MD, and NJ for 270 days, under continuing contract(s) with International Salt Co., Clarks Summit, PA. Supporting shipper: International Salt Co., Clarks Summit, PA 18411.

MC 150339 (Sub-2–54TA), filed February 25, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (same as applicant). *Contract,* irregular: *General commodities, except classes A and B explosives, household goods and commodities in bulk,* between Atlantic, Gulf, and West Coast ports on the one hand, and, on the other, points in the United States, under continuing contract(s) with Jeuro Container Transport (U.S.A.) Inc., 7700 Edgewater Dr., Suite 300, Oakland, CA 94621. An underlying ETA seeks 120 days authority. Supporting shipper(s): Jeuro Container Transport (U.S.A.) Inc., 7700 Edgewater Dr., Suite 300, Oakland, CA 94621.

MC 74416 (Sub-II–4TA), filed February 24, 1982. Applicant: LESTER M PRANGE, Inc., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street, NW., Washington, DC 20005. *Metal and metal products and materials and supplies used in the manufacture and distribution of the aforementioned commodities,* between Baltimore, MD, on the one hand, and, on the other, points in the U.S., in and east of MN, IA, MO, AR and LA, for 270 days. Supporting shipper: Le Nickel, Inc., Park West Office Center, Bldg. 1, Suite 430, Pittsburgh, PA 15275.

MC 160482 (Sub-II–1TA), filed February 22, 1982. Applicant: SILVER COACH, INC., 3904 Ledgewood Drive, Cincinnati, OH 45229. Representative: James Washington, 3094 Ledgewood Drive Cincinnati, OH 45229. *Passengers and their baggage in special and charter round trip operations,* beginning and ending in Cincinnati, OH and pts. in its commercial zone and extending to pts. in the U.S. for 180 days. An underlying ETA seeks 120 days authority. Supporting shippers: Riverfront Coliseum, 100 Broadway, Cincinnati, OH 45202; Brown's Tours & Travel Service, Inc., 2707 Alms Place, P.O. Box 6217, Cincinnati, OH 45206; Family Affair, 534 Clinton Springs Ave., Cincinnati, OH 45220; Gospel Travelers, 1697 Denham St., Cincinnati, OH 45225.

MC 159780 (Sub-III–3TA), filed February 22, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *General commodities (except Classes A and B explosives),* between Toledo, OH, on the one hand, and, on the other, points in the US for 270 days. Supporting shipper(s): There are 6 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 160628 (Sub-II–1TA), filed February 18, 1982. Applicant: TITAN TRANSFER, INC., 1547 Pulaski Hyw., P.O.B. 532, Bear, DE 19701. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Contract, irregular: *Asphalt roofing materials and materials, supplies and equipment used in the manufacture and distribution of asphalt roofing material, including dust and granuals, in bulk or packaged,* between the facilities of IKO Products, Inc. located in Edgemoor, DE, on the one hand, and, on the other, points in NC, VA, WV, DC, MD, DE, PA, OH, NJ, NY, CT, RI, MA, VT, NH and MN, under continuing contract(s) with IKO Products, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): IKO Products, Inc., Hay Rd., Edgemoor, DE 19809.

MC 160630 (Sub-II–1TA), Filed February 18, 1982. Applicant: TRANSPORT SERVICE OF AMERICA, INC., 550 N. Dual Highway, Seaford, DE 19973. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract,* irregular: *Welding rods, wire, steel chain, materials, equipment and supplies use in the manufacture and distribution of welding rods, wire and steel chain,* between York, PA, on the one hand, and, on the other, points in AL, CA, CO, LA, OR, TX and WA, under a continuing contract(s) with Teledyne-McKay, of York, PA. Supporting shipper: Teledyne-McKay, P.O. Box 1509, York, PA 17405.

MC 160686 (Sub-II–1TA), filed February 22, 1982. Applicant: VEE-LINES, INC., 14467 Ravenna Road, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. Contract, irregular: *Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, OH for 270 days. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 160561 (Sub-3–1TA), filed February 24, 1982. Applicant: WDT, INC., 2125 Marsha Drive, Madison, TN 37115. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Contract,* irregular: *Such commodities as are dealt in or used by wholesale grocery or grocery distribution warehouses,* between points in Davidson Co., TN, on the one hand, and, points in MO, AR, LA, IL, IN, OH, KY, AL, MS, GA, FL, SC, NC, VA, WV, and PA, on the other under a continuing contract with Bi-Rite Foods, Inc., Nashville, TN. Supporting shipper: Bi-Rite Foods, Inc., 601 Armory Dr., Nashville, TN 37202.

MC 160729 (Sub-3–1TA), filed February 24, 1982. Applicant: WOODBRIDGE, LTD., P.O. Box 351, Dalton, GA 30720. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier;* irregular route; *floor coverings, and materials, equipment and supplies used in the manufacture and distribution thereof,* between Dalton, GA, on the one hand, and, on the other, points in CA, FL, IL, LA, OH, MD, MA, MN, MO, NJ, NV, OR, TN, TX and WA, under continuing contract(s) with Olympic Carpets, Inc., of Dalton, GA. Supporting shipper: Olympic Carpets, Inc., 396 Cross Plains Industrial Boulevard, Dalton, GA 30720.

MC 155004 (Sub-3–5TA), filed February 24, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Tools, fasteners, and safety boosters,* between Tulsa, OK, Chesapeake, VA, Stamford, CT, Houston, TX, Sparks, NV, Downers Grove, IL, and Decatur, GA. Supporting shipper: Hilti, Inc., P.O. Box 45400, Tulsa, OK 74145.

MC 145154 (Sub-3–109TA), filed February 24, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Floor covering, and materials and supplies used in the manufacture and installation of floor covering,* between Jackson, MS, and points in its commercial zone, on the one hand, and, on the other, Houston and San Antionio, TX, and points in their commercial zones. Supporting shipper(s): Readers Wholesale Distributors, Inc., 1201 Naylor, Houston, TX 77002.

MC 140484 (Sub-3–28TA), filed February 24, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Chemicals and Allied Products* between seaports in the U.S. on the one hand, and, on the other, points in the U.S. Supporting shipper: Isaac Industries, Inc., P.O. Box 403001, Miami Beach, FL 33140.

MC 160562 (Sub-3–1TA), filed February 24, 1982. Applicant: VENTURE TRUCKING COMPANY, INC., P.O. Box 813, Hwy. 64–70 West, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* irregular: *furniture and fixtures,* between the facilities of Bassett Furniture Industries of North Carolina, Inc. in Dumas, AR, on the one hand, and, on the other, all points in the United States, under continuing contract with Bassett Furniture Industries of North Carolina, Inc. Supporting shipper: Bassett Furniture Industries of North Carolina, Inc., P.O. Box 47, Newton, NC 28658.

MC 151083 (Sub-3–4TA), filed February 24, 1982. Applicant: JACKSONVILLE EXPRESS, INC., 5912 New Kings Road, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except classes A & B explosives, household goods as defined by the commission, commodities in bulk and hazardous materials)* between Duval County, FL on the one hand, and, on the other, points in GA, on and south of U.S. Highway 82. Supporting shippers: Peninsular Warehouse Co., Inc., P.O. Box 40669, Jacksonville, FL 32202; C & C Bulk Liquid Transfer, Inc., 401 Bryan Street, Jacksonville, FL 32202; Grimes Warehouse Co., 600 N. Ellis Rd., Jacksonville, FL 32205.

MC 143587 (Sub-3–1TA), filed February 24, 1982. Applicant: SOUTHERN PAPER STOCK COMPANY, Post Office Box 622, Spartanburg, SC 29304. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Contract;* irregular routes, *such commodities as are dealt in or utilized by a manufacturer of containers,* from Macon and Rome, GA, to Spartanburg, SC, under continuing contract(s) with The Mead Corporation. Supporting shipper: The Mead Corporation, Post Office Box 4371, Spartanburg, SC 29303.

MC 146646 (Sub-3–48TA), filed February 24, 1982. Applicant: BRISTOW TRUCKING CO., INC., 750 Clow Road, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4786. *General commodities (except Classes A and B explosives and used household goods and commodities in bulk),* between all points in the United States and the facilities of Trammel Crow Distribution Corporation. Supporting shipper: Trammel Crow Distribution Corporation, P.O. Box 7248, Commerce, CA 90040.

MC 160730 (Sub-3–1TA), filed February 24, 1982. Applicant: ATLANTIC MOBILE TRANSPORT, Gideon Grove Church Road, Stokesdale, NC 27357. Representative: David L. Wilmore (same address as applicant). *Mobile homes, offices, or other trailers of a similar design,* Between points in Forsyth, Guilford, and Rockingham Counties, NC, and points in FL, GA, NC, SC, TN, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Nobility Homes, Inc., P.O. Box 878, Reidsville, NC 27320; Design Space International, P.O. Box 8293, Greensboro, NC 27419.

MC 160657 (Sub-3–1TA), filed February 24, 1982. Applicant: A AND B TRUCKING, INC., Highway, 17A North, P.O. Box 582, Summerville, SC 29483. Representative: Joseph M. Epting, P.O. Box 11414, Columbia, SC 29211. *Contract* carrier: irregular: *crushed or scrapped vehicles and shredded or compacted metal* between points in Richmond County, GA and points in Charleston and Georgetown Counties, SC, under continuing contracts with Automotive Recycling Company, a division of Addlestone International Corporation. Supporting shipper: Automotive Recycling Company, a division of Addlestone International Corporation, P.O. Box 1290, Augusta, GA 30903.

MC 147494 (Sub-3–6TA), filed February 24, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Food and food stuffs* from Caldwell, Haybern and Nampa, ID to points in AL, FL, GA, LA and MS. Supporting shippers: Pioneer Foodservice, Inc., P.O. Box Daphane, AL 36520; Gulf States Food Service & Marketing, P.O. Box 331, Metairie, LA 70004; Commercial Food Brokers, Inc., P.O. Box 5667, Clearwater, FL 33518; M. K. Horowitz Company, 1649 Tullie Circle, N.E., Suite 105, Atlanta, GA 30329.

MC 149134 (Sub-3–1TA), filed February 24, 1982. Applicant: DONALD B. ROBBINS d.b.a. HORIZONS UNLIMITED, 235 Walnut Street, Statesville, NC 28677. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Passengers and their baggage in special and charter operations,* beginning and ending at points in Watauga, Caldwell, Avery and Ashe Counties, NC, and extending to points in TN, SC, VA, and GA. Supporting witnesses: Grandfather Mountains, Inc., P.O. Box 128, Linville, NC 28646; Lenoir Chamber of Commerce, P.O. Box 700, Lenoir, NC 28633; Tweetsie Railroad, Inc., P.O. Box 388, Blowing Rock, NC 28605; and Williamson & Associates, Inc., P.O. Box 108, Blowing Rock, NC 28605.

MC 160705 (Sub-3–1TA), filed February 23, 1982. Applicant: L. R.–LANDEN RAY DANIELS TRANSPORTATION CO., INC., 5180 13th Street, Ashland, KY 41101. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Scrap metal,* between Ashland, KY and its commercial zone, on the one hand, and, on the other, points in OH and WV. Supporting shipper: Mansbach Metal Co., P.O. Box 1179, Ashland, KY 41101.

MC 155004 (Sub-3–4TA), filed February 22, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Drilling mud,* from points in VA, FL, and WY, to points in CA, CO, KS, LA, MS, OK, TX, and WY. Supporting shipper: Baker Chemicals, Inc., 2801 South Post Oak Road, Ste. 258, Houston, TX 77056.

MC 30446 (Sub-3–12TA), filed February 22, 1982. Applicant: BRUCE JOHNSTON TRUCKING COMPANY,INC., 3408 North Graham Street, P.O. Box 5647, Charlotte, NC 28225. Representative: Leon Thompson (same address as applicant). *Contract carrier:* irregular: *Department store supplies and merchandise and those articles used in the sale and distribution*

of department store supplies and merchandise, between U.S. points in and east of MS, TN, KY, IN and MI. Supporting shipper: The Gap Stores, Inc., 3434 Mineola Pike, Erlanger, KY 41018.

The following application were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 6992 (Sub-4–3TA), filed February 16, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, Indiana 46239. Representative: John F. Spickelmier (same address as applicant). *New automotive glass and related glass products* between points in LaGrange County, IN, on the one hand, and on the other, points in the U.S. Supporting shipper: Excel Industries, 1120 N. Main, Elkhart, Indiana 46615.

MC 97932 (Sub 4–7), filed February 16, 1982. Applicant: WREN, INC. d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, Gill & Brinkman, 1805 American National Bank Bldg., St. Paul, MN 55101. *General commodities (except those of unusual value and Classes A and B explosives),* between Minneapolis-St. Paul, MN and its commercial zone and to all points in the State of MN. Applicant intends to tack with existing authority in MC 97932 and intends to interline at Minneapolis-St. Paul, MN. Supporting shippers: Champion Target, Div. of Federal Cartridge, Inc., 232 Industrial Parkway, Richmond, IN; Baxter Travenol, 6301 Lincoln, Morton Grove, IL 60053; Nor-Lake, Inc., P.O. Box 248, Hudson, WI 54016.

MC 119619 (Sub-4–11TA), filed February 17, 1982. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd St., Chicago, IL 60609. Representative: Arthur J. Piken, Piken & Piken, 95–25 Queens Blvd., Rego Park, NY 11374. *(1) Such Commodities as are dealt in by grocery and food business houses, drugstores and retail department stores, and discount houses and (2) materials, equipment and supplies used in the conduct of such businesses,* between points in Oakland and Wayne Counties, MI, on the one hand, and, on the other points in CO, CT, DE, DC, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Supreme Distributors Company, 21121 Telegraph Road, P.O. Box 5091, Southfield, MI 48037.

MC 138493 (Sub-4–6TA), filed February 16, 1982. Applicant: JAKUM TRUCKING, INC., R.R. 2, Miley Rd., Sheboygan Falls, WI 53085. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Food and related products* from New London, WI to points in AL, AR, CA, CT, FL, GA, LA, MA, MS, NJ, NY, OH, PA, and TX for 270 days. Underlying ETA seeks 120 day authority. Supporting shipper: Hillshire Farm Company, P.O. Box 227, New London, WI 53961.

MC 143776 (Sub-4–23TA), filed February 17, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Avenue, S.E., Grand Rapids, Michigan 49506. Representative: C. Michael Tubbs, Traffic Manager (same address as applicant), (800) 253–9527. *Contract,* Irregular, *Commodities produced and distributed by Superior Pet Products, Inc.* from Plymouth, MA, on the one hand, and, on the other, Atlanta, GA; Chicago, IL; and Detroit, MI, under continuing contract(s) with Superior Pet Products, Inc. An underlying ETA seeks 120-day authority. Supporting shipper: Superior Pet Products, Inc.; 470 Atlantic Avenue; Boston, MA 02210.

MC 146319 (Sub-4–3TA), filed February 12, 1982. Applicant: ELLIOT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, CD P0R 1K0. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. *Uranium U–308, Trade Name "Yellow Cake";* from ports of entry on the International Boundary line between the U.S. and CD, located in the upper penninsula of Michigan to points in Gore, OK. Supporting shipper: Rio Algom Limited, 120 Adelaide St. W., Toronto, Ontario, CD.

MC 150860 (Sub-4–2TA), filed February 16, 1982. Applicant: CAL BETTEN TRUCKING, 4212–44th Street SW, Grandville, MI 49418. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428, 616–457–9290. *Conract* irregular: *health and beauty aids, drugs and toilet articles* between the facilities of L. Perrigo, Inc. in Allegan, MI on the one hand and on the other AR, AZ, CA, CT, FL, GA, IL, IN, KS, MA, MI, MO, NC, NJ, NV, NY, OH, OK, PA, SC, TN, TX, UT, VA, WV. Restricted to traffic moving under continuing contract with L. Perrigo, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: L. Perrigo, Inc., 117 Water Street, Allegan, MI 49010.

MC 150860 (Sub-4–3), filed February 16, 1982. Applicant: CAL BETTEN TRUCKING, 4212–44th Street SW, Grandville, MI 49418. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428. *Contract* irregular: *furniture fixtures, tilting or revolving; furniture bases; machine parts* between the facilities of Gordon Manufacturing in Grand Rapids, MI on the one hand and on the other NJ, FL, GA, AR, AL, CA, MO and TX. Restricted to traffic moving under continuing contract with Gordon Manufacturing. An underlying ETA seeks 120 days authority. Supporting shipper: Gordon Manufacturing, 5250 52nd Street SE, Grand Rapids, MI 49508.

MC 152030 (Sub-4–2TA), filed February 16, 1982. Applicant: WASPI TRUCKING, INC., 9500 Pyott Road, Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Contract, irregular: Stone and flooring strips,* from points in NC, SC, VA, GA, TN, MO, CO, TX, and WI to the facilities of Terrazzo & Marble Supply Co., of Illinois at Chicago, IL. Supporting shipper: Terrazzo & Marble Supply Co., of Illinois, 5700 S. Hamilton Ave., Chicago, IL. 60636.

MC 156461 (Sub-4–2TA), filed February 16, 1982. Applicant: BURWICK'S, INC., Route No. 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Salt,* from Weber and Salt Lake Counties, UT to Williams, Dunn and Stark Counties, ND. Supporting shippers: Great Salt Lake Minerals & Chemicals Corp., P.O. Box 1190, Ogden, UT 84402 and Morton Salt Co.—A Division of Morton Norwich Products, 110 North Wacker Drive, Chicago, IL 60606.

MC 158300 (Sub-4–4TA), filed February 16, 1982. Applicant: GERALD COSSETTE, d.b.a. GERALD COSSETTE TRUCKING, 2202 5th Avenue N., Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract* irregular: *such commodities sold, distributed or dealt in by suppliers of paper and paper products* from WI, IL, MO, ME, MI, IA, MA, AL, IN, OH, FL, and CA, to Fargo, ND. Underlying ETA seeks 120 day authority. Supporting shipper: Dacotah Paper Co., P.O. Box 2727, Fargo, ND 58102.

MC 159116 (Sub-4–2TA), filed February 17, 1982. Applicant: FRONTIER TRAILS, INC., 18701 S. Wolf Road, Mokena, IL 60448. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. Contract irregular, *passengers and their baggage, in special and/or charter operations,* beginning or ending at Volusia County, FL, and extending to points in IL, IA, IN, KA, KY, MN, MO, MI, OH and WI. Supporting shipper: Hi-Seas Motel Corp., 1299 S.

Atlantic Avenue, Daytona Beach, FL 32018.

MC 159986 (Sub-4–1TA), filed February 17, 1982. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480 24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Paper and paper products (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between points in Muskegon County, MI, on the one hand, and, on the other, points in the United States. Supporting shipper: S. D. Warren Paper Co., 2400 Lakeshore Dr., Muskegon, MI 49441.

MC 160472 (Sub-4–2TA), filed February 16, 1982. Applicant: TROJAN CORPORATION, Route No. 3, Wolf Lake, IL 62988. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Contract, irregular: *explosives* between Marion and Wolf Lake, IL; Biwabik, MN and Springville, UT, on the one hand, and, on the other, Marion, IL; New Tripoli and Mifflinburg, PA; Forest, OH; Columbus, IN; Romeoville, IL; Greenwood, MO; Bon Air, TN; and Bridgeport, TX, under continuing contract(s) with Nitrochem Energy Corp., of Rolling Meadows, IL. Supporting shipper: Nitrochem Energy Corp. 1896–A Rohlwing Rd., Rolling Meadows, IL 60008.

MC 160574 (Sub-4–1TA), filed February 16, 1982. Applicant: A. BRANDWEIN & COMPANY, 3190 Doolittle Drive, Northbrook, IL 60062. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603. *Contract,* irregular: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between Watertown, WI, DeKalb, Peoria and Moline, IL, Grand Rapids, MI, and Louisville, KY, on the one hand, and, on the other, points in WI, IL, IN, KY and MI, under a continuing contract(s) with Sealy Mattress Co. of Ill., Inc., Supporting shipper: Sealy Mattress Co. of Ill., Inc., 3190 Doolittle Drive, Northbrook, IL 60062.

MC 160595 (Sub-4–1TA), filed February 16, 1982. Applicant: GESKE BROS., INC., Box 42, Enderlin, ND 58027. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract,* irregular: *Such commodities as dealt in by agricultural implement dealers* (1) from East Moline, IL, Fargo, ND, Grand Island, NE, and the port of entry on the international boundary line between the U.S. and Canada near Portal, ND, to Enderlin, ND and (2) from Enderlin, ND, to MN, ND, SD. Under contract with Kraemer Motors, Inc., Enderlin, ND, underlying ETA seeks 120-day authority. Supporting shipper: Kraemer Motors, Inc., Enderlin, ND 58027.

MC 6992 (Sub-4–4TA), filed February 19, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, Indiana 46239. Representative: John F. Spickelmier (same address as applicant). *Automotive seating* between points in Elkhart, County, IN on the one hand, and, on the other, points in U.S. Supporting shipper: Shomco, Inc., 1801 Minnie Street, Elkhart, IN 46516.

MC 121212 (Sub-4–1TA), filed February 18, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Contract,* irregular, *concrete accessories, column clamps, shores for building props, reinforcing accessories, concrete forming equipment, and materials, equipment and supplies used in the manufacture, sale, and distribution thereof,* between Des Plaines, IL and points in IL, IN, MI and WI, under a continuing contract with Symons Corporation, Des Plaines, IL. SS: Symons Corp., 200 E. Toumy Ave., Des Plaines IL 60018.

MC 134401 (Sub-4–2TA), filed February 18, 1982. Applicant: McGILLION TRANSPORT, INC., 141 Healey Road, Box 644, Bolton, Ontario LOP 1AO, CD. Representative: Allan C. Zuckerman, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Silica sand,* between the ports of entry on the U.S.-Canadian border in MI and NY, on the one hand, and, on the other, points in IL and IN. Supporting shipper: William R. Barnes Co., Ltd., Box 260, Parkside Dr., Waterdown, Ontario 2HO CD.

MC 138388 (Sub-4–3TA), filed February 18, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, an individual, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Meat, meat products, meat byproducts, and articles distributed by meat packing houses,* between Waterloo, WI, on the one hand, and, on the other, points in IN, IL and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Champion Packers, Inc., P.O. Box 68, Waterloo, WI 53594.

MC 146184 (Sub-4–3TA), filed February 18, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Route 6, Box 161, Watertown, WI 53094. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *malt beverages* between Memphis, TN, and Beloit and Milton, WI. Restriction: restricted to transportation performed under continuing contract(s) with Beloit Beverage Company, Inc., and Harry P. Goodall, Inc. An underlying ETA seeks 120 days authority. Supporting Shippers: Beloit Beverage Company, Inc., 1530 Gale Drive, Beloit, WI 53511; and Harry P. Goodall, Inc., Route 3, 4273 Newville Road, Milton, WI 53563.

MC 151707 (Sub-4–24TA), filed February 19, 1982. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street—15th Floor, Wilmington, DE 19801. Representative: Dennis J. Kupchik (same address as applicant). *Contract:* Irregular: *Copper and copper products, aluminum and aluminum products, chemicals NOI, and materials and supplies used in the manufacture thereof* between Maspeth, NY, El Paso, TX and points in the US except the states of ID, MT, ND, SD, and WY, under continuing contract with Phelps Dodge Refining Corp. Supporting shipper: Phelps Dodge Refining Corp., 300 Park Avenue, New York, NY 10022.

MC 151707 (Sub-4–23TA), filed February 19, 1982. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street—15th Floor, Wilmington, DE 19801. Representative: Dennis J. Kupchik (same address as applicant). *Contract:* Irregular: *Copper and copper products, aluminum and aluminum products, materials and supplies used in the manufacture thereof* between Norwich, CT, Elizabeth, NJ, Ft. Wayne, IN, El Paso, TX, Yonkers, NY, DuQuoin, IL, Stockville, MS, Fordyce, AR, Elizabethtown and Hopkinsville, KY, Los Angeles, CA, Houston, TX, Chicago, IL, Atlanta, GA and points in the US except the states of ID, MT, WY, ND and under continuing contract with Phelps Dodge Industries, Inc. S.S.—Phelps Dodge Industries, Inc., 300 Park Ave., New York, NY 10022.

MC 151899 (Sub-4–14TA), filed, February 19, 1982. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603. *Contract,* Irregular, *Storage systems* from Fort Atkinson, WI and Lawrance, MA to West Lafayette, IN and Champaign, IL, under continuing contract(s) with Spacesaver Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Spacesaver Corporation, 1450 Janesville Ave., Fort Atkinson, WI 53538.

MC 152030 (Sub-4–3TA), filed, February 19, 1982. Applicant: WASPI TRUCKING, INC., 9500 Pyott Road, Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Contract, irregular: Such commodities as are used in the production of refractories,* from points in PA., VA., OH., GA., AL., MS., AR., TX., and MO. to the facilities of Plibrico Company at Firebrick, OH. and Chicago, IL. Supporting shipper: Plibrico Company, 1800 N. Kingsbury Street, Chicago, IL. 60614.

MC 152935 (Sub-4–11TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract,* irregular: *umbrellas and cushions* between Pomona, CA and points in IL, IN, KY, MO, and OH. An underlying ETA seeks 120 days' operating authority. Supporting shipper: California Umbrella Sales, Inc., 1325 East Franklin Avenue, Pomona, CA 91766.

MC 152935 (Sub-4–12TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract,* irregular: *bedroom furniture* between Cloverdale, CA and points in Denver, CO; Grand Mound, IA; Houston, TX; Lincoln, NE; Little Rock, AR; and Louisville, KY. An underlying ETA seeks 120 days' operating authority. Supporting shipper: Morgan Wood Products, Inc., 26972 Asti Road, Cloverdale, CA 95425.

MC 152935 (Sub-4–13TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract,* irregular: *wooden furniture* between San Jose, CA and points in Greenwood, IN and Louisville, KY. An underlying ETA seeks 120 days' operating authority. Supporting shipper: Sheer Comfort Company, Inc., 286 Sharcot Avenue, San Jose, CA 95131.

MC 158459 (Sub-4–2TA), filed February 18, 1982. Applicant: R.B.R. TRUCKING INC., 211 Kocher Street, Rockton, IL 61072. Representative: Richard McArdle (same addres as applicant). *Contract* irregular: 1) *Plastic articles less than two pounds per cubic foot* between Janesville, WI, on the one hand, and on the other, points in MI, IN, IL, OH, KY, NY & PA. Restricted to traffic moving under continuing contract with Fiberglass Engineering, 130 Freedom Lane, Janesville, WI 53545. 2) *Store display racks, NOI, O.T., flat not nested, moldings I/S NOI, galvanized plain or prime welded steel tubing 4" or less in diameter* between points in the state of WI, on the one hand, and on the other, points in the states of VT, NJ, TX, FL, OH, PA & WA. Restricted to traffic moving under continuing contract with United Industries Inc., 1546 Henry Ave., Beloit, WI 53511. 3) *Commodities as are dealt in, or used by, manufacturers or distributors of water conditioning equipment* between points in the U.S. Restricted to traffic moving under continuing contracts with Mechanical Inc., P.O. Box 690, Rt. 20 East, Freeport, IL 61032 and Techni-Chem Inc., 6853 Indy Drive, Belvidere, IL 61008. SS: Fiberglass Engineering, 130 Freedom Ln, Janesville, WI 53545; Mechanical, Inc., P.O. Box 690, Rt 20, E. Freeport, IL; United Industries, Inc., 1546 Henry Ave, Beloit, WI and Techni-Chem, Inc., 6853 Indy Dr; Belvidere, IL.

MC 159061 (Sub-4–2TA), filed February 19, 1982. Applicant: KENNY'S TRUCKING CO., 7800 S. Chicago Ave., Chicago, IL 60619. Representative: Austin O'Malley, 17600 S. Crawford, Country Club Hills, IL 60477. *Contract* regular: *Printed matters and related articles* used in the manufacturer sales, and distribution thereof, between Chicago, Dwight, IL Mattoon, IL, Crawfordsville, IN, Plymouth, IN, Warsaw, IN, and points in AL, GA, IA, IL, IN, KY, LA, ME, MD, MA, MN, MI, MS, NH, NJ, NM, OH, PA, RI, SC, TN, VA, VT, and WI. Restricted to traffic moving under continuing contract with R. R. Donnelley & Sons Co. Supporting shipper: R. R. Donnelley & Sons Co., 2223 Martin Luther King Dr., Chicago, IL 60619. An underlying ETA seeks 120 days authority.

MC 160552 (Sub-4–1TA), filed February 19, 1982. Applicant: GERALD FREDERICK, d.b.a. FREDERICK ENTERPRISES, Box 232, Richardton, ND 58652. Representative: Harlin Gilje, Box 19, Richardton, ND 58652, (701) 974–3301. *Contract;* irregular: *Machinery* between points in the U.S. under continuing contract with Richardton Manufacturing Company of Richardton, ND and Hoff Machine & Weld of Richardton, ND. Supporting shippers: Richardton Manufacturing Company; a Division of Core Industries Inc; Box 290; Richardton, ND 58652 and Hoff Machine & Weld, Box 294; Richardton, ND 58652.

MC 160664 (Sub-4–1TA), filed February 19, 1982. Applicant: REDWAY CONTRACT CARRIER CORPORATION, 500 Industrial Lane, Prairie View, IL 60069. Representative: Paul J. Maton, 10 South La Salle St., Room 1620, Chicago, IL 60603. *Contract;* irregular; *(1) Food products, in containers; and (2) materials, and supplies used in the processing, canning and bottling of food products; (except commodities in bulk),* between points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, OH, OK, PA, TN, TX, VA, WI, and WV, under continuing contract with Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142. An underlying ETA seeks 120 days authority. Supporting shipper: Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142.

MC 93315 (Sub-4–1TA), filed February 24, 1982. Applicant: McCOURT CARTAGE LIMITED, 1850 St. Luke Road, Windsor, Ontario, Canada N8W 3W7. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *General commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between ports of entry on the U.S.-Canada Boundary line, on the one hand, and on the other, points in MI, IL, IN and OH. An underlying ETA seeks 120 days authority. Supporting shipper: There are ten supporting shippers.

MC 109449 (Sub-4–13TA), filed February 19, 1982. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55987. Representative: Gary Shurson, P.O. Box 799, Winona, MN 55987. *Food and related products,* between points in Jackson County, OH, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, KS, LA, MS, MO, NC, OK, SC, and TX. Supporting shipper: Jeno's Inc., 525 Lake Ave, So., Duluth, MN 55802.

MC 109634 (Sub-4–1TA), filed February 24, 1982. Applicant: TRAILER CONVOYS, INC., 1248 Highway 31, Jeffersonville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* irregular general commodities, (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S. under continuing contracts with Wal-Mart Stores, Inc., Bentonville, AR. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116 Bentonville, AR 72712.

MC 126477 (Sub-4–1TA), filed February 22, 1982. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC., P.O. Box 9313—Baer Field, Fort Wayne, IN 46899. Representative: James P. Kirkhope, for Transport Management Services, Inc., P.O. Box 15296, Fort Wayne, IN 46885. *Contract,* Irregular: *General commodities,* except classes A

and B explosives and hazardous materials, when moving under freight forwarder bills of lading, Between Allen County, IN, on the one hand, and, on the other hand, Pittsburgh, PA, St. Louis, MO and their respective commercial zones and points in IL, KY, MI, OH, and WI under continuing contract(s) with American Shippers, Inc. of Fort Wayne, IN. Supporting shipper: American Shippers, Inc., P.O. Box 9726, Fort Wayne, IN 46899.

MC 128837 (Sub-4–24), filed February 25, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Iron and steel wire and wire products, and empty wooden spools,* between Kent, WA, on the one hand, and, on the other, New Madrid, MO. An underlying E/T/A seeks 120 days authority. Supporting shipper: Davis Walker Corporation, 6315 Bandini Blvd., Los Angeles, CA 90040.

MC 135410 (Sub-4–47TA), filed February 25, 1982. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North Sixth Street Road, P.O. Box 428, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. *(1) Plastic articles, cushioned envelopes, packaging machinery and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities in (1),* from the facilities of Packaging Industries Group, Inc., at or near Hyannis and Plymouth, MA to points in IL, IN, IA, KS, MI, MN, MO, OH and WI. Supporting shipper: Packaging Industries Group, Inc., 130 North Street, Hyannis, MA 02601.

MC 136635 (Sub-4–21TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Pulp, paper and related products,* (2) *rubber and plastic products,* (3) *lumber and wood products,* (4) *chemicals and allied products,* and (5) *such commodities as are dealt in by home improvement centers,* between the facilities of Union Camp Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470.

MC 136635 (Sub-4–22TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Plumbing fittings, plumbing fixtures, plumbing supplies, vanities, vanity cabinets and plastic articles,* between the facilities of Universal-Rundle Corporation located at New Castle, PA; Leominster, MA; Monroe and Union Point, GA; Corsicana and Hondo, TX; Tempe, AZ; Redlands, CA; Ottumwa, IA; Milwaukee, WI; Renssalear and Crawfordsville, IN and Salem, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: Universal-Rundle Corporation, 217 N. Mill Street, New Castle, PA 16101.

MC 136635 (Sub-4–23TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by manufacturers or distributors of containers and container closures,* between the facilities of Brockway Glass Company, Inc. at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Brockway Glass Company, Inc., McCullough Ave., Brockway, PA 15824.

MC 138569 (Sub-4–2TA), filed February 23, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Drive, Rapid City, SD 57701. Representative: David J. Stanton, Attorney, 2040 West Main, Suite 202, Rapid City, SD 57701. *Coal,* with back-haul of *sand* and *gravel, crushed rock, haydite* (expanded shale) in bulk from points in Campbell County, WY, to points in Pennington County, SD, with back-haul from points in Pennington County, SD, to points in Campbell County, WY. The underlying Temporary Authority seeks 270 days authority. Supporting Shippers: 1. South Dakota Cement Plant, P.O. Box 360, Rapid City, SD 57709. 2. J & D Precast, 2540 East Highway 44, Rapid City, SD 57701. 3. Reeves Concrete, P.O. Box 1358, Gillette, WY 82716.

MC 139154 (Sub-4–3TA), filed February 19, 1982. Applicant: RICHARDS TRANSPORT LTD., 1155 McKay St., Regina, Sask., Canada. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneaplis, MN 55402. *Steel pipe,* from points on the U.S.-Canadian border in ND and MT to points in MT, ND, SD and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Interprovincial Steel and Pipe Corporation Ltd., P.O. Box 1670, Regina, Saskatchewan S4P 3C7.

MC 139154 (Sub-4–4TA), filed February 22, 1982. Applicant: RICHARDS TRANSPORT LTD., 1155 McKay St., Regina, Saskatchewan, Canada. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. *Drilling Mud,* from points in WY to points on the United States/Canadian Border in MT and ND. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific West Canadian, Ltd., 108 Woodford Drive S.W., Calgary, Alberta T2W 4C3.

MC 140834 (Sub-4–2TA), filed February 22, 1982. Applicant: TURNER TRANSPORTATION, INC., Route 2. S Second St., Mitchell, IN 47446. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *School buses, in driveaway service,* from Mitchell, IN to Columbia, SC. Supporting Shippers: Interstate Transportation Equipment, Division of Superior Sales, Inc., P.O. Box 9163, 7660 Sumter Highway, Columbia, SC 29290.

MC 145344 (Sub-4–2), filed February 25, 1982. Applicant: WILLIAMS TRUCKING, INC., Rt. 1, 1396 Hwy. 13 No., Friendship, WI 53934. Representative: Velma Jean Williams (same address as applicant). *Transporting fertilizer in bulk and in tanks,* from points in IL, IA and MN to points in WI. Supporting shipper: Estech, Inc., 1996 Orrie Lane, Green Bay, WI 54304.

MC 146108 (Sub-4–4TA), filed February 22, 1982. Applicant: BIG T TRANSFER, INC., 2414 Jacobs Drive, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379–2556. *Contract* irregular: *(1) Stain, Paint, and Varnish, and (2) Materials, Equipment, and Supplies used in the manufacture and distribution of the commodities in (1) above.* Between Louisville, KY, on the one hand, and, on the other, points in AL, AR, CT, FL, GA, IN, LA, ME, MA, MS, MO, NJ, NH, NC, NY, OH, PA, TN, VT, VA, and WV, under continuing contract(s) with Olympic Stain, a Division of The Clorox Co., of Oakland, CA. An underlying ETA seeks 120 days authority. Supporting shipper: Olympic Stain, a Division of The Clorox Co., of Oakland, CA. 6804 Enterprise Drive, Louisville, KY 40214.

MC 147010 (Sub-4–2TA), filed February 22, 1982. Applicant: WHALEN TRUCKING, INC., 301 Prairie, Waverly, IL 62692. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Fertilizer and anhydrous ammonia,* from Ft. Madison, IA and Palmyra, MO to points in IL. Supporting shipper: Chevron Chemical Co., P.O. Box 282, Ft. Madison, IA 52626.

MC 147262 (Sub-4–3TA), filed February 23, 1982. Applicant: DETROIT AIR CARGO, INC., 28450 Highland Road, Romulus, MI 48174. Representative: James P. Kirkhope, for Transport Management Services, Inc., P.O. Box 15296, Fort Wayne, IN 46885, (219) 422–8884. *Contract,* irregular, *General Commodities,* except classes A and B explosives and hazardous materials, when moving under freight forwarder bills of lading, between Detroit, MI and its commercial zone, on the one hand, and, on the other hand, Chicago, IL, Milwaukee, WI, Pittsburgh, PA and their respective commercial zones and points in IN and OH, under continuing contracts with American Shippers, Inc., a certificated freight forwarder, of Fort Wayne, IN. Supporting Shipper: American Shippers, Inc., P.O. Box 9726, Fort Wayne, IN 46899.

MC 151899 (Sub-4–15), filed February 23, 1982. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract,* irregular, *shelving* from the facilities of Andrew Wilson Co. at Lawrence, MA to points in the U.S. under continuing contract(s) with Andrew Wilson Co. Supporting shipper: Andrew Wilson Co., 616 Essex St., Lawrence, MA 01842.

MC 152905 (Sub-4–1TA), filed February 23, 1982. Applicant: DWAN'S MOVING & STORAGE CO., INC., 207 Hawthorne Ave., St. Joseph, MI 49085. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contrac,t* irregular, *electronic equipment* from St. Joseph, MI, to States on and East of if the Mississippi River and the States of CO, KS, NE, OK and TX, under a continuing contract with the Heath Company, Supporting shipper: Heath Co., Hilltop Rd., St. Joseph, MI 49085.

MC 154767 (Sub-4–1TA), filed February 25, 1982. Applicant: RUSSELL L. DAUM, 1012 East Buchanan Street, Plainfield, IN 46168. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract,* irregular, *fertilizers and herbicides* (specific products: bulk lime, nitrogen solutions, phosphate solutions and combination of phosphates, nitrogen, potassium, various chemical herbicides, and potash), from Calumet Harbor, Marseilles, Peoria, Pekin, and El Paso, IL; Henderson, KY; Newton, IA; and Cincinnati, OH, to points in IN. Restricted to a contract or continuing contracts with Kaiser Agricultural Chemical Division of Kaiser Aluminum & Chemical Sales, Inc., Lebanon, IN, for 270 days. Supporting shipper: Kaiser Agricultural Chemical Division of Kaiser Aluminum & Chemical Sales, Inc., P.O. Box 30, Lebanon, IN 46052.

MC 156498 (Sub-4–2TA), filed February 22, 1982. Applicant: MORRIS VICE, d.b.a. ROYAL GREAT LAKE TOURS, 2008 W. Goguac Street, Battle Creek, Michigan 49015. Representative: William R. Ralls, 118 West Ottawa Street, Suite B, Lansing, Michigan 48933. *Passengers and their baggage,* in special and charter operations, between points in Battle Creek, MI, on the one hand, and on the other, points in the U.S. An underlying ETA was filed with the Commission. Supporting shippers: (1) Kellogg Community College, 450 North Ave., Battle Creek, MI 49017. (2) Youth For Christ, 157 Capital Ave., NE, Battle Creek, MI 49017. (3) City of Battle Creek Senior Citizens, 75 Irving Park Drive, Battle Creek, MI 49017.

MC 157280 (Sub-4–2TA), filed February 23, 1982. Applicant: DATIM, INC., 4117 Terminal Drive, McFarland, WI 53558. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Foodstuffs and materials, equipment and supplies* used in the manufacture, sale or distribution of such commodities (a) between Dane and Sauk Counties, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, KS, KY, MO, NC, NY, OH, PA, SC, and TN; and (b) between Madison, WI, on the one hand, and, on the other, the Chicago, IL, Commercial Zone. Restriction: Item (b) restricted to transportation to be performed for traffic originating or destined for Madison Dairy Produce Company. An underlying ETA seeks 120 days authority. Supporting shippers: Sauk City Canning Co., Inc., 401 J. Q. Adams St., Sauk City, WI 53583; Reedsburg Foods Corporation, Box 270, West 2nd and Eagle St., Reedsburg, WI 53959; and Madison Dairy Produce Co., 1018 East Washington, Madison, WI 53701.

MC 160488 (Sub-4–1TA), filed February 24, 1982. Applicant: BADGER TRANSPORT, INC., Route 2, Box 75, Clintonville, WI 54929. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. *Contract:* Irregular, (1) *Tractors* from Harrisburg, PA to Embarrass, WI; (2) *lumber,* (a) from points in WI to points in IA, IL and IN; (b) from points in MT, WA, MN and the Upper Peninsula of MI to points in WI, all under continuing contract(s) with Peterson Built Products, Inc., of Clintonville, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Peterson Built Products, Inc., Route 2, Box 75, Clintonville, WI 54929.

MC 160560 (Sub-4–1TA), filed February 25, 1982. Applicant: ASP, INC., d.b.a. AACTION MOYERS, 2100 Vermont, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. *Contract; irregular; transporting office machines and equipment and materials, equipment and supplies therefor,* between points in ND and points in Kittson, Rosseau, Marshall, Polk, Grant, Douglas, Stevens, Pope, Pennington, Red Lake, Clearwater, Mahnomen, Big Stone, Swift, Norman, Clay, Becker, Hubbard, Wadena, Wilkins, Otter Tail, and Traverse Counties, MN, under contract with Xerox Corporation, Des Plains, IL. Supporting shipper: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018; underlying ETA seeks 120 days authority.

MC 160719 (Sub-4–1TA), filed February 24, 1982. Applicant: VALLEY EXPRESS, INC., 39 North 7th Street, P.O. Box 301, Hilbert, WI 54129. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. *(1) Gasoline and kerosene containers, and (2) propane cylinders* from the facilities of Chilton Metal Products, a division of Western Industries, Inc., at or near Chilton, WI to points in CT, DE, MD, MA, NJ, NY, OH, PA, RI, VA and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Chilton Metal Products, a division of Western Industries, Inc., 300 Breed Street, Chilton, WI 53014.

MC 160721 (Sub-4–1TA), filed February 22, 1982. Applicant: RICHARD BELLERUD and ORVIN HELGESON, d.b.a. B & H ENTERPRISES, POB 344, Grafton, ND 58237. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Canned goods,* from Paris, TX to Fargo, ND. Supporting shipper: Nash Finch Co., POB 2368, Fargo, ND 58108.

MC 160722 (Sub-4–1TA), filed February 22, 1982. Applicant: LARRY SWIHART, an individual, d.b.a. SWIHART TRUCKING, Route No. 2, Silver Lake, IN 46982. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516. *Contract* irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Culver and Wabash, IN; Miami, FL; and Los Angeles, CA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Mexus Marketing

Group, 570 South Miami Street, Wabash, IN 46992.

MC 160726 (Sub-4–1TA), filed February 22, 1982. Applicant: DONALD W. SANTEE d.b.a. TONTO, Route 7, Box 358, Menomonie, WI 54751. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Forest products, lumber, and wood products,* between points in Clark, Eau Claire, Jackson, and Trempealeau Counties, WI, and Colfax, WI, on the one hand, and, on the other, points in the U.S. Supporting shippers: Fairchild Wood Products, Inc., P.O. Box 5, Fairchild, WI 54741; Russell Likeness, Route 1, Box 22, Colfax, WI 54730.

MC 160741 (Sub-4–1TA), filed February 24, 1982. Applicant: ASA FREIGHT SYSTEMS, INC., 45 West 6th St., Oshkosh, WI 54901. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *General commodities (except Classes A and B explosives)* between Brown, Calumet, Dodge, Fond du Lac, Outagamie, Washington, Waupaca and Winnebago Counties, WI; Milwaukee, WI and points within its commercial zone and Chicago, IL and points within its commercial zone. Applicant also intents to interline with other carriers at interchange points of Milwaukee, WI and points within its commercial zone and Chicago, IL and points within its commercial zone. Supporting shippers: 12.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 16334 (Sub-5–4TA), filed February 26, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. *Cellulose, Insulation, Vermiculite, Stall Bedding, and materials and supplies used in the manufacture and distribution thereof,* between Franklin County, KS; Hennepin County, MN; and Adams County, CO on the one hand, and, on the other, points in AR, CO, IL, IA, MN, MO, NE, and OK. Supporting shipper: Shelter Shield Products, a division of Insulation Sales Company, P.O. Box 582, Wellsville, KS 66092.

MC 79658 (Sub-5–1TA), filed February 24, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, Evansville, IN 47711. Representative: Robert C. Mills, Michael L. Harvey (same as applicant). Contract, Irregular; *general commodities [except Class A and B explosives],* (1) between points in CO, on the one hand, and, on the other, points in IN, IL, MN, MO, and OH, and (2) from points in IN, IL, MN, MO, and OH to Lexington, KY. Supporting shipper: IBM, Corp., Princeton, NJ.

MC 117478 (Sub-5–2TA), filed February 26, 1982. Applicant: SPERRY TRANSPORTATION CO., 907 F Street, Charles City, IA 50616. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Iron and Steel Articles,* from Neenah and Wausau, WI and points in the Chicago, IL Commercial Zone to Charles City and Nashua, IA. Supporting shipper(s): White Farm Equipment Co., 300 Lawler St., Charles City, IA 50616; B.C. Hydrotile, 69 Maple St., Nashua, IA 50658.

MC 128901 (Sub-5–2TA), filed February 25, 1982. Applicant: SUNLINE, LTD., a partnership, 8515 Greenville, Ave., Suite N–207, Dallas, TX 75243. Representative: Clayte Bintin, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104. *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in LA, MS, TX, NM and OK. There are 13 supporting shippers.

MC 135399 (Sub-5–6TA), filed February 24, 1982. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. Contract; Irregular. *Metal products, machinery and those commodities which because of their size or weight require the use of special handling or equipment,* between points in the United States. Supporting shipper: Morrow Crane Company, P.O. Box 45558, Houston, TX 77045.

MC 140149 (Sub-5–1TA), filed February 26, 1982. Applicant: M.C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *Steel tubing and automotive parts, viz. mufflers, exhaust and tail pipe, shock absorbers, springs and related hardware,* from the facilities of Midas International Corp., at Chicago, IL, to points in AR, MS, LA, OK, KY, TN and GA. Supporting shipper: Midas International Corp., 4101 W. 42nd Pl., Chicago, IL.

MC 143346 (Sub-5–1TA), filed: February 24, 1982. Applicant: BILLY JACK HOLLINGSWORTH d.b.a. HOLLINGSWORTH GRAIN & TRUCKING, Box 384, Sanger, TX 76266. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. *Frozen potato products* from points in WA to points in TX. Supporting shipper: William George Company, Inc., P.O. Box 407, Palestine, TX 75801.

MC 145970 (Sub-5–3TA), filed February 24, 1982. Applicant: SKILLETT & SONS, INC., Rush Center, Kansas, 67575. Representative: Erle W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, Kansas, 66603. Contract: Irregular. *General Commodities,* between Barton County, KS on the one hand and on the other, all points and places in the United States except AK and HI. Under Continuing contract with Fuller Brush Company, P.O. Box 729, Great Bend, KS 67530.

MC 151383 (Sub-5–13TA), filed February 24, 1982. Applicant: NICKELL TRUCKING CO., 4901 West 51st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular: *Ammunition handling trailers; wheels, tires, hubs, axles, undercarriages and machinery;* and *equipment and materials used in the manufacture and distribution thereof;* between pts in U.S. under continuing contract(s) with Superior Welding, Inc. of Bartlesville, OK. Supporting shipper: Superior Welding, Inc., P.O. Box 697, Bartlesville, OK 74005.

MC 152764 (Sub-5–2TA), filed February 25, 1982. Applicant: L.V.L., INC., 221 South Redman Road, Jacksonville, AR 72076. Representative: Richard L. Vassar (same as applicant). *Alcoholic beverages, (except in bulk),* from points in the U.S. to points in AR. Supporting shipper: Carlisle Distributing Company, Inc.; 200 N. Cedar; North Little Rock, AR 72114.

MC 153723 (Sub-5–9TA), filed February 25, 1982. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Wooden Disappearing Attic Stairways, Pocket Door Frames, Attic Fans and Metal Stampings;* and, *Food and Related Products*—Between Pulaski County, AR, on the one hand, and, on the other, points in AL, IL, KS, KY, LA, MO, OK, TN, and TX. Supporting shippers: Century Wel-Bilt Industries, Inc., Post Office Box 6240, Little Rock, AR 72216, C. Finkbeinder, Inc., Post Office Box 1007, Little Rock, AR 72203.

MC 153723 (Sub-5–10TA), filed February 25, 1982. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Meats and Meat By-Products* between Palestine, TX, on the one hand, and, on the other, points in the U.S. Supporting shipper: Vernon Calhoun Packing Co., Post Office Box 709, Palestine, TX 75801.

MC 154883 (Sub-5–7TA), filed February 26, 1982. Applicant: LOGGINS

TRUCKING COMPANY, 1925 Oakhurst Circle, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Wooden Reels* between Jefferson, TX, on the one hand, and on the other, to Phoenix, AZ. Supporting shipper: Baker Reels Inc., P.O. Box 689, Jefferson, TX 75657.

MC 156076 (Sub-5–2TA), filed February 26, 1982. Applicant: ROLLER TRUCKING, INC., P.O. Box 379, Beebe, AR 72012. Representative: Arthur A. Roller (same as above) *Lumber and Wood Products,* between points in AR, on the one hand and points in CO, on the other. Supporting shipper: Denver Hardwood Co., Denver, CO.

MC 156328 (Sub-5–4TA), filed February 26, 1982. Applicant: U.S. TRANSPORTATION, LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder, Pres. (same as above). Contract; Irregular. (1) *Pneumatic tires and materials and supplies used in the manufacture and distribution thereof,* between Polk County, IA on the one hand, and on the other, pts. in the U.S. Applicant intends to tack. Supporting shipper: Ruan Tire Sales and Service, Des Moines, IA.

MC 159396 (Sub-5–1TA), filed February 25, 1982. Applicant: G.A. TRUCKING CO., P.O. Box 314, Stephens, AR 71764. Representative: T. A. Womack, P.O. Box 777, Camden, AR 71701. *Roofing and Roofing Materials,* between Ouachita County, AR on the one hand, and, on the other, points in LA, MO, MS, TN, AL, OK and TX. Restricted to shipments originating at or destined to the facilities of ELCOR Corp. of Stephens, AR. Supporting shipper: Elk Corp of Arkansas, P.O. Box 37, Stephens, AR 71764.

MC 160681 (Sub-5–1TA), filed February 25, 1982. Applicant: RICHARD L. PEASE, d.b.a., T-TOWN TRUCKING, 8111 Capital View Drive, Topeka, KS 66617. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Pet food,* From Topeka, KS to the Commercial zones of Los Angeles, Vernon, San Carlos, San Diego and West Los Angeles, CA. Supporting shipper: Hill's Pet Products, Inc., 401 Harrison, Topeka, KS 66603.

MC 160734 (Sub-5–1TA), filed February 24, 1982. Applicant: STAR TRANSPORT CO., Route 1, Wentworth, MO 64873. Representative: Kenneth Raley (same as applicant). *Asphalt, Emulsified Asphalt, Fuel Oils, Jet Fuel, and Gasoline,* between AR, KS, MO, OK, and TN. Supporting shipper: (1) Riffe Petroleum Co., 5801 E. 41st St., Tulsa, OK 74135; (2) Midwest Asphalt Products Co., 4602 Pearl Ave., Joplin, MO 64801; (3) Sunbelt Petroleum Products, Inc., 1350 W. Main, Oklahoma City, OK 73106.

MC 160769 (Sub-5–1TA), filed February 26, 1982. Applicant: ROY HARPER TRUCKING, INC., 315 Meuse Court, Blue Grass, IA 52726. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular: *Food and Related Products,* between pts in Clinton and Scott Counties, IA on the one hand, and, on the other, pts in the St. Louis, MO–E St. Louis, IL Commercial Zone and pts in St. Louis County, MO. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164.

MC 160770 (Sub-5–1TA), filed February 26, 1982. Applicant: JAMES LEETE, d.b.a. JAMES LEETE TRUCKING, P.O. Box 147, Farmersburg, IA 52047. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Dry fertilizer,* (1) from Praire du Chien, WI, to Dubuque, Delaware, Clayton, Fayette, and Buchanan Counties, IA; and (2) from Hennepin, IL and Viroqua, Sun Prairie, and Madison, WI to Clayton, Allmakee, and Winneshiek Counties, IA. Supporting shippers: (1) Three Rivers FS Co., P.O. Box 248, Earlville, IA 52041; (2) Farm Bureau Service Company, P.O. Box 127, Maynard, IA 50655; and (3) D & J Feed Service, Inc., Route 1, Monona, IA 52159.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 151761 (Sub-6–2TA), filed February 18, 1982. Applicant: A. C. CARTAGE (1965), LTD, 8958 120th St., Surrey, B.C., CN V3V 4B4. Representative: Bill Gardiner (same as applicant). (1) *Forest products* (2) *Lumber/wood products* (3) *clay, concrete, glass & stone products;* (4) *metal products related* (5) *gyproc & wallboard* between POE at CN/US border in WA and points in WA and OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Windsor Bldg Supplies, 10382 176th St., Surrey, BC, CN; Bear Creek Forest Prod, Rt. 1, POB 25B, Winthrop, WA 98862; Weldwood of Canada, 10619 Robson Rd., Surrey, BC, CN; Brel Wood Prod., POB 111, Nanaimo, BC, CN.

MC 114917 (Sub-6–1TA), filed February 18, 1982. Applicant: DART TRANSPORTATION SERVICE: 1430 S. Eastman Ave., Los Angeles, CA 90023. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract carrier,* irregular route; such *commodities as are dealt in by mail order houses and retail department stores* between points in AZ, NV, CA and TX for the account of Terminal Freight Handling Company for 270 days. Supporting shipper: Terminal Freight Handling Co., 1430 Branding Lane, Downers Grove, IL 60515.

MC 160642 (Sub-6–1TA), filed February 16, 1982. Applicant: E. & B. MUD WAREHOUSING, LTD., P.O. Box 1786, Claresholm, AB, Canada T0L 0T0. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Drilling mud, drilling mud chemicals, and pallets* (except commodities in bulk), from Greybull, WY and Missoula, MT to points on the International Boundary line between the U.S. and Canada located in MT, under a continuing contract(s) with WYO–BEN, Inc. of Billings, MT, for 270 days. Supporting shipper: WYO–BEN, Inc., P.O. Box 1979, Billings, MT 59103.

MC 160615 (Sub-6–1TA), filed February 17, 1982. Applicant: J & LH ENTERPRISES, INC., d.b.a. BILL HILL TRUCKING, 861 Grey Ave., Yuba City, CA 95991. Representative: Jerry W. Hill, 3920 Silver Spur Way, Sacramento, CA 95841. *Contract Carrier,* Irregular routes: *Lumber and Wood Mouldings,* from Yuba City, CA to points in OR, WA, ID, MT, WY, UT, CO, AR, NV, and NM for the account of Yuba River Moulding and Millwork, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Yuba River Moulding and Millwork, Inc., P.O. Box 1078, Yuba City, CA 95991.

MC 160425 (Sub-6–1TA), filed February 16, 1982. Applicant: BETTY JENSEN, d.b.a. HUSKY HAULERS, P.O. Box 60488, Fairbanks, AK 99706. Representative: Everett L. Jensen (same as applicant). (1) *General commodities,* (except Class A and B explosives, hazardous waste materials, and household goods as defined by the Interstate Commerce Commission) between all points in AK, CA, OR, WA; (2) *mercer commodities,* between all points in AK, AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WY; and (3) *mining and construction equipment, materials, and supplies,* between all points in AK, AZ, CA, CO, IA, ID, IL, KS, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 152109 (Sub-6–7TA), filed February 16, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box

20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th Street, Suite 1000, Washington, DC 20036. *Contract carrier,* irregular route: *Mouldings, mill work, baled wood shavings* and *gypsum wallboard* from points in El Paso County, TX to points in Maricopa County, AZ; Cochise County, AZ; Clark County, NV; and Santa Fe County, NM under continuing contract(s) with Howrey Lumber Company, Inc., for 270 days. Supporting shipper: Howrey Lumber Company, Inc., 4585 Ripley, El Paso, TX 79922.

MC 160616 (Sub-6–1TA), filed February 11, 1982. Applicant: G. W. KAYS TRUCKING, 9950 E. 8 Mile Road, Stockton, CA 95212. Representative: Gary Wayne Kays (same as above). (1) *Lumber,* and (2) *Chemicals in drums and/or cartons,* between Stockton and Sacramento, CA; from points in AZ, NV, WA, OR, UT, ID to points in CA; from points in CA to points in AZ, NV, WA, OR, ID, UT, for 270 days. Supporting shippers: Timberline Products, 4420 Mariposa Rd., Stockton, CA 95205; Beaver Chemicals, 1448 Shaw Rd., Stockton, CA 95212.

MC 136071 (Sub-6–1TA), filed February 18, 1982. Applicant: KISSNER TRANSPORT, LTD., 529 12th Ave. E., Regina, Sask, CN S4P 3A1. Representative: William L. Libby, 5200 Willson Rd., Suite 307, Edina, MN 55424. *Dry fertilizer,* in bulk, between Ports of Entry on the International Boundary Line between the U.S. and CN in MT, ND and MN, on the one hand, and, on the other, points in MT, MN, ND, SD, IA, NE and WI, for 270 days. Supporting shippers: Edenwold Fertilizer, Ltd., Box 66, Edenwold, Sask., CN SOG 1K0; and Cargill, Inc., Gluek, MN 56261.

MC 160641 (Sub-6–1TA), filed February 11, 1982. Applicant: J. DAVID OATES, P.O. Box 2866, Cheyenne, WY 82001. Representative: J. David Oates (same as applicant). *Contract carrier,* irregular routes: *Beer, not in bulk,* from, to or between points in TX, CO, and WY for the account of Orrison Distributing, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Orrison Distributing, Inc., 1111 Dunn Ave., Cheyenne, WY 82001.

MC 159832 (Sub-6–3TA), filed February 18, 1982. Applicant: PAR TRUCKING, INC., 1008 E. Morven, Lancaster, CA 93535. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Sand, silica sand and limestone,* in bulk, from Mead Lake (Overton), NV to Long Beach, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Manville Service Corporation, 2600 Campus Drive, San Mateo, CA 94403.

MC 145813 (Sub-6–3TA), filed February 17, 1982. Applicant: POINTS WEST TRUCKING, INC., P.O. Box 55085, Valencia, CA 91355. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Rubber and plastic products,* (a) between Sparks, NV and Long Beach, CA; and (b) from Bergen County, NJ to Sparks, NV and points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Colorite Plastic Company, 101 Railroad Ave., Ridgefield, NJ 07657.

MC 160643 (Sub-6–1TA), filed February 17, 1982. Applicant: RONALD LEE SHAFFER AND SHARON LOUISE SHAFFER, a partnership d.b.a., R. L. SHAFFER AND SON TRUCKING, P.O. Box 532, LaSalle, CO 80645. Representative: Ronald Lee Shaffer (same as applicant). *Clay, Concrete, Glass, or Stone Products* from points in McPherson and Franklin Counties, KS to points in Weld, Larimer, Boulder, Denver, Adams, Jefferson, Logan, Arapahoe, and Morgan Counties, CO, and Laramie County, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cowan Concrete Products, Inc. d.b.a. Mobile Premix, Inc., P.O. Box 1647, Greeley, CO 80632.

MC 160649 (Sub-6–1TA), filed February 18, 1982. Applicant: SMALLEY TRUCKING COMPANY, P.O. B. 486, Sutherlin, OR 97479. Representative: Michael J. Smalley (same as applicant). *Lumber and wood products and related building materials* between points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, NM, for 270 days. Supporting shippers: There are 6 shippers. Their statements may be examined at the Regional Office listed above.

MC 160649 (Sub-6–2TA), filed February 18, 1982. Applicant: SMALLEY TRUCKING COMPANY, P.O.B. 486, Sutherlin, OR 97479. Representative: Michael J. Smalley (same as applicant). *Baled paper and cardboard for recycling and related products* between points in OR, WA, CA, NV, ID, UT for 270 days. Supporting shippers: Northern Paper Stock Co., P.O.B. 99, San Anselmo, CA 94960; Consolidated Fibres, Inc., 5327 Jacuzzi St., Richmond, CA; Northwest Paper Fibers, P.O.B. 10444, Portland, OR 97210.

MC 159093 (Sub-6–1TA), filed February 18, 1982. Applicant: LARRY C. SMITHEY, 2601 Coors, Albuquerque, NM 87120. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract Carrier* irregular route: *wood and lumber, clay, mica, dry wall texturing compound, drywall, building materials* between points in CA, AZ, and NM for the account of Hamilton Materials, Inc., for 270 days. An underlying ETA seeks 120 days' Authority. Supporting shipper: Hamilton Materials, 345 Meats Avenue, Orange, CA 92665.

MC 151471 (Sub-5–17TA), filed February 18, 1982. Applicant: STEINBECKER BROS., INC., P.O.B. 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., #665, Denver, CO 80203. (1) *Malt beverages* and (2) *related advertising materials,* from St. Paul, MN and St. Louis, MO and points in their commercial zones, to points in Carbon and Albany Counties, WY, for 270 days. Supporting shipper: Smith Beverages. P.O.B. 1206, 105 Clark St., Laramie, WY, 82070.

MC 160345 (Sub-6–2TA), filed February 22, 1982. Applicant: EATON TRANSPORTATION COMPANY, INC., 2951 Coors Court, Santa Rosa, CA 95401. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Food products,* from points in Butte, Sonoma, San Francisco, Alameda and Marin Counties, CA, to points in Denver and Mesa Counties, CO, under a continuing contract(s) with Knudsen & Sons, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Knudsen & Sons, Inc., P.O. Box 369, Chico, CA, 95927.

MC 154996 (Sub-6–3TA), filed February 22, 1982. Applicant: JOHNSTON MEATS, INC., Rt. 3, Box 3514 Cabana Rd., Hermiston, OR 97838. Representative: Earl M. Johnston (same as applicant). *Lumber, plywood, chipboard, siding, roofing and shingles,* between points in OR, WA and ID for 270 days. An underlying ETA application seeks 120 days authority. Supporting shippers: Marlette Homes, Inc., 400 W. Elm, Hermiston, OR 97838; and Georgia-Pacific Corporation, P.O.B. 1180, Pasco, WA 99301.

MC 157112 (Sub-6–2TA), filed February 19, 1982. Applicant: SIMONICH TRUCKING, 3455 15th Avenue South, Great Falls, MT 59403. Representative: Mr. F. B. Simonich (same address as applicant). *Contract Carrier:* Irregular Routes: *Liquor, Malt (Beer) and Wine* from points in CA, WA and OR to Great Falls, Havre and Conrad, MT, under continuing contract(s) with Gusto Distributing Company d.b.a., Bruce Watkins Distributing Company, Great Falls, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gusto Distributing d.b.a., Bruce Watkins Distributing Company, 624 3rd South, Great Falls, MT 59403.

MC 160669 (Sub-6–1TA), filed February 19, 1982. Applicant: SUNRAY COOPERATIVE TRUCKING INC., Bldg. 123, Naval Shipyards, San Francisco, CA 94124. Representative: Patrick Shannon (same as applicant). *Contract Carrier,* Irregular routes *General Commodities* except "Class" A: Explosives, as described in ATA Hazardous Materials Tariff ICC ATA 111–B, Commodities in Bulk Frozen or Cold Pack Merchandise, except when in shippers equipment; Meat, Fresh; Merchandise delivered to or picked up at a residence; Milk or Cream, fresh; Poultry; Uncrated Household Goods; Hazardous Materials; Corrosive Materials, all points in CA north of the southern borders of Monterey, Kings, Tulare and Inyo Counties, including: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Sierra, Lake, Nevada, Placer, Yuba, Sutter, Colusa, Sonoma, Yolo Napa, Solano, El Dorado, Amador, Sacramento, Alpine, Mono, Marin, Contra Costa, San Joaquin, Calaveras, Tuolumne, San Francisco, Alameda, San Mateo, Santa Cruz, Santa Clara, Stanislaus, Merced, Mariposa, Madera, Fresno, Inyo, San Benito, Monteray, Kings and Tulare, for 270 days. Supporting shippers: Midwest Pacific Consolidators, Inc., 12200 Shirley Lane, Alsip, IL 60658; United Shippers Association, Inc., 3475 So. Cicero Ave., Cicero IL 60650; Pacific Coast Wholesalers Association, 610 So. Main St. #624, Los Angeles CA. 90014.

MC 121608 (Sub-6–1TA), filed February 23, 1982. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida St., Denver, CO 80216. Representative: Joseph F. Nigro, 1660 Lincoln St., Denver, CO 80264. *Contract carrier,* irregular routes, *copying and duplicating equipment and office and business machines including parts, accessories and supplies used in the manufacture and installation of such commodities crated or uncrated, requiring specialized handling* in the installation for Xerox Corporation only between points in CO on the one hand, and points in WY and UT on the other hand for 270 days. Supporting shipper: Xerox Corporation, 3000 Des Plaines, Des Plaines, IL 60558.

MC 120166 (Sub-6–1TA), filed February 22, 1982. Applicant: ASSEMBLY AND DISTRIBUTION TERMINALS OF MASSACHUSETTS, INC., 2800 N. Going St., Portland, OR 97217. Representative: Joseph T. Bambrick, Jr., P.O.B. 216, Douglassville, PA 19518. *Contract carrier,* irregular routes, *General commodities* (except classes A and B explosives) between points in the U.S. under continuing contract with General Nutrition Corporation, for 270 days. Supporting shipper: General Nutrition Corporation, 3125 Preble Ave., Pittsburgh, PA 15233.

MC 159011 (Sub-6–2TA), filed February 22, 1982. Applicant: Dick Glasser & Son's LTD., 4055 E. 64th, Commerce City, CO 80022. Representative: Thomas J. Simmons, 5301 N. Cliff Ave., P.O.B. 480, Sioux Falls, SD 57101. *Meat and packing house products* between facilities utilized by Sterling Colorado Beef Company in CO, on the one hand, and, on the other, points in AL, CA, FL, GA, IL, IN, IA, KY, MA, MD, MI, MO, NH, NJ, NY, NC, OH, OR, PA, SC, TN, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sterling Colorado Beef Company, 1500 Right of way Rd., P.O.B. 1728, Sterling, CO 80751.

MC 1515 (Sub-6–16TA), filed February 22, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix AZ 85077. Representative: R. L. Wilson (same as Applicant). *Common carrier,* regular route *passengers and their baggage and express and newspapers in the same vehicle with passengers,* between Kingman, AZ and the California-Arizona State Line east of Needles, CA, serving all intermediate points: From Kingman over U.S. Highway 93 to Junction AZ State Highway 68, thence over AZ State Highway 68 to Junction AZ State Highway 95, thence over AZ State Highway 95 to Bullhead City, thence over AZ State Highway 95 to the California-Arizona State Line and return over the same route, for 180 days. An underlying E.T.A. seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in MC–1515. Supporting shippers: There are 9 shippers. Their statements may be examined at the Regional Office listed above.

MC 160702 (Sub-6–1TA), filed February 19, 1982. Applicant: GARY WAYNE HOGE, P.O. Box 4722, Helena, MT 59624. Representative: Lawrence D. Huss, P.O. Box 514, Helena, MT 59601. *Contract carrier,* irregular routes: *Agricultural limestone and fertilizers and other soil conditioners,* from all points in WA and ID to Helena, MT, for the account of Agri-Feeds & Service, Inc., for 270 days. Supporting shipper: Agri-Feeds & Service, Inc., 1518 Dodge Avenue, Helena, MT 59624.

MC 156061 (Sub-6–2TA), filed February 22, 1982. Applicant: LAND & SEA, INC., Route 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Fertilizer and feed ingredients,* between points in ID, OR, UT, and WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: H. J. Stoll & Son, 2320 S.E. Grand Ave., Portland, OR 97214; Smith & Ardussi, Inc., 1200 W. Amity, Boise, ID 83705.

MC 160701 (Sub-6–1TA), filed February 19, 1982. Applicant: MALERBA TRANSPORT, INC., 3592 Red Cloud Dr., Lake Havasu City, AZ 86403. Representative: Edward C. Kenney (same as applicant). *Contract Carrier,* Irregular routes: *Water Bed Linens, Assesories, Supplies, Raw Materials,* and *Equipment,* between Lake Havasu City, AZ and Points in the 48 United States for the account of Hydro-Dynamics, Inc., for 270 days. Supporting shipper: Hydro-Dynamics, Inc., 2000 Industrial Blvd., Lake Havasu City, AZ 86403.

MC 142631 (Sub-6–2TA), filed February 19, 1982. Applicant: L. PEABODY TRUCKING, INC., 4290 Elton St., Baldwin Park, CA 91776. Representative: Mark S. Gray, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Contract Carrier,* Irregular routes: *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in NY, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, CO, IL, TX and OH, *under a continuing contract(s) with Benlin Distribution Services, Inc. of Buffalo, NY.* Supporting shipper: Benlin Distribution Services, Inc., 32 Mississippi Street, Buffalo, NY 14203, for 270 days. An underlying ETA seeks 120 days authority.

MC 160252 (Sub-6–1TA), filed January 22, 1982. Applicant: ROBERT QUINN, d.b.a. ROBERT QUINN HOT SHOT SERVICE, 1556 9th Street, Rock Springs, WY 82901. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Machinery, equipment: Tools, and supplies used in the discovery, production, transmission, maintenance and refining of petroleum or natural gas,* in hot shot service between points in CA, CO, ID, KS, MT, NE, NM, NV, ND, OK, SD, TX, UT, WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Halliburton Services, P.O. Box 369, Rock Springs, WY; The Western Company of North America, P.O. Box 1660, Rock Springs, WY; Overthrust Tool & Supply Co., 1409 South 1500 East, Vernal, UT; Saxon Oil Field Services, Inc., P.O. Box 1487, Vernal, UT.

MC 151366 (Sub-6–1TA), filed February 23, 1982. Applicant: ROSS

TRUCKING CO., 2516 Moyers Rd., Richmond, CA 94806. Representative: Frederick D. Ross (same as applicant). *Contract carrier,* irregular routes, *reinforced concrete beams,* from the facilities of Retaining Walls, Inc., located in Alameda County, CA, to points in Washoe and Elko County, NV, for 270 days. Supporting shipper: Retaining Walls, Inc., P.O.B. 1036, Orinda, CA 94563.

MC 160409 (Sub-6–1TA), filed February 23, 1982. Applicant: SOUTHERN NEVADA MOVERS, INC., 1037 E. Colton Ave., Las Vegas, NV 89030. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702. *Display cases; trade fixtures,* between points in Clark County, NV, on the one hand, and points in the US, including AK but excluding HI, on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J & R Building Co., 2120 E. Serene, Henderson, NV 89015.

MC 160403 (Sub-6–4TA), filed February 22, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O.B. 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Commodities dealt in by grocery and food business houses,* from the facilities of Honey Wheat Farms, Inc. at or near Salt Lake City, UT to points in CA, CO, ID, MT, and OR, for the account of Honey Wheat Farms, Inc., for 270 days. Supporting shipper: Honey Wheat Farms, Inc., 3783 South 500 West, Suite 5, Salt Lake City, UT 84115.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6148 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub-56N)]

Rail Carriers; Conrail Abandonment of the Cairo Branch Line in Illinois; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 101.1 at Lawrenceville and milepost 126.3 near Mt. Carmel in the Counties of Lawrence and Wabash, IL, a total distance of 25.2 miles effective on January 8, 1982.

The net liquidation value of this line is $1,601,971. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6150 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub-98N)]

Rail Carriers; Conrail Abandonment of Trackage Rights Between Beesons and Cambridge City, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to discontinue service over its rail line between Beesons (milepost 5.4) and Cambridge City (milepost 12.0) in the Counties of Fayette and Wayne, IN, a total distance of 6.6 miles effective on January 11, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6151 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub-103N)]

Rail Carriers; Conrail Abandonment Between D&M Connection and Aqueduct, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between D&M Connection (milepost 0.3) and Aqueduct (milepost 4.1) in the County of Schenectady, PA, a total distance of 3.8 miles effective on February 9, 1982.

The net liquidation value of this line is $173,722. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6156 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub-99N)]

Rail Carriers; Conrail Abandonment Between Lansdown and Clinton, N.J.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Lansdown (milepost 57.9) and Clinton (milepost 59.6) in the County of Hunterdon, NJ, a total distance of 1.7 miles effective on February 4, 1982.

The net liquidation value of this line is $32,385. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6152 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub-100N)]

Rail Carriers; Conrail Abandonment Between Flemington Junction and Flemington, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Flemington Junction (milepost 50.8) and Flemington (milepost 52.7) in the County of Hunterdon, NJ, a total distance of 1.9 miles effective on February 3, 1982.

The net liquidation value of this line is $98,776. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–6153 Filed 3–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB-167 (Sub-102N)]

Rail Carriers; Conrail Abandonment at Allentown, Pa.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 93.5 and milepost 96.9 in Allentown in the County of Lehigh, PA, a total distance of 3.4 miles effective on February 3, 1982.

The net liquidation value of this line is $354,181. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6155 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-101N)]

Rail Carriers; Conrail Abandonment Between Irwin and Bilott County, Pa; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Irwin (milepost 0.0) and Bilott Co. (milepost 2.1) in the County of Westmoreland, PA, a total distance of 2.1 miles effective on February 3, 1982.

The net liquidation value of this line is $70,925. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6154 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-109N)]

Rail Carriers; Conrail Abandonment Between Langeloth Junction and Atlasburg, Pa; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Langeloth Junction (milepost 2.2) and Atlasburg (milepost 4.3) in the County of Washington, PA, a total distance of 2.1 miles effective on February 9, 1982.

The net liquidation value of this line is $43,192. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6159 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-107N)]

Rail Carriers; Conrail Abandonment Between Petersburg and Alexandria, Pa.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Petersburg (milepost 0.1) and Alexandria (milepost 6.0) in the County of Huntington, PA, a total distance of 5.9 miles effective on February 9, 1982.

The net liquidation value of this line is $350,027. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6158 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-110N)]

Rail Carriers; Conrail Abandonment Between Scottdale and Mt. Pleasant, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Scottdale (milepost 0.0) and Mt. Pleasant (milepost 5.5) in the County of Westmoreland, PA, a total distance of 5.5 miles effective on February 9, 1982.

The net liquidation value of this line is $101,949. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commision shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6160 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-40N)]

Rail Carriers; Conrail Abandonment in Scranton, PA; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 2.6 and milepost 3.7 in Scranton in the County of Lackawanna, PA, a total distance of 1.1 miles effective on February 5, 1982.

The net liquidation value of this line is $176,276. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc 82-6140 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-105N)]

Rail Carriers; Conrail Abandonment Between Manor and the End of the Line in Westmoreland County, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Manor (milepost 0.0) and the end of the line (milepost 1.6) in the County of Westmoreland, PA, a total distance of 1.6 miles effective on February 9, 1982.

The net liquidation value of this line is $46,834. If, within 120 days from the date of this publication, Conrail receives a bonafide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6157 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29852]

Rail Carriers; Seaboard Coast Line Railroad Co. and Atlantic Land and Improvement Co.; Acquisition Fort Myers Southern Railroad Company; Exemption

March 1, 1982.

On February 10, 1982, the Seaboard Coast Line Railroad Company (SCL) and its wholly-owned subsidiaries, Fort Myers Southern Railroad Company (Fort Myers) and Atlantic Land and Improvement Company (AL&I), notified the Commission of their intent to dissolve Fort Myers as a corporate entity. Upon dissolution, AL&I will purchase all of Fort Myers' non-operating real property and the remainder of the property will be acquired by SCL.

Fort Myers consists of 24.51 miles of rail line from Fort Myers, FL, to Vanderbilt Beach, FL. Fort Myers is operated by SCL employees as a part of SCL's Tampa Division. The proposed transactions, therefore, will not change present operations or impact on employees, shippers, or on rail service. After dissolution, SCL will assume all liabilities and obligations of Fort Myers. All capital stock of Fort Myers will be cancelled and no shares of capital stock, bonds, or other securities will be issued.

This is a transaction within a corporate family which is exempt because it does not result inadverse changes in service levels, significant operational changes, or a change in the competitive belance with carriers outside the corporate family (49 CFR 1111.5(c)(3)). SCL is undertaking this transaction to improve its operating and managerial flexibility and efficiency.

As a condition to the use of this exemption, any Fort Myers employees affected by this transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6147 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Funding Policy for Special Emphasis Programs for Fiscal Year 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Publication of Proposed Office of Juvenile Justice and Delinquency Prevention Funding Policy for the Special Emphasis Program for Fiscal Year 1982.

SUMMARY: Notice is given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), in planning for implementation of the Administration's proposed phaseout of programs funded under Title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, in Fiscal Year 1983, proposes to utilize Fiscal Year 1982 "Special Emphasis" grant funds primarily to fulfill grant continuation commitments to projects previously funded under a project period system of funding OJJDP Special Emphasis programs. The Office will fund no new Special Emphasis programs or projects unless: (1) They relate to training activities for junvenile justice programs who deal with serious or violent juvenile offenders; (2) they are determined by the Administrator to be priority activities consistent with the Administration's current or future plans; or (3) they constitute an exceptional or emergency circumstance. The Catalog of Federal Domestic Assistance reference for Special Emphasis programs is 16.541. This announcement indirectly affects research, standards, statistics and training programs funded by the National Institute for Juvenile Justice and Delinquency Prevention, catalog reference number 16.542, and OJJDP Technical Assistance efforts, catalog reference number 16.541.

This announcement does not require a Regulatory Impact Analysis under section 3d of Executive Order 12291, or a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*

DATES: Comments must be submitted on or before April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, Telephone: 202/724-7751.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention is established by Title II of the Juvenile Justice and Delinquency Prevention Act of 1974. The Title II grant program consists of formula grants awarded to the States and research, training, standards, information, statistics and Special Emphasis categorical grants made directly to eligible recipients. The Administration's budget proposal for Fiscal Year 1983 provides no additional funds for new or continuation grants or other Title II program activities currently administrated by the Office of Juvenile Justice and Delinquency Prevention. Therefore, the Office does not anticipate that there will be continuation of categorical grant programs and projects, which would otherwise be eligible for continuation consideration in Fiscal Year 1983 or 1984, from direct Federal fund sources.

It is the intention of the Office to fulfill the public interest and to act in a manner consistent with the Administration's proposed budget with Title II Special Emphasis funds available for Fiscal Year 1982. To achieve this goal, the primary concern to the Office is to assure responsible financial accountability and administration of Fiscal Years 1980–1982 funds which will continue to be available for obligation and expenditure in Fiscal Years 1982–84. Even without a Fiscal Year 1983 appropriation for categorical programs the Office will avoid premature grant termination actions (except for cause) and will attempt to make the maximum use of available funds. It is not in the best interest of the government to begin or continue projects which cannot be completed. Therefore, the general funding plan will be to forego funding of new activities which require long range multi-year funding or which do not offer prospects of becoming self-sufficient or

assumed by State, local or private fund sources. It is in the public interest to complete or bring to a useable stage as many ongoing activities as possible. In Fiscal Year 1982, most of the Special Emphasis projects will have reached this stage. This general funding plan will be carried out as specified in this policy except to the extent that formal rescissions or deferrals of current spending authority are approved by Congress.

Policy

Continuation Grant Policy.—The proposed fund allocations are based largely on OJJDP's interest in completing and evaluating the final budget period of three major competitive programs started in Fiscal Year 1980. All projects under each of these programs cannot be completed as sufficient funds are not available.

The categorical grant programs of the Office generally provide for a fixed term of activity under the "project period" system of award. Under this system, grant activities are approved for a fixed "project period" constituting the entire activity of the grant and are funded by separate awards under shorter "budget periods." The major Special Emphasis programs slated for refunding of an additional budget period within an existing project period in Fiscal Year 1982 are the "New Pride", "Alternative Education" and "Youth Advocacy" Programs. Much smaller amounts may need to be allocated to finish activities relating to the "Restitution" Program, which received a final major fund allocation in Fiscal Year 1981 or the Violent Offender Program, which is ongoing but does not require major funding from Fiscal Year 1982 sources. The final budget period for the three major programs will be funded to the maximum extent funds are allocated and available for these commitments. Because of reduced funding and the existence of more projects than are necessary to demonstrate and evaluate the program concepts in Alternative Education, New Pride and Youth Advocacy, all eligible projects may not be eligible to receive continuation funds.

Miscellaneous Special Emphasis grant projects awarded outside of or prior to the adoption of the project period system will generally not be considered for continuation funding. This restriction is necessary because competitive project period continuations have a higher funding priority and adequate Fiscal Year 1982 continuation funds are not available for refunding all projects that were competitively awarded under the project period system.

Fiscal Year 1982 Grant Policy

The Administration has proposed in its Fiscal Year 1983 budget that no funds be made available for programs of the Juvenile Justice and Delinquency Prevention Act. The current status of the Special Emphasis program is such that three major program efforts were to be largely completed with 1982 funds. These were not slated to receive Fiscal Year 1983 funding. These three programs, along with programs completed in prior years, have covered most of the Special Emphasis program categories authorized by section 224(a) of the Act.

The 1980 Amendments to the Act provide an impetus to programs impacting youth who commit serious and violent crimes. The Attorney General's Violent Crime Task Force has provided policy recommendations which suggest at most, an appropriate Federal funding role that would only include justice programs for applied research, training, or national data gathering (For example, see Violent Crime Task Force recommendations numbers 44, 46, 53, and 61).

The priorities for new categorical juvenile justice grant activities will be consistent with the above factors. The Office will provide no support for new large scale competitive categorical demonstration programs from 1982 funds.

In the applied research area, the National Institute for Juvenile Justice and Delinquency Prevention intends to complete existing research and structure and fund at least three new research efforts relating to serious and violent juveniles in those areas where practitioners have identified greatest need and potential for assistance in fulfilling their constitutional duties. These projects will be structured in phase so that one year of funding can produce responsible and usable results.

In the training field, the Office intends to allocate funds so that existing professional training organizations can modify their base curriculum or add specialty courses to provide training to juvenile judges, prosecutors, police officers, correction officers, youth service workers, and program managers focus on system handling of serious or violent offenders, juvenile gangs, juvenile narcotics problems, and strategies for the use of alternatives. These efforts will be established in such a way that the training structure and curriculum will remain available to State and local government professional personnel after 1982 without a need for substantial Federal funding of ongoing operating costs.

Program Allocations Levels

The allocation of Special Emphasis funds is based on six major factors. The appropriation has been reduced from last year's funding level by 33 percent. This reduction does not take into consideration any inflation factor or the past funding policies of the agency. For the past five years the Special Emphasis program has had an appropriation of $21 million annually. During the past two years the Special Emphasis appropriation has been utilized to start activities at a greater rate than the actual $21 million appropriation. Each year the Office has had "no year" funds and has awarded and started programs on the basis of stable or greater expected future appropriation levels. Consequently, future plans were based on more recent legislative changes or administration policies and provided for new activities and continuation of ongoing activities in a manner which crossed fiscal year boundaries.

Three major program efforts are due for continuation funding in Fiscal Year 1982. The past awards under these grants were governed by a reference to policies set out in OJARS Manual 7100.1B, Paragraph 95 which included, among other things, a reference to termination "where anticipated continuation funds become unavailable." Funds are not available to meet all identified priorities and fund every expected application.

The Administration's priorities and the 1980 Amendments to the Act emphasize that the Office should give primary attention to the most pressing violent crime problems from both a national and local perspective. Control of violent juvenile crime is a responsibility of State and local officials. The Administration has consistently stated that funding of large numbers of federally selected categorical grants slated to deliver assistance in a functional area in which the Federal government has little or no operational responsibility is not an appropriate Federal function. However, individual states and local governments cannot always develop specialized training programs in the most economical manner. Federal funds can develop programs so that they are available to the State and local criminal justice personnel from all States. In a like manner, research and demonstration efforts conducted by one governmental level are more economical and consistent with a National government function. Development of juvenile justice training capacities of

existing facilities is consistent with this role and with sections 224(a)(1) and 244.

The demonstration aspects of Youth Advocacy and Alternative Education programs can be continued with fewer projects to demonstrate and evaluate the concepts involved. Ordinarily, six or eight projects are sufficient to complete the Federal research and demonstration interest. The Administration's policies reflect the non-involvement or Federal interference with State and local elected officials' performance of their constitutional functions. To the extent that Federal grants interfere with State and local activities and use Federal funds to accomplish their objectives, these activities should be reduced. Federal funding to complete existing State and local juvenile program activities receiving Juvenile Justice Act funds should be focused on research and demonstration aspects of essential service programs.

The Youth Advocacy program will be continued at the minimum level which will permit the orderly completion of the demonstration and evaluation aspects of the program concept.

New Pride projects which deal with serious offenders, scheduled for refunding early this year, have already been reduced by the elimination of three of the ten active demonstration efforts by mutual agreement and by additional economies consistent with this policy.

Inital Alternative Education grants were supported with $3,000,000 of DOL funds, as well as Juvenile Justice funds. DOL will be unable to allocate any funds for completion of these programs. Rather than cut this program proportionately, we have allocated funds to this area consistent with this overall policy.

Public safety emergencies and legal contingencies related to prior competitive programs (including approximately $200,000 for completing existing Violent Offender, Restitution or other programs in Fiscal Year 1982) have been allocated minimum funds necessary to provide for these areas.

New Pride Criteria

New Pride programs were eligible for refunding early this Fiscal Year. A complete review of each project was conducted in November, 1981. Three of the existing projects were terminated on the basis of clientele related data reflecting program inadequacies. The remaining projects were subject to negotiated reductions. Consequently, no additional criteria are needed.

Criteria for Selection of Advocacy Projects For Third Year Funding

Projects will be rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for this Program, at not less than a 33 percent reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last revised workplan. (100 points)
2. The level and quality of cooperation and nonconfrontational impact the project has had upon the policies, practices, statutes and procedures of the system(s) identified by the project as outlined in b(4) of the Program Guideline, and in the grant application. (100 points)
3. The extent to which the project(s) activities and related objectives have impacted significant numbers of youth. (100 points)
4. The level and quality of youth involvement in the project. (100 points)
5. The extent to which the project has demonstrated community support, and is viewed as making a beneficial contribution to the welfare of youth. (100 points)
6. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (50 points)
7. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, resolution of special conditions. (50 points)
8. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects will also be rated on the quality and potential impact of their third year program design. *Only those projects rated sufficiently high on past performance in relation to availability of funding will be rated on their third year program design.*

1. The extent to which the workplan and milestones projected for the third year have potential of achieving the stated objectives. Potential will be assessed within the context of effectiveness of methodology used in the first two project years. (100 points)
2. The extent to which work now in process has potential for impacting significant numbers of youth. (100 points)
3. The extent to which the project demonstrates continued community support through anticipated participation and resources from various community sectors (e.g., governmental, business, industry, civic and neighborhood groups and organizations). (100 points)
4. The level and quality of youth involvement planned for the third year. (100 points)
5. The extent to which the project is cost effective. (100 points)

Criteria for Submission of Request for Third Year Funding for the Prevention of Delinquency Through Alternative Education Projects

Projects will be rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for this Program, at not less than a 33 percent reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last approved workplan. (100 points)
2. The extent to which the project has met client flow as outlined in the grant application. (100 points)
3. The extent to which the project has contributed to the adoption and modification of school policies, procedures and practices consistent with project goals. (100 points)
4. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (75 points)
5. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, and resolution of special conditions. (75 points)
6. The level and quality of the involvement of youth in the implementation of the project. (100 points)
7. The extent to which policy changes have or will affect significant numbers of youth, i.e., classroom, single school, cluster of schools, schools, school districts and school systems. (100 points)
8. The extent to which the project design is evaluable. (100 points)
9. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects will also be rated on the quality and potential impact of their third year program design. *Only those projects rated sufficiently high on past performance in relation to availability of funding will be rated on their third year program design.*

1. The extent to which work in process has potential for impacting

significant numbers of youth. (100 points)

2. The extent to which the project model demonstrates continued support through anticipated participation and resources from the school system. (100 points)

3. The extent to which activities projected for the third year have potential of achieving stated objectives and bringing the project to successful conclusion at the end of the third year. Potential will be assessed within the context of effectiveness of methodology used in first two years. (100 points)

4. The level and quality of youth involvement planned for the third year. (100 points)

5. The extent to which the project is cost effective. (100 points)

6. The extent to which the evaluation design is being implemented and evaluation requirements are being met. (100 points)

Technical Assistance Functions

OJJDP Technical Assistance activities for Fiscal Year 1982 will consist of five of eight projects begun in past years at a reduced level of funding of $2.028 million (from 3.0 million). Major activities consist of the technical assistance effort for the "Serious and Violent Offender Initiative," including treatment and prevention, two national efforts in the area of system improvement and jail removal, and one national technical assistance effort dealing with Alternative Responses to and for the system regarding serious delinquent behavior. Technical assistance activities will give priority to serious and violent offender initiatives of State and local government and the existing statutory priorities of deinstitutionalization, separation and jail removal.

"No Cost" Extensions

No categorical grantee has a right to a "no cost" extension beyond the initial scheduled termination date of a grant. With the expected reduction of Office staff and available support activities, it is the policy of the Office that "no cost" extensions will not normally be granted. However, for good cause, the Office will consider "no cost" extensions on a case-by-case basis. Good cause will include the reduction of continuation awards, the potential for cost assumption by other fund sources, or the completion of activities so that cost assumption can be given consideration by State budget offices, State legislatures, or other potential continuation fund sources.

Establishment of Competitive Policy for Existing Projects

New Pride, Alternative Education and Youth Advocacy were initially funded as competitive programs. Each has evaluation potential and each has a design which was structured to yield results for potential future consideration by other State, local or private activities.

To fulfill Congressional expectations of section 224(a) and to complete and yield as much knowledge as possible from past investments in these programs, the Office will competitively select the best projects, fund them to the extent that funds are available, and evaluate the results.

Competitive criteria related to performance and evaluation are established so that OJJDP can determine if further funding is warranted. Existing projects will receive written notice of application submission dates and criteria the Office will utilize to select the best projects. Some projects not selected for funding due to fund limitations may be contacted so that specific project activities may be completed or partial funding, as required to meet overall evaluation needs, can be negotiated. Projects not selected for continuation will be eligible for no-cost extensions to provide for a more orderly termination or transfer to other fund sources.

Special Emphasis Fund Allocations

Assuming that final appropriation action is consistent with the Continuing Resolution, the Special Emphasis appropriation for Fiscal Year 1982 will be $14,365,000. Of this figure, allocations reflecting 1982 priorities will be set as follows:

● Section 224(e) statutory territories allocation in accord with criteria published at 47 FR 4626 (Feb. 1, 1982)	$718,250
● Special emphasis program evaluations for New Pride, Restitution, Alternative Education, Youth Advocacy, Violent Offender Part I and Part II	1,545,000
● Prevention R&D program (continuation of single project)	800,000
● New pride completion	2,500,000
● Alternative education completion	2,775,000
● Youth advocacy completion	2,926,000
● Serious and violent offender training programs	2,000,000
● Public safety emergency or legal commitments	1,100,750
Total	14,365,000

Research and Related Activities of the National Institute for Juvenile Justice and Deliquency Prevention

Research and program development activities for Fiscal Year 1982 have a tentative appropriation of $7.4 million and will consist of continuations of fifteen projects begun in past years at a reduced level of funding ranging to 33%. Twenty projects have or will be ending and will not receive 1982 funds. Evaluations of four major Special Emphasis programs are expected to be continued primarily from Special Emphasis funds in order to complete the analysis of the impact of these aproaches for preventing and controlling delinquency. These include Restitution, Replication of Project New Pride, Alternative Education and Youth Advocacy. The Law Related Education Program will be continued from Institute fund sources. Seven research and research and development projects are expected to be continued, including studies of the development of delinquent careers, research on alternative programs for juvenile offenders, and projects focused on prevention of juvenile delinquency. In addition, three national data collection projects are scheduled for continuation. These include national juvenile court statistics, national data on children in custody, and the development of automated juvenile justice information systems. Activities designed to assist State or local government in consideration of juvenile justice standards will be continued and modified to include State and local based projects.

Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for serious and violent juvenile offenders will be continued. In addition, several new projects are planned to expand efforts in four areas: (1) Chronic juvenile offender, (2) improvement of violence prediction capabilities, (3) juvenile justice system response, and (4) programs designed to ensure swift and certain prosecution and punishment of serious and violent juvenile offenders. These will include studies designed to identify the chronic juvenile offender and factors related to the initiation and continuation of serious

delinquent and criminal careers; research on the effects of juvenile criminal court processing of serious and violent juvenile offenders, and the development and testing of programs to improve the efficiency and effectiveness of juvenile justice system prosecution and treatment of these offenders.

Specific Fund Use Limitations

All existing OJJDP categorical grants were reviewed during the past budget period in an attempt to identify areas for potential savings. Funding for direct program activities or services to juveniles were discussed. Through negotiations with grantees, the Office attempted to focus expense reductions on travel, newsletters, outside training, conference attendance and cluster meetings. As potential areas for further cost savings in Fiscal Year 1982, the Office will review all budgets to minimize these types of expenditures. No more than one cluster meeting will be approved. Neither professional development conference attendance nor outside general purpose training will be approved unless they are clearly related to the performance of grant functions.

Finally, the Office will not approve budgeted costs for any new litigation expenses on behalf of private parties or for suits against State and local governmental units. Litigation funded from appropriated Federal funds raises a strong potential for intergovernmental conflict. Federal Juvenile Justice grant funds will not be used to pursue law suits or other confrontation activities against Federal, State or local governments. In any event, litigation which would start in Fiscal Year 1982 could not be completed before the termination of any existing grants.

New Training Activities

The finding and declaration of purpose clause of the Juvenile Justice Act was amended in 1980 to reflect congressional and public concern with the small but troublesome subset of the youth population who commit a disproportionate share of serious and violent crimes. Research results over the past few years have confirmed this fact and partially identified characteristics of this group. Other amendments to the Act directed the Office to give more attention to these juvenile offenders.

The Attorney General's Task Force on Violent Crime recommendations concerning the Federal Government's role in dealing with violent offenders focused on the potential for the Federal Government to address the training needs of State and local governments' criminal justice officials. The Office has explored possibilities with existing training facilities and organizations and identified the need for training of State and local officials related to both basic and specialized juvenile justice functions.

In the past, resources allocated to training efforts have been limited to the areas of law-related education, judicial training, and alternative programs. These efforts will be continued and additional funding allocated to objectives related to the juvenile justice system's ability to handle serious, violent and chronic juvenile offenders more efficiently and fairly; to increase the system's ability to more effectively prevent, treat, and control violent juvenile behavior; and to provide the knowledge of effective alternatives or the possibilities available to the juvenile justice system so that scarce resources may be more effectively allocated in the most appropriate way to each type of juvenile offender.

In addition to basic judicial training already provided, specialty courses will be added to the existing curriculum of the National Council on Juvenile and Family Court Judges. These modifications in additional courses may include training in such areas as sentencing and decisionmaking, classification, detention criteria, record confidentiality, restitution or victim compensation, use of probation, understanding gangs and the violent offender, use of information systems, and basic understanding of the results of research and national data gathering efforts relating to serious, violent and chronic juvenile offenders.

Community-based or youth service training programs will be developed related to alternatives for the serious, violent and chronic juvenile offender. The National Youth Work Alliance and other organizations, as necessary, will be asked to participate in cooperative efforts to establish and design such curricula.

For State and local law enforcement officials, the Office plans to enter into interagency agreements with the Treasury Department to provide for courses and curricula at the Glenco Training Center for specialized training relating to serious, violent and chronic juvenile offenders. These components would include, but not be limited to, the police decisionmaking process, interagency relationships, police executive training, juvenile gang and group activities, and investigations of school crimes, including drug enforcement and weapons control.

The Office will explore possibilities for the development of prosecutor training programs with the National College of District Attorneys in conjunction with the National District Attorneys Association to provide training for State and local prosecutors functioning primarily in juvenile courts. The training would include such areas as priority prosecution, the role of the prosecutor and defense attorneys, prosecution of group of gang members, evidence presentation, confidentiality of records, and transfer of jurisdiction.

The Office will explore possible cooperative agreements with the American Correctional Association and interagency agreements with the National Institute of Corrections and their National Corrections Academy for the purpose of conducting management training for juvenile corrections administrators in both formal and alternative systems. In addition to general management training, rehabilitation models for handcore juvenile offenders will be developed. The training might include techniques and methods of conducting additional vocational and on-the-job training programs and emphasize the reintegration of serious, violent and chronic juvenile offenders.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-6126 Filed 3-5-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-12)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: March 24, 1982, 8:30 a.m. to 5 p.m.; March 25, 1982, 8 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW., Room 625T, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Greenfield, National Aeronautics and Space Administration, Code RRTM-6, Washington, D.C. 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Dr. Martin Goland, is comprised of thirteen members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

March 24, 1982

8:30 a.m. — Introduction.
9 a.m. — 1982/83 Budget Impact on Materials and Structures Program.
11 a.m. — IPAD Program Future.
1 p.m. — Review of Lewis Structures/ Dynamics Program.
5 p.m. — Adjourn.

March 25, 1982

8 a.m. — NASA Composite Programs Direction.
1 p.m. — Discussion of Issues.
4 p.m. — Adjourn.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82-6124 Filed 3-5-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice (82-13)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATES AND TIME: March 29, 1982, 9 A.M. to 4:30; March 30, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: NASA Headquarters, Building 10B, Room 625, 600 Independence Avenue, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-3237).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronics devices, sensors, information systems, automation, and guidance and control technology. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda

March 29, 1982

9 a.m.—Opening Remarks.
9:30 a.m.—FY 1983 Budget Outlook.
10:30 a.m.—Overview of NASA Research and Technology Programs in Electronics.
1 p.m.—Results of Special Planning Activities in Electronics Programs.
4:30 p.m.—Adjourn.

March 30, 1982

8:30 a.m.—Discussion of NASA Issues and Questions.
1 p.m.—Subcommittee Deliberations and Recommendations.
4:30 p.m.—Adjourn.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

March 2, 1982.

[FR Doc. 82-6125 Filed 3-5-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Meeting

The ACRS Subcommittee on Structural Engineering will hold a meeting on March 22, 1982 at the AMFAC Hotel, 2910 Yale Blvd., Albuquerque, NM to review Sandia's containment integrity program, including a visit to the Sandia structural laboratory. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, March 22, 1982, 8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., est.

Dated: March 2, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6215 Filed 3-5-82; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before April 7, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear

material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new applications for the week ending February 27, 1982.

Dated this 2d day of March, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, Date of application, date received, application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Exxon Nuclear, Feb. 16, 1982, Feb. 22, 1982, XSNMO1929.	3.3% Enriched Uranium	66,530	2,196	2 reloads for Tihange-1	Belgium.
Marubeni America, Feb. 22, 1982, Feb. 23, 1982, XSNMO1931.	3.95% Enriched Uranium	6,056	190	Reload fuel for Fukushima I, Unit 4	Japan.
Marubeni America, Feb. 22, 1982, Feb. 23, 1982, XSNMO1932.	3.95% Enriched Uranium	2,295	90	Reload fuel for Fukushima II, Unit 2	Japan.
General Atomic, Feb. 18, 1982, Feb. 24, 1982, XSNMO1933.	19.9% Enriched Uranium	62.00	12.34	Substitute fuels in conversion of PRR-1 Philippines reactor	Philippines.

[FR Doc. 82-6217 Filed 3-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329 OM and 50-330 OM and Docket Nos. 50-329 OL and 50-330 OL]

Consumers Power Co. (Midland Plant, Units 1 and 2); Reconstitution of Boards

Pursuant to the authority contained in 10 CFR 2.721 (1980) the Atomic Safety and Licensing Boards for Consumers Power Company (Midland Plant, Units 1 and 2), Docket Nos. 50-329 OM and 50-330 OM, and 50-329 OL and 50-330 OL are hereby reconstituted by appointing Administrative Judge Jerry Harbour, currently an alternate member having technical qualifications, as a Board member for purposes of further hearings and decisions thereon in these consolidated proceedings. Mr. Ralph S. Decker has been a member of these Boards, but, because of his forthcoming retirement from the Atomic Safety and Licensing Board Panel, will be unable to continue to serve. However, Mr. Decker will remain a Board member for purposes of the Licensing Board's first Partial Intitial Decision on quality assurance and management attitude issues.

As reconstituted, these Boards are each comprised of the following Administrative Judges:

Charles Bechhoefer, Chairman, Dr. Frederick P. Cowan, Dr. Jerry Harbour.

All correspondence, documents and other materials shall be filed with the Boards in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 1st day of March 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-6216 Filed 3-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (LaCrosse Boiling Water Reactor); Exemption

I

The Dairyland Power Cooperative (Dairyland) is the holder of Provisional Operating License No. DPR-45 which authorizes operation of the LaCrosse Boiling Water Reactor (LACBWR), located in Vernon County, Wisconsin. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section III.O of Appendix R to 10 CFR Part 50 requires that the reactor coolant pump (recirculation pump or forced circulation pump for boiling water reactors) be equipped with an oil collection system if the containment is not inerted during normal operation. Because LACBWR is not inerted during normal operation, under this provision an oil collection system is required. Section III.O of Appendix R specifies that the oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accidents and that there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake (SSE).

By letter dated March 19, 1981, Dairyland indicated that the installed drip shields do not provide adequate protection against all postulated lube oil leaks and further asserted that a seismically qualified oil collection system would not enhance fire protection safety at the LACBWR because alternative means to fulfill the stated objective of the Commission could be implemented. Accordingly, Dairyland requested an exemption from the requirements of Section III.O of Appendix R to 10 CFR Part 50.

The exemption request is based on the following: The recriculation pump coupling oil (90 gallons per pump) will be removed and replaced with a non-flammable glycol-water solution and the recirculation pump lubricating oil inventory remaining (15 gallons per pump) is so small that it could not cause a major fire at the pump location.

Based upon our evaluation, we conclude that Dairyland's alternative method for providing fire protection in the containment building is adequate and that Dairyland should, therefore, be granted an exemption from the specific requirements of Section III.O of Appendix R to 10 CFR Part 50, "Oil and Oil Collection Systems for Reactor Coolant Pumps".

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption request identified above, subject to the conditions that the recirculation pump coupling oil be removed and replaced with a non-flammable liquid.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4),

an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 1st day of March, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6218 Filed 3-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329A and 50-330A]

Consumers Power Co.; Receipt of Antitrust Information

The Consumers Power Company as owner of the Midland Plant, Units 1 and 2, has submitted antitrust information in connection with its plans to operate two pressurized water reactors located in Midland County, Michigan. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local public document room at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views of the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Nuclear Reactor Regulation, on or before April 5, 1982.

Dated at Bethesda, Maryland, this 25th day of January 1982.

For the Nuclear Regulatory Commission.

Calvin W. Moon,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-5410 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

March 1, 1982.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

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The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

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The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send

them to Jim J. Tozzi, deputy administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

- National Oceanic and Atmospheric Administration

Cost-Earnings Study of the Longline and Handline Fishing Fleet in Hawaii
Nonrecurring
Businesses or other institutions
Commercial fishermen in Hawaii
SIC: 091
Small businesses or organizations
Other advancement and regulation of commerce: 100 responses; 50 hours; $34,971 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Information on the socio-economics of these segments of the primary producer level in Hawaii is lacking in FMPS for the Western Pacific Region. Results will be incorporated into FMPS on billfish and bottom fish, as well as into ongoing economic analyses of the fresh fish and tuna industries. The one-year survey will begin in February 1982.

- General Administration

Prohibition of Discrimination Against the Handicapped in Doc Grant Programs.
On Occasion
State or local governments
Recipients of the Department of Commerce grants
SIC: Multiple
Other advancement and regulation of Commerce: 439 responses; 439 hours; $20,000 Federal cost; $4,390 public cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

To aid recipient in reviewing their programs, policies and practices to improve compliance with section 504 of the Rehabilitation Act of 1973. Record-keeping requirement, with information to be retained for a three year period.

- National telecommunications and Information Administration

Public Telecommunications Facilities Program Grant Application
NTIA–40
On occasion
State or local governments/businesses or other institutions Public telecommunications stations
SIC: 366
Small businesses or organizations
Research and general education aids: 500 responses; 80,000 hours; $250,000 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The Public Broadcasting Amendments Act of 1981 authorizes grants to be awarded for the planning and construction of public telecommunications facilities. Awarding will be based on the assessment of information included in the proposals submitted for grant funding.

Extensions (Burden Change)

- Bureau of the Census

Manufacturers' Shipments, Inventories, and Orders (M3) Survey
M3, M3 (MD)
Monthly
Businesses or other institutions
Manufacturing companies
SIC: All
Other advancement and regulation of Commerce: 64,320 responses; 22,040 hours; $1,125,000 Federal cost; 2 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

This is the only survey that provides monthly statistical information to Government and industry on the entire manufacturing sector of the economy. These statistics are an essential part of the development of the gross national product accounts and the survey is designated as "principal Federal economic indicator" by the office of information and regulatory affairs.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

Revisions

- Federal Energy Regulatory Commission

Application for Small Producer Exemption
FPC 314A
Nonrecurring
Businesses or other institutions
Natural gas producers
SIC: 999
Small businesses or organizations
Energy information, policy, and regulation: 150 responses; 450 hours; $117,000 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202–395–7340

The data collected are used by the Federal Energy Regulatory Commission to evaluate and process independent producer applications for the sale of gas in interstate commerce under small producer certificates of public convenience and necessity as prescribed by section 7 of the Natural Gas Act.

Extensions (No Change)

- Federal Energy Regulatory Commission

Service Life Data
FERC 73
Other—see SF83
Businesses or other institutions
Oil pipeline companies within FERC jurisdiction
SIC: 999
Small businesses or organizations
Energy information, policy, and regulation: 21 reponses; 4,620 hours; $163,000 Federal cost; 1 form; not applicable under 3504 (h)
Anita T. Ducca, 202–395–7340

The data collected on this form are used to perform service life analyses for oil pipeline properties. These data are necessary to determine book depreciation rates.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

- Urban Mass Transportation Administration

Authorizing Resolution
On occasion, annually, other—see SF83
State or local governments/businesses or other institutions
Public and private mass transportation providers
SIC: 411
Ground transportation: 420 responses; 840 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Authority needed for compliance with 3(a) (2) (a) and 5(g) is granted by an authorizing resolution passed by the applicant's governing body. UMTA C 9050.1 provides sample format.

- Coast Guard

Subchapter I–A, Plan Approval and Records for Mobile Offshore Drilling Units (46 CFR)
On occasion
Businesses or other institutions
Ship builders, designers, owners and operators
SIC: 373, 441, 442, 443, 444, 445
Small businesses or organizations
Water transportation: 4,823 responses; 2,567 hours; $345,600 Federal cost; $326,000 public cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

The requirement for plan submission is used to show compliance with regulations for mobile offshore drilling units. It will enable the Coast Guard to determine compliance by examination of the plans, prior to construction.

Extensions (Burden Change)

- National Highway Traffic Safety Administration

On-the-Road Fuel Economy Survey
HS–435
Annually
Individuals or households
Nation's owners of late model passenger cars & trucks
Ground transportation: 46,000 reponses; 7,877 hours; $450,000 Federal cost; 2 forms; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Survey of late model passenger cars and light trucks to monitor on-road improvements in fuel economy. Support analysis of future national initiatives in transportation sector, development of yearly/total energy savings of new technologies, support Environmental Protection Agency, Department of Energy in related programs.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

New

- Internal Revenue Service

Pre-Examination Cover Letter
1646 (P)
On occasion
Businesses of other institutions
Tax protesters claiming to be ministers or a vow of poverty
SIC: 999
Central fiscal operations: 1,800 responses; 12,798 hours; $43,560 Federal cost; 1 form; not applicable under 3504(h)
Karen P. Sagett, 202–395–6880

The letter is used to comply with the restrictions on examination of churches imposed by 26 U.S.C. 7605(c). If the needed information (which must be requested by IRS in writing) is furnished, an on-site examination of books and records would be unnecessary.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Office—Christine Scoby—202–382–2742

Nfw

- Categorical Exclusions and Segmentation of Construction Grants Projects

0963
Nonrecurring
Businesses or other institutions
State agencies delegated construction grants authority
SIC: 999
Pollution control and abatement: 1 responses; 2,640 hours; $34,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Amends 40 CFR 6 to include procedures for granting categorical exclusions from the environmental review requirements in compliance with the council on environmental quality's regulations implementing NEPA. Their effect is intended to reduce the regulatory requirements on recipients of EPA grants for the planning, specification and construction of wastewater treatment facilities. Amendments made also to comply with changes to 40 CFR Part 35 (constr. grants program regs.).

Extensions (Burden Change)

- Application for Supplemental Registration of a Distributor (0278)

Nonrecurring
Businesses or other institutions
Pesticide chemical production and marketing industry
SIC: 286
Small businesses or organizations
Pollution control and abatement: 16,000 Responses; 32,000 hours; $1,702,400 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

40 CFR 162.6 calls for supplemental registration permitting a distributor of registered pesticide product to market that product under the distributor brand name.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202–634–6983

Reinstatements

- Practical Utility Survey on recordkeeping requirements for UGESP

Nonrecurring
State or local governments/businesses or other institutions
Private & public employers, unions, attorneys
SIC: Multiple
Federal law enforcement activities: 3,825 responses; 1,912 hours; $98,200 Federal cost; 6 forms; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

This survey is being conducted in response to an OMB request for a study evaluating the practical utility of the recordkeeping requirements of the uniform guidelines on employee selection procedures (UGESP). This survey is designed to obtain information on the burden and utility of the recordkeeping requirements of UGESP.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

Revisions

- Application for consent to transfer of control of corporation holding broadcast station construction permit or license

315
On occasion
Businesses or other institutions
Applicant of broadcast station seeking transfer of control
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce; 427 responses; 38,430 hours; $153,793 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Filing FCC 315 is required when applying for transfer of control of corporation holding radio broadcast station construction permit or license. The data is necessary to determine whether the applicant is qualified and whether granting the application would serve the public interest.

- Application for consent to assignment of broadcast station construction permit or license

314
On occasion
Businesses or other institutions
AM, FM or TV broadcast applicants seeking assignment
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 426 responses; 38,340 hours; $153,432 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Filing is required when applying for consent for assignment of radio broadcast station construction permit or license. The data is necessary to determine whether the applicant is qualified and whether granting the application would serve the public interest.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

- A study of the developing institutions program

ED 875
Nonrecurring
Businesses or institutions
Postsecond. instit. that have partic. in the HEA 111 prog.
SIC: 822

Education, training, employment, and social services; 56 responses; 2,800 hours; $450.00 Federal cost; $442,000 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The HEA III is the only direct institional support program funded by the ED for postsecondary institutions. ED has never evaluated the impact of Federal funding at the institution level. Given scarce resources there is an increasing need to determine more effective and efficient methods of providing for educational opportunities for students attending these institutions.

• Federal loan transaction statement federally insured student loan program
ED 1199
Monthly
Businesses or other institutions
Colleges & univs. prof. schools & jr. col., fed., etc. SIC; 822, 601, 602, 603, 604, 605
Higher education; 228,000 responses; 228,000 hours; $23,854 Federal cost; $1,368,000 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This form is used by ED's guaranteed student loan branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—202–523–0267

New

• Trends in international trade in printed circuit boards and base material laminates—importers of printed circuit boards and base material laminates
Nonrecurring
Businesses of other institutions
Printed circuit boards incorp. * * * into U.S. electron. prod.
SIC: 367, 307
Small businesses or organizations
Conduct of foreign affairs; 91 responses; 1,456 hours; $106,250 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Under Section 332 of the Tariff Act of 1930, the USITC has responsibility to provide fact-finding reports on issues affecting U.S. trade position. Data collected through the questionnaire have been requested by the House Ways and Means Committee so that profiles of the U.S. printed circuit boards industry and of base material laminates can be evaluated and compared with that of Canada, Japan, and Europe.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Revisions

Fair housing and nondiscrimination in lending
See Att. 2
Semiannually
Businesses of other institutions
FSLIC—Insured savings and loan associations
SIC: 612, 616
Mortgage credit and thrift insurance; 1,486,996 responses; 206,755 hours; $202,000 Federal cost; $2,067,550 public cost; 1 form; NPRM under 3504(h)
Robert Neal, 202–395–6880

Data submission and other recordkeeping requirements of the Equal Credit Opportunity Act (12 CFR 202) and FHLBB Regulations (12 CFR 528). Reports replace portions of onsite examination for compliance with FCCA, FHLBB Regulations, the Fair Housing and Community Reinvestment Acts, and reduce overall examination time and cost.

Extensions (Burden Change)

Application to establish branch office
100,743
Nonrecurring
Businesses or other institutions
Savings and loan industry
SIC: 999
Mortgage credit and thrift insurance; 502 responses; 23,092 hours; $4,285 Federal cost; 2 forms; not applicable under 3504(h)
Rober Neal, 202–395–6880

12 CFR 545–14–16 requires Federal associations to submit applications for a branch or agency office. The purpose of this application is to determine whether a branch office can be established without supervisory concern and undue injury to other local thrift institutions. 12 CFR 563E and the Community Reinvestment Act requires the Board to consider an association's community service record when it evaluates a branch application.

NATIONAL FOUNDATION ON THE ARTS

Agency Clearance Officer—Donald L. Case—202–634–6378

New

• Jazz Study Fellowship Grant Program
Monthly, quarterly, annually
Individuals or households/businesses or other institutions
Individual grant recipients, selected master artists
SIC: 999
Small businesses or organizations
Research and general education aids: 148 responses; 58 hours; $1,789 Federal cost; $1,075 public cost; 4 forms; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

See continuation sheet.

• Letter of Credit Payment Method Forms
Other-SFE SF83
State or local governments/businesses or other institutions
Non-profit organizations
SIC: 919, 739
Small businesses or organizations
Research and general education aids: 500 responses; 500 hours; $111,900 Federal cost; $4 public cost; 4 forms; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Grantees must submit the "Request for Letter of Credit" and "Authorized Signature Card for Payment Vouchers on Letter of Credit" in order to be placed on the letter of credit payment method. Grantees must then submit the "Request for payment on Letter of Credit and Status of Funds Report" in order to receive payment.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146)

New

• Gravesite Reservation Survey (2-Year)
40–12
Biennially
Individuals or households
A spouse of a deceased veteran
Other veterans benefits and services: 18,605 responses; 1,550 hours; $50,057 Federal cost; $15,498 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Information needed to compile accurate roster of individuals holding if reservation is still desired. If reservation is no longer desired, gravesite is released for use by another eligible.

• Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Progress of Conduct
22–8873
On occasion
Individuals or households
Veterans, servicepersons and eligible dependents or survivors
Veterans education, training, and rehabilitation: 55,000 responses; 18,315 hours; $194,470 Federal cost; $183,150 public cost; 1 form; not applicable under 3504(h)

Federal Education Data Acquisition Council, 202–426–5030

This form requests information which will be used to evaluate the suitability of a program of education. The form also requests information concerning previous unsatisfactory progress in training. The information which is obtained will be used to make determinations required by 38 U.S.C. 1674, 1724 and 1791 prior to authorization of benefit payments.

• Portfolio Loan Service Report
26–6808A
On occasion
Individuals or households/businesses or other institutions
Homeowners
SIC: 953, 881, 651
Small businesses or organizations
Veterans housing: 16,000 responses; 4,000 hours; $41,121 Federal cost; $40,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Form serves as loan service representative's report of contact with obligor of defaulted VA portfolio loan and recommended action. Information provided forms basis for decisions on forbearance, development of repayment plans, recasting or foreclosure.

Revisions

• Health Authority Approval Individual Water Supply and Sewage Disposal System
26–6395
On occasion
State or local governments
Local health department
SIC: 953
Veterans housing: 15,000 responses; 7,500 hours; $78,238 Federal cost; $75,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Form signifies acceptability or non-acceptability of individual water or sewage systems based on inspection by VA compliance inspector or local health authorities. Data forms basis for VA determinations on suitability of property and conformity with minimum requirement (38 U.S.C. 1804(a) and 1810(e)(4)).

Reinstatements

• Certification of Monument Data
40–4964
On occasion
Individuals or households
Veterans and veterans dependents
Other veterans benefits and services: 48,000 responses; 4,000 hours; $32,120 Federal cost; $40,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

VA form 40–4964, certification of monument data—at or before the time of interment of an eligible member or former member of the armed forces in a national cemetery. VA form 40–4964 will be completed by the next of kin or authorized representative. The data collected on this form is authorized by law (38 U.S.C. 906) and certifies the data to be inscribed on the headstone or marker and in completing burial records.

Nathaniel Scurry,

Chief, Reports Management.

[FR Doc. 82–5900 Filed 3–5–82; 8:45 am]

BILLING CODE 3110–01–M

Agency Forms Under Review

March 3, 1982.

Background

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How often the form must be filled out.

Who will be required or asked to report.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

Whether small businesses or organizations are affected.

A description of the Federal budget functional category that covers the information collection.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

An estimate of the cost to the Federal Government.

An estimate of the cost to the public.

The number of forms in the request for approval.

An indication of whether section 3504(h) of Pub. L. 96–511 applies.

The name and telephone number of the person or office responsible for OMB review and;

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirments that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirments until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

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Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

Revisions

• Health Care Financing Administration
Professional standards review organization routine Federal reporting requirements
111, 121, 121–E, 135, 153Q, 153A
Quarterly
Businesses or other institutions
Funded psro's and short stay hosp. delegated psro rev. resp.
SIC: 805, 919
Health: 7,914 responses; 24,118 hours; $340,000 Federal cost 6 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Collection of data is authorized by section 1155(f)(1)(B) of the Social Security Act. The data collected through this system is used to manage, monitor and evaluate the activities of the professional standards review organizations.

REINSTATEMENTS

• National Institutes of Health
National survey of the role of the practicing dentist and pediatrician in the use of Caries prevention methods
Nonrecurring
Businesses or other institutions
Pract. dentists and physi. active in direct child pat. care
SIC: 801, 802
Health: 5,000 responses; 2,500 hours; $225,684 Federal cost; $25,000 public cost 2 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

There is a need to collect information periodically on the attitudes and knowledge of practicing dentists and physicians about current and projected Caries prevention methods. Such current assessment of knowledge and practices, as well as measures of change over time, will allow the dental profession and NIDR to improve on techniques of communication of technology so that the profession is using the most effective methods available for preventing Caries.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

NEW

• Housing Programs
Single family mortgage insurance premium remittance form
Monthly
Businesses or other institutions
Mortgate bankers, savings and loans institutions
SIC: 616, 651
Small businesses or organizations
Mortgage credit and thrift insurance: 144,000 responses; 72,000 hours; $875,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 530 of the National Housing Act (established in 1980) requires that single family mortgage insurance premiums be remitted promptly to HUD as they are collected each month. To comply with this new requirement, a new single family mortgage insurance premium remittance form is required.

REVISIONS

• Housing Programs
Premium reconcilement, HUD 239 and HUD 239A, HUD 239A
Monthly
Businesses or other institutions
Mortgage bankers, savings and loans institutions
SIC: 616, 651
Small businesses or organizations
Mortgage credit and thrift insurance: 7,500 responses; 6,000 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This report is used by mortgagees to notify HUD of additions or delegations made to the original amount of HUD's billing. Data are used to adjust HUD's accounting records.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–633

NEW

• Employment and Training Administration
Experimental downriver economic readjustment project
MT–321
Nonrecurring
Individuals or households
Empl. laid off from 8-auto-relat. firms in the det. metro.
Training and employment: 3,300 responses; 2,178 hours; $549,868 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The survey results will be used to evaluate the effectiveness of a unique program for training, placement and relocation of unemployed experienced workers. This information will provide critical guidance in the development of future policy and programs for displaced workers. This information cannot be obtained from presently existing data sources.

• Labor-Management Services Administration
Summary plan description requirements final and interim regulations
LMSA-SPD
Other-SEE SF83
Businesses or other institutions
Employ. pension and welf. benefit plans covered under ERISA
SIC: All
Small businesses or organizations
Other labor services: 22,425,671 responses; 9,473,082 hours; $80,000,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Employee benefit plans covered under ERISA must file and distribute summary plan descriptions summarizing plan provisions, summary description of material modifications to the plans, and updated summary plan descriptions which periodically integrate plan amendments. These regulations provide administrators with the guidance necessary to ensure compliance with their statutory obligation.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Agency Clearance Officer—Jeffrey S. Lubbers—202–254–7020

NEW

• Government in the Sunshine Act questionnaire
ACUS–3
Nonrecurring
Individuals of households
Officials and participants involved in Sunshine Act
Federal law enforcement activities: 1,400 responses; 700 hours; $10,500 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

To help with a study of agency experience under the Government in the Sunshine Act.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

EXTENSIONS (NO CHANGE)

• Examination advance package
250 863
Other—see SF83
Businesses or other institutions
FSLIC-insured financial institutions, primarily savings
SIC: 612
Mortgage credit and thrift insurance: 3,300 responses; 104,156 hours; $25,562

Federal cost; 19 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

12 CFR 563.17–1 requires FSLIC-insured institutions to be examined periodically. This entails detailed analysis of business transactions and review of records for regulatory compliance. Institutions are requested to complete materials for each regular examination in order to facilitate and enhance the examiner's review and to minimize cost and business interruption to the institution.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983

EXTENSIONS (BURDEN CHANGE)

- Uniform termination notice for municipal securities principal municipal securities representative associated with bank municipal securities dealer

MSD–5
On occasion
Businesses or other institutions
Banks and persons designated as municipal securities principals
SIC: 602
General government: 98 responses; 25 hours; $100 Federal cost; $500 public cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Notice must be filed 30 days after person associated in a professional capacity with a bank municipal securities dealer terminates employment. Compliance vehicle for rules of municipal securities rulemaking board and related securities and banking laws. Source document for updating information on interagency computer system of records.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

NEW

- Application for title I, ESEA transition services grant funds

Annually
Businesses or other institutions
State and local educational agencies
SIC: 941
Elementary, secondary, and vocational education: 30 responses; 600 hours; $3,950 Federal cost; $18,000 public cost 1 form; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

Section 153 of title I, ESEA, as amended by Pub. L. 95–561, authorizes funding for grants to State and local educational agencies to support projects to facilitate the transition of children from state-operated institutions for neglected or delinquent children into locally-operated educational programs.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

REVISIONS

- Physical protection of formula quantities at nonpower reactors

Other—see SF83
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, Policy, and regulation: 15 responses; 1,200 hours; $58,600 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

NRC proposes rulemaking change to affect changes in its regulations to require additional physical protection measures for formula quantities of strategic nuclear material used in operation of nonpower reactors.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–6238 Filed 3–5–82; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18520; SR–CBOE–82–1]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

March 2, 1982.

The Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Illinois, submitted on January 22, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, that establishes procedures relating to a market maker's bids and offers for Treasury securities options. Among other things, the rule change states that only a market maker's bid and offer for options on $100,000 principal amount of underlying Treasury securities shall be disseminated and that those quotes shall be deemed to include a bid and offer for options on $20,000 principal amount of the same underlying securities no lower than 1/32 less on the bid and 1/32 more on the offer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18444, January 27, 1982) and by publication in the **Federal Register** (47 FR 4790, February 2, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82–6220 Filed 3–5–82; 8:45 am]
BILLING CODE 8010–01–M

[File No. 22–11498]

RCA Corp.; Order Granting Application

March 1, 1982.

RCA Corporation, a Delaware corporation ("RCA"), has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York, a New York Trust company (the "Bank"), under an Indenture dated as of August 15, 1974 with RCA, which is qualified under the Act, and under a new Indenture dated as of January 14, 1982, with RCA Overseas Finance N.V., a Netherlands Antilles corporation, RCA Overseas Finance B.V., a Netherlands corporation, and RCA, which is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as such under any of these Indentures, all as more fully set forth in said application and Notice of Application and Opportunity for Hearing dated January 15, 1982.

It appears to the Commission that the trusteeships of the Bank under said Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the aforementioned Indentures.

Notice of the filing of said application having been duly given, RCA having waived hearing thereon, the Commission not having received a

request for a hearing within the period specified in the Notice of Application and Opportunity for Hearing, and a hearing not appearing necessary or appropriate in the public interest or for the protection of investors;

It is ordered that the application of RCA Corporation in the premises be, and the same is, hereby granted.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6221 Filed 3-5-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0116]

H & T Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulation governing small business investment companies (13 CFR 107.701 (1982)) for transfer of ownership and control of H & T Capital Corporation, 4750 Selma Highway, Suite C, Montgomery, Alabama 36105, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.). The proposed transfer of ownership and control of H & T Capital Corporation, which was licensed July 15, 1975, is subject to the prior written approval of SBA.

H & T Capital Corporation is a wholly owned subsidiary of Hudson-Thompson, Inc., with an individual, John A. Thompson, owning approximately 93 percent of the outstanding common stock of Hudson-Thompson, Inc.

Pursuant to a letter of intent between John A. Thompson and the S. M. Flickinger Co., Inc., a New York corporation, headquartered in Buffalo, New York, the S. M. Flickinger Company would acquire all of the outstanding common stock of Hudson-Thompson, Inc. The ownership of the outstanding stock of H & T Capital Corporation will not change. The ownership of H & T Capital Corporation's parent company, Hudson-Thompson, Inc., will change to the S. M. Flickinger Co., Inc.

At the present time the business of Flickinger consists of the wholesale and retail distribution of food and other products.

No single stockholder of the S. M. Flickinger Company, Inc., owns an interest equal to 10 percent or more of the outstanding common stock.

The management and control of H & T Capital Corporation are the officers, directors and beneficial shareholder as follows:

Name and address	Title and relationship	Percent of ownership
John R. Bloom, 4750 Selma Highway, Montgomery, AL 36196.	President, Director.	.....
Gerald L. Gwinn, 4750 Selma Highway, Montgomery, AL 36196.	Vice President, Director.	.....
Eddie E. Helms, 4750 Selma Highway, Montgomery, AL 39196.	Secretary, Treasurer, Director.	.....
S. M. Flickinger Co., Inc., P.O. Box 1986, Buffalo, NY 14240.	Parent of Hudson-Thompson, Inc.	100

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is given that any person may, on or before March 23, 1982, submit written comments on the proposed transfer of ownership and control to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Montgomery, Alabama and Buffalo, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 2, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6213 Filed 3-5-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposal No. 03/03-0152]

PNC Capital Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1982)) by PNC Capital Corporation, Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania, 15222 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and sole shareholder are:

Name and address	Title and relationship	Percent of ownership
Thomas H. O'Brien, 215 Highland Road, Pittsburgh, Pa. 15238.	Chairman of the Board and Director.	.....
James H. Knowles, Jr., 1000 Highmont Road, Pittsburgh, Pa. 15232.	President, General Manager and Director.	.....
Gary J. Zentner, 180 Mohawk Drive, Pittsburgh, Pa. 15228.	Vice President, Treasurer and Director.	.....
William F. Strome, 5814 Elgin Street, Pittsburgh, Pa. 15206.	Vice President and Secretary.	.....
Walter E. Gregg, Jr., 455 Maple Lane, Sewickley, Pa. 15143.	Director	.....
Pittsburgh National Bank, Fifth Avenue and Wood Street, Pittsburgh, Pa. 15222.	Parent Company	100

Pittsburgh National Bank is a wholly owned subsidiary of Pittsburgh National Corporation, a one bank holding company whole securities are publically owned and traded on the over the counter market. As of February 1, 1982, Pittsburgh National Corporation had 8,424 shareholders of record, none of which owned 10 percent or more. The value of the securities of PNC Capital Corporation owned by Pittsburgh National Bank will not exceed 5 percent of the value of its assets.

The Applicant will begin operations with a capitalization of $2.49 million and will be a source of equity capital and long term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, On or before March 23,1982, submit written comments on the proposed SBIC to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Pittsburgh, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6212 Filed 3-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0440]

Rockland Small Business Investment Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Rockland Small Business Investment Corp. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a maximum capitalization of $1,500,000 or a minimum of $500,000.

The Applicant will have its place of business at 65 Prospect Avenue, Nanuet, New York 10954, and it intends to conduct operations primarily in the State of New York. Applicant expects to establish a broad financial policy and recognizes the need for both equity investments and loans with particular attention to growth situations. The officers, directors, and presently known ten percent (10%) or more stockholders of the Applicant will be:

Eugene I. Frost, 65 Prospect Avenue, Nanuet, N.Y. 10954.	President & Director.	15%
Israel Mindick, 10 Hadassah Lane, Spring Valley, N.Y. 10977.	Vice President, Dir. Secretary, Treasurer.	15%
Edward R. Simpkin, 531 N. Broadway, Upper Nyack, N.Y. 10960.	Director	

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 23, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6211 Filed 3-5-82; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Review of Products for Removal of Eligibility Under the Generalized System of Preferences

Notice is hereby given that the Trade Policy Staff Committee has accepted the petition by the Ferroalloys Association requesting the removal of Brazil from duty-free treatment under the U.S. Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465) with respect to the following eligible articles:

Article description	TSUSA [1] item No.
Ferroalloys:	
Ferromanganese:	
Not containing over 1 percent by weight of carbon	606.26
Manganese content	
Containing over 1 percent but not over 4 percent by weight of carbon	606.28
Manganese content	
Containing over 4 percent by weight of carbon	606.30
Manganese content	
Ferrosilicon:	
Containing over 60 percent but not over 80 percent by weight of silicon:	
Containing over 3 percent by weight of calcium	606.36
Silicon content	
Other	
Silicon content	606.37
Ferrosilicon manganese	606.44
Manganese content	
Other base metals, unwrought, and waste and scrap of such metals:	
Other than alloys; and waste and scrap:	
Chromium	632.18

1 Tariff Schedules of the United States, Annotated.

While the Trade Policy Staff Committee's review will focus on Brazil, the Committee reserves the right to address the removal of GSP status for countries other than that specified by the petitioner.

Public hearings have been scheduled for Friday, April 23, 1982. All interested parties who wish to appear at the hearings should notify the Chairman, GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, D.C. 20506 by April 2. Written briefs or statements should be received no later than close of business April 16, 1982. Post-hearing briefs or statements should be received no later than close of business April 30, 1982. Rebuttal briefs or statements addressing issues raised in the post-hearing submissions must be received no later than close of business May 7, 1982.

Written Briefs—All briefs and statements should conform to the regulations codified at 15 CFR Parts 2001–2003, 2007. They should be submitted in 20 copies in English, and should contain the name and address of the party submitting the brief. Information submitted as business confidential information must contain a nonconfidential summary in twenty copies separate from the information to be handled as confidential. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information."

Public Inspection of Information—Except for business confidential information, all written materials filed in connection with this matter will be open to public inspection by appointment with the Secretary of the GSP Information Center (202/395–6971).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82-6137 Filed 3-5-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 21-AA]

Advisory Circular; Procedures Concerning Supplier Audits and Implementation of Bilateral Agreements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) and request for comments.

SUMMARY: This proposed AC is to advise the general public and persons holding FAA production approvals of the FAA's intention to cease regularly scheduled quality control system audits and make optional the need for conformity (export) certificates from Foreign Civil Air Authorities (FCAA) for components produced in countries with which the United States has bilateral airworthiness agreements.

DATES: Comments must identify the AC No. 21–AA and be received on or before April 12, 1982.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, Attention: Aircraft Manufacturing Division (AWS–200), 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: George J. Pour, Chief, Aircraft Manufacturing Division, Office of

Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426–8361.

Comments received on the draft AC may be inspected in Room 301, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, D.C. 20591, between the hours of 8:30 a.m. and 5:00 p.m., Monday thru Friday.

SUPPLEMENTARY INFORMATION

Comments Invited

Comments are invited from all interested persons on the changes proposed in this AC.

Discussion of Draft Advisory Circular

Federal Aviation Regulations (FAR) require an applicant for a production approval to establish an inspection/quality control system as a prerequisite to issuance of the approval, and to maintain that system after the approval has been issued. The approved system must include provisions for control of supplier furnished articles to ensure that such articles conform to the FAA approved design data. The approval holder is held ultimately responsible for ensuring that each completed product, including supplier furnished articles, conforms to the approved design data and is in condition for safe operation.

In the past, the FAA has monitored an approval holder's supplier activities through scheduled quality control audits of selected domestic suppliers. In the case of suppliers located in foreign countries, the FAA has not conducted supplier audits; however, it has exercised surveillance through the limiting of suppliers only to those countries with which the U.S. has bilateral airworthiness agreements, for the reciprocal acceptance of airworthiness certifications and by requiring conformity certificates from the country's Civil Air Authority for each component shipped to the U.S. approval holder. These FAA audits or Foreign Civil Air Authority (FCAA) certificates do not mitigate the ultimate responsibility of the approval holder under the FAR for ensuring the quality and conformity of each product completed in his main domestic facilities.

The current need to reduce the cost of government, as well as the government's goal to reduce the burden of regulations on U.S. citizens wherever possible has indicated a need to reassess the FAA's current supplier surveillance program, to determine whether any burdens on either the FAA or the industry may be relieved, and if so, to develop ways and means of achieving that goal without derogation of the FAA's mandate to promote safety in air commerce. The following factors relating to the subject were the major considerations in the study.

1. The "main" facilities of many U.S. production approval holders have become, for all intents and purposes, assembly plants, since an increasing proportion of the components of the end products are being produced by suppliers, both domestic and foreign. A major transport category aircraft manufacturer may have thousands of domestic and foreign suppliers; however, the FAA has resources to audit only a selected few of the domestic ones. This raises the question as to the cost/safety/effectiveness value of a small sample, when viewed in the light of the vast majority of suppliers that are never audited.

2. The approval holder is held ultimately responsible, under the FAR applicable to his approval, for conformity to the approved design data and condition for safe operation of each end product that leaves his final assembly facility. The FAA holds the approval holder responsible for supplier produced defective components, even though the supplier who produced the component may have just been audited by the FAA, or the component had been issued a conformity certificate by an FCAA. Many U.S. approval holders have questioned the value of these audits/certifications, since they do not in any manner mitigate the approval holder's own ultimate responsibility for controlling his suppliers wherever they may be.

3. Some FCAAs have indicated to the FAA that they are finding it difficult to cope with the burden on their resources created by the FAA requests for conformity certification of components produced in their countries.

4. The FAA has received many complaints from U.S. manufacturers regarding the fees charged to them by the FCAAs for issuance of conformity certificates for components.

5. The statutory requirements for FAA surveillance of production approval holders are in Sections 603, 605, and 609 of the FA Act of 1958. Sections 603 and 605 essentially require inspections "during manufacture"; however, neither of these sections has been implemented by FARs that provide for the FAA to perform such inspections. The current provisions and procedures for surveillance and audits of production approval holders have been in FAA policy documents. On the other hand, Section 609 has been implemented in FAR 13.19, which essentially states in part that the Administrator may reinspect any "civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency", and, if as a result of such reinspection, safety or the public interest requires, the Administrator may issue an order amending, suspending, or revoking, all or part of any "production certificate", among others. Since there are no provisions in either the FA Act or FAR 13.19 that specifically require the FAA to conduct regularly scheduled audits of production approval holders, and since the FA Act and FAR 13.19 are silent with respect to suppliers to production approval holders, the intended meaning of inspection "during manufacture" is subject to interpretation. It would appear that the FAA's mandate to conduct reinspections and/or inspections during manufacture, without having routine, regularly scheduled audits, would be met by concentrating FAA inspection resources at the main facilities of a production approval holder, with particular emphasis on:

a. The monitoring of supplier activities through random audits of the approval holder's own system for supplier qualification, approval, and surveillance, without regard to where the suppliers may be located;

b. Conducting audits of suppliers on a random basis, using either FAA inspectors or designees, whenever a finding at the approval holder's main facility indicates problems or potential problems at either a domestic or foreign supplier; and,

c. Conducting random inspection of parts and components received from suppliers, as well as witnessing inspection and testing, to destruction if considered necessary, of first article(s) received at the production approval holder's domestic facility from new suppliers.

This proposed AC is intended to meet these objectives.

Issued in Washington, D.C. on March 1, 1982.

M. C. Beard,

Director of Airworthiness.

[AC 21–AA]

Advisory Circular

Far Guidance Material

Subject: Procedures concerning supplier audits and implementation of bilateral airworthiness agreements.

1. *Purpose.* This advisory circular (AC) is to set forth revised procedures concerning Federal Aviation Administration (FAA) surveillance of suppliers to U.S. holders of FAA production approvals, and advises as to optional procedures outside the provisions of bilateral airworthiness agreements pertaining

to certification of foreign manufactured components.

2. *Information.* Federal Aviation Regulations (FAR) Part 21, Subparts F, G, K, and O require the establishment of an inspection/quality control system as a prerequisite to issuance of an FAA production approval, and maintenance of such system after the approval has been issued. One of the criteria for approval of an inspection/quality control system is the establishment by the applicant of requirements and procedures for ensuring that parts and components produced by suppliers conform to the approved design data and are in condition for safe operation. In the past, the FAA policy for monitoring supplier activity has been to conduct regularly scheduled audits of selected domestic suppliers, and, in the case of foreign suppliers, allow the use of only those in countries with which the U.S. has bilateral airworthiness agreements, and only when each component produced has been issued a conformity certificate (export certificate) by the Foreign Civil Air Authority (FCAA).

The FAA has reassessed its past policy concerning supplier surveillance, in light of current budgetary restraints, and problems experienced with the surveillance procedures with respect to foreign suppliers. Also considered was the ultimate responsibility of the production approval holder, for ensuring that each completed product, including supplier furnished articles, that leaves the holder's domestic production facility conforms to the approved design data and is in condition for safe operation. This responsibility is enforced without regard to where suppliers may be located, whether suppliers have been under FAA surveillance, or whether procured components have been certified under a bilateral airworthiness agreement.

It has been concluded that the safety objectives of the FAA will be met, without regularly scheduled audits of suppliers, by concentrating FAA resources at production approval holder's main domestic facilities, with emphasis on supplier controls and receiving inspection. The FAA will not, however, relinquish the authority or responsibility for reinspection of suppliers, either foreign or domestic, at anytime for cause, using either FAA inspectors or designees. The use of FCAAs to certify components produced in countries with which the U.S. has bilateral airworthiness agreements will be retained as an option, dependent upon individual circumstances.

3. *Applicability.* The procedures outlined in this AC do not apply to:

a. Components for prototype products used in FAA type certification programs; and,

b. Components used in completed products submitted for airworthiness certification or approval after a type certificate (TC) or design approval has been issued but before production approval has been granted; e.g., aircraft submitted for airworthiness certificates after the TC for the aircraft has been issued but before the newly TC'd aircraft has been added to the Production Limitation Record for the Production Certificate. Such components would require conformity inspection or verification by the FAA or its representatives, including foreign civil air authorities, unless the applicant for the TC provides assurance to the FAA that completed products will not be presented to the FAA for airworthiness certification or approval until the production approval has been granted.

4. *Procedure.* a. The following supersedes information pertaining to supplier selection and eligibility currently in AC 21-1, Production Certificates; AC 21-303.1A, Certification Procedures for Products and Parts; and FAA Order 8120.2A Production Approval and Surveillance Procedures. These documents will be amended to incorporate these procedures.

b. The holder of an FAA production approval issued under FAR Part 21, Subpart F, G, K, or O may use suppliers in any location, either domestic or foreign, for components covered by such approvals, provided that the following basic criteria have been met:

(1) The approval holder must establish and document procedures under which suppliers are qualified, and the system that the approval holder has in place to ensure conformity and condition for safe operation of each article produced by suppliers. This system must be FAA approved and is subject to audit by the FAA or its representative at anytime;

(2) The approval holder may not use a supplier in a foreign country whose authorities would prohibit the entry into the country of FAA personnel or representatives, or inhibit in any manner a proposed audit by the FAA of an approval holder's system to oversee the performance of a supplier in that country. (The FAA would *not* audit the quality control system of the foreign manufacturer—only the control system established by the U.S. approval holder);

(3) The system approved under 4b.(1) must include procedures whereby first articles produced by foreign suppliers are subjected to inspection, including destruction as needed, to verify that the articles conform to the type design and are in condition for safe operation. More than one article may require sucn inspection until the production consistency of the supplier is verified;

(4) The approval holder must make his domestic and foreign supplier lists available to the FAA upon request; and,

(5) The approval holder must keep the FAA informed of each proposed new supplier located in a foreign country, and the receipt of first articles produced by such suppliers. The FAA may witness the inspections required under subparagraph 4b.(3).

c. When a supplier is located in a country with which the U.S. has a bilateral airworthiness agreement, the approval holder has the option of either meeting the criteria in paragraph 4b, or using the bilateral agreement provisions for conformity certificates issued by the FCAA for each component. Notification of the intention to use bilateral agreement procedures should be made to the FAA office that has jurisdiction over the production approval holder's domestic facilities.

d. With the exception of the changes with respect to supplier eligibility and the cessation of scheduled audits, the procedures in Order 8120.2A concerning audit methods, handoff procedures, etc., will be applicable in the case of suppliers that have been selected for audit.

e. Suppliers located in foreign countries may ship components directly to a user, without the components first being processed through the U.S. approval holder's domestic facilities, only if the U.S. approval holder:

(1) Authorizes such shipment in writing, accepting full responsibility for the conformity to FAA approved design data and condition for safe operation of the components so shipped; and,

(2) Advises the FAA office that has jurisdiction over the production approval holder's domestic facilities of each authorization.

[FR Doc. 82-6128 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-6]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

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

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 29, 1982.

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

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800

Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part II of the Federal Aviation Regulations (14 CFR Part II).

Issued in Washington, D.C., on March 1, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22689	Arabian American Oil Company	14 CFR 61.58(c)	To permit petitioner's flightcrews to complete their entire 24-month pilot-in-command proficiency checks for the B-737 aircraft in FAA-approved visual flight simulators.
22557	Hawthorne Aviation	14 CFR 135.261	To permit petitioner to schedule its pilots for 8 to 9 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.
22637	Clinchfield Coal Co	14 CFR 91.23(a)	To allow petitioner to reduce the required 45-minute IFR fuel reserve to 30 minutes for IFR operations conducted under Part 91 in a Bell 222 IFR certificated helicopter.
22621	Sun Refining and Marketing Company	14 CFR Part 91	To allow petitioner to operate a helicopter under the previous Subpart D governing large and turbojet-powered multiengine civil airplanes.
22634	Chesapeake & Potomac Airways, Inc	14 CFR 135.183(d)	To permit petitioner to conduct helicopter ambulance service over water without the helicopter being equipped with flotation devices.
22570	Des Moines Flight Service, Inc	14 CFR 141.25(b) (c) & (d)	To allow petitioner to employ Mr. Clyde Sievers as Chief Flight Instructor even though he does not meet all the requirements for that position.
22631	Executive Air Taxi Corporation	14 CFR 135.261(b)	To permit petitioner's pilots on helicopter emergency aerial medical evacuation service to be assigned and to accept duty during flight time with less than 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.
22626	Pitts Aerobatics	14 CFR 45.29	To permit petitioner to display 2-inch marks on its aircraft instead of the required 12-inch marks.
22614	U.S. Parachute Assoc	14 CFR 91.14(a)(3); 14 CFR Part 125	To permit aircraft hired by petitioner to carry persons and property from the airport of takeoff to the site of the National Parachuting Championships and the National Collegiate Parachuting Championships and return; also to permit parachutists to sit on the floor or on military hoop-type seats along the fuselage shell.
22567	Air Transport Assoc	14 CFR 121.311(f)	To permit petitioner's member airlines to operate certain of their aircraft after March 6, 1982, without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785 of FARs.
22636	Skybird Aviation, Inc	14 CFR 135.89(b)(3)	To permit petitioner to operate its aircraft without at least one pilot at the controls having to wear, secured and sealed, an oxygen mask.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22328	The Flying Tiger Line Inc	14 CFR 121.578	To permit petitioner to operate their B747-132 aircraft until August 20, 1982 without compliance with the provisions of the cabin ozone concentration regulations. *Withdrawn 2/10/82.*
21611	Falcon Jet Corporation	14 CFR 25.1326	To allow all owners and operators of Fan Jet Falcon and Fan Jet Falcon series C, D, E, and F aircraft equipped with a red pitot heat indicator light to continue to operate without changing the pitot heat indicator light to amber. *Withdrawn 2/4/82.*
22461	Cessna Aircraft Co	14 CFR 45.25(b) & 45.29(b)	To allow the use of 12-inch registration markings on the fuselage side that extend beyond the stabilizer leading edge and also allow 10-inch markings on the engine nacelles on Cessna Models 500, 550, 501, and 551 airplanes. *Partial grant 2/23/82.*
22418	Air Transport Association	14 CFR 63.39(b)(2)	To allow petitioner's members to conduct flight engineer training and certification in normal procedures in an airplane simulator rather than in flight. *Withdrawn 2/23/82.*
21335	The Balloon Federation of America	14 CFR Part 61	To permit petitioner to increase the experience required of applicants for private and commercial pilot certificates with a lighter-than-air free balloon (hot air) rating and also requests that the FAA establish a hot air balloon rating to be placed on flight instructor certificates and establish requirements to obtain that rating. *Denied 2/1/82.*
21991	United Air Lines, Inc	14 CFR 63.39 and 121.425(a)	To permit petitioner's flight engineers, flight engineers of other carriers, and flight engineer applicants being trained by UAL to show that: by the use of an approved pictorial means instead of an airplane, those persons can satisfactorily perform a preflight inspection; in an approved simulator using a line-oriented flight training (LOFT) program, a flight engineer applicant can satisfactorily perform the normal duties and procedures relating to the airplane, airplane engines, propellers (if appropriate), systems, and appliances; and in an approved simulator LOFT program, its flight engineers and flight engineers of other carriers can satisfactorily perform assigned duties accomplished from the flight engineer station during taxi, runup, takeoff, climb, cruise, descent, approach and landing. *Partial grant 2/17/82*
22434	Chalk's International Airline, Inc	14 CFR 61.151(a)	To permit Mr. James W. Tarr to obtain an airline transport pilot certificate before reaching his 23rd birthday. *Denied 2/17/82.*
22458	Western Airlines, Inc	14 CFR 61.39(a)(3) & 121.411(a)(6)	To permit petitioner to use check airmen in its B-727 simulator training program who do not hold Class III medical certificates. *Denied 2/17/82.*
20867	Air Transport Association of America	14 CFR 121.578	To permit petitioner to operation of cargo aircraft and four-engine narrow body aircraft after February 20, 1982, without compliance with the provisions of cabin ozone concentration regulations. *Granted 2/19/82.*
21802	Sowell Aviation, Co	14 CFR 141.65	To permit the petitioner to recommend graduates of FAA-approved courses for certification without further testing to include its FAA-approved courses for flight instructor certificates, airline transport pilot certification and ratings, and turbojet type rating courses. *Granted 2/19/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
19996	Air Transport Assoc	14 CFR 121.485	To permit petitioner's member airlines to fly more than 12 hours in any 24-consecutive-hour period provided the pilots received the periods of rest specified in the exemption. *Granted 2/18/82.*
21168	Executive Air Fleet Corporation	14 CFR 135.297(a)	Extention of Exemption No. 3203 which permits petitioner to use as pilots in command persons who have within the past 12 months completed an instrument proficiency check and, in addition, within the past 6 months have either completed an instrument proficiency check or trained to proficiency in an approved simulator. *Granted 2/11/82.*
22457	American Airlines	14 CFR 121.99 & 121.351(a)	To permit petitioner to operate its turbojet aircraft in extended overwater operations over the Gulf of Mexico to the Yucatan Peninsula using single Omega Navigation System as the primary means of navigation and also to operate on these routes with one of its two installed HF communications systems inoperative at the time of departure. *Granted 2/11/82.*
18114	The Flying Tiger Line, Inc	14 CFR 121.547(c) & 121.583(a)	To permit petitioner to carry a writer, journalist or photographer, on its B-747 and DC-8 all-cargo aircraft without complying with the passenger-carrying requirements of Part 121 of FARs. *Granted 2/17/82.*

[FR Doc. 82-6130 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

Withdrawal of Policy Regarding Issuance of Designated Alteration Station Authorizations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of policy.

SUMMARY: This action lifts the moratorium on issuing new Designated Alteration Station (DAS) authorizations and on extending any existing DAS authorizations beyond their current scope. The moratorium was announced in the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations, published May 15, 1980, in the **Federal Register.** The moratorium is lifted as a result of the concurrent issuance of Advisory Circular AC 21.431-1, Designated Alteration Station Authorization Procedures, setting forth needed guidance material on DAS authorizations.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur J. Hayes, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591 (Telephone (202) 426-8383).

SUPPLEMENTAL INFORMATION: On May 12, 1980, the Administrator approved a moratorium on the issuance of new Designated Alteration Station (DAS) authorizations and on the extension of any existing DAS authorization beyond its current scope, pending a review of operations under current authorizations and related regulations. The moratorium and review were announced in the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations (45 FR 32155) published May 15, 1980.

No major safety deficiencies were found in the DAS approvals reviewed as a result of regional audits. The accident and incident record does not indicate any deficiencies in DAS alterations. Accordingly, there is no justification from a safety standpoint to continue the moratorium, but the FAA has determined there is a need for additional guidance material on procedures, DAS technical staffing qualifications, and FAA participation, including definitive FAA audit procedures.

A notice was issued on June 18, 1981 (46 FR 32983; June 25, 1981) in which the availability of a draft advisory circular containing the additional guidance material was announced and comments were solicited. It was indicated that, after resolving the comments received and upon issuing the advisory circular, the FAA intended to withdraw the moratorium.

In view of the foregoing, I cancel the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations. The advisory circular is issued concurrently with this action.

This cancellation of policy is issued under the authority of sections 313(a), 314, 601(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, 1421(a), and 1423); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 24, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-6129 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on March 26, 1982 at the General Aviation Manufacturers Association, 1025 Connecticut Avenue, NW., Suite 517, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Meeting Held on January 22, 1982; (3) Chairman's Report on RTCA Administration and Activities; (4) Special Committee Activities Report for Janaury and February, 1982; (5) Report by the Ad Hoc Group on Future Planning; (6) Report by the Fiscal and Management Sub-committee; (7) Consideration of Establishing new Special Committees; (8) Consideration of Report Prepared by the Ad Hoc Group on Microwave Landing System (MLS) Comments Review; and (9) Other Business.

Attendence is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 26, 1982.

Karl. F. Bierach,

Designated Officer.

[FR Doc. 82-5965 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[Docket No. 81-94T]

Delaware River Port Authority Bridge Tolls; Order of the Administrator on Petitions for Reconsideration

In his Order dated January 189, 1982, the Administrator held that the toll schedule adopted by the Delaware River Port Authority (DRPA), effective September 1, 1981, is reasonable and just and that no formal administrative hearing needs to be held. The Order further dismissed all the complaints and limited the effect of his Order on the toll rates to a period of 2 years and 6 months, measured from September 1, 1981.

Upon receipt of the Order dated January 18, 1982, two of the parties each subsequently filed a Petition for Reconsideration. In its Petition, the DRPA has requested that the Administrator reconsider and delete from his Order the language purporting to "freeze" the tolls (Order, p. 23). Metro Cab, Inc., in its Petition, has requested that the Administrator reconsider his dismissal of Metro Cab, Inc.'s complaint regarding DRPA's action in excluding pasenger vehicles for hire from participating in a special reduced toll rate program.

DRPA Petition

The Petition for Reconsideration submitted by DRPA set forth a cogent argument as to why the Administrator, in this particular case, exceeded his authority in limiting the effect of his Order. A review of the Bridge Toll Procedural Rules, 49 CFR Part 310, convinces this Administrator that the various clauses, when read in pari materia, do give the Administrator the authority to prescribe *new* toll rates and limit their effect for a specific period of time, but only after the Administrator has determined that the recently increased toll rates are not reasonable and just. Therefore, the Administrator orders that the first three paragraphs on page 23 of the original Order, all relating to the requirement that the current toll rate schedule remain in effect for a period of 2 years and 6 months from September 1, 1981, be deleted from the Order dated January 18, 1982.

Metro Cab, Inc., Petition

The Petition for Reconsideration submitted by Metro Cab, Inc., repeats many of the arguments set forth in its original complaint. These were fully addressed in the January 18, 1982, Order. That Order specifically addressed the concerns of Metro Cab., Inc., by discussing the following:

1. On page 8—Allegation that the elimination of toll discounts for passenger vehicles for hire is a burden on interstate commerce and is an unfair competitive practice.

2. Page 18—fairness to the bridge user, including passenger vehicles for hire.

3. Page 21—Whether it was reasonable for the DRPA to discontinue a discounted toll for passenger vehicles for hire.

The Petition also attempts to present what appears to be a new legal arguments; including the denial of equal protection, discrimination against interstate commuters who use public vehicles for hire, infringement on the right to travel, and no reasons articulated for denying the discounted toll rate.

The above issues are closely related to the arguments set forth in the original Complaint of Metro Cab., Inc. As indicated above, these were addressed in the previous Order, and need not be addressed further.

There is nothing in this case which would constitute infringement of any constitutional rights. If an individual crosses a DPRA bridge, that person would be required to pay the base fare of $0.75, unless fitting into a category which qualifies for a reduced toll *or* which is required to pay a higher toll. The bottom line, after sifting through all their arguments, is that someone must pay the base rate of $0.75 when a passenger vehicle for hire crosses one of the DPRA bridges. If the passenger pays it, we would not be considerating this Petition. In fact, no passenger who must pay the toll, because they use vehicles for hire belonging to other companies, has filed a complaint. The act that Metro Cab., Inc. continues to pay the bridge tolls, instead of the passenger, is a business decision. (See Order p. 21), which should not affect the authority of the DRPA to set differing tolls for various classes of users, (Order, p. 18–19). The Petition for Reconsideration of Metro Cab., Inc. is denied.

Issued this 26th day of February 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82-6127 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82-7; Notice 1]

General Motors Corp.; Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motors Corp., of Warren, Michigan (GM) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps Reflective Devices and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The noncompliance is found on over 15,000 1982 model Pontiac Bonneville passenger cars. Paragraph S4.6(b) of Standard No. 108 requires, in essence, that the parking lamp be steady-burning when in use. The GM system complies when the lamp is used as a parking lamp, but because it is "electrically tied" to the front side marker lamps, flashes when the turn signal or hazard warning lamps are activated. The Pontaic design is a two-cavity lamp, the inboard one functioning both as a turn signal and parking lamp, and the outboard one only as a parking lamp. There are two distinct aspects to the noncompliance. When the headlamp switch is off and the turn signal or hazard lamps are activated, the front side marker and outboard parking lamps flash simultaneously and in sequence with the inboard turn signal or hazard warning lamps. But if the headlamp switch, is on, the front side marker and outboard parking lamps flash out of sequence with the others.

GM argues that the noncompliance herein described is inconsequential because the flashing of the outboard parking lamp with its two candlepower bulb does not impair the effectiveness of the turn signal or hazard warning signal lamps. Even assuming that the flashing of the low candlepower bulb is discernible, it "can only add to the conspicuity of the required signalling."

Interested persons are invited to submit written data, views and arguments on the petition of General

Motors Corp., described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be sumitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney principally responsible for this notice are Marx Elliott and Taylor Vinson, respectively.

Comment closing date: April 5, 1982.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 25, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–6036 Filed 3–5–82; 8:45 am]

BILLING CODE 4910–59–M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under 38 U.S.C. 221 that a meeting of the Advisory Committee on Former Prisoners of War will be held in the Omar N. Bradley Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, on March 30 and 31, 1982. The purpose of the Committee is to consult with the advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The sessions will convene at 9 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389–2455) prior to March 23, 1982.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to considertion by the committee.

Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82–6176 Filed 3–5–82; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC on April 2, 1982, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202–389–2864) prior to March 26, 1982.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82–6177 Filed 3–5–82; 8:45 am]

BILLING CODE 8320–01–M

Medical Research Service Merit Review Boards; Charter Renewals

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), the Veterans Administration announces renewal of the following Merit Review Boards in designated medical specialties for the period February 4, 1982 through February 4, 1984:

Merit Review Board for Basic Science Programs
Merit Review Board for Mental Health and Behavioral Science Programs (formerly Merit Review Board for Behavioral Science Programs)
Merit Review Board for Cardiovascular Programs
Merit Review Board for Clinical Pharmacology, Alcoholism and Drug Dependence Programs
Merit Review Board for Endocrinology Programs
Merit Review Board for Gastroenterology Programs
Merit Review Board for Hematology Programs
Merit Review Board for Immunology Programs
Merit Review Board for Infectious Disease Programs
Merit Review Board for Nephrology Programs
Merit Review Board for Neurobiology Programs
Merit Review Board for Oncology Programs
Merit Review Board for Respiration Programs
Merit Review Board for Surgery Programs

New charters for these committees have been filed in accordance with sections 9 and 14 of Pub. L. 92–463.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82–6173 Filed 3–5–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL CROP INSURANCE CORPORATION

[NOM-82-3]

TIME AND DATE: 8:30 a.m., Tuesday, March 9-10, 1982.

PLACE: Room 201-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Tree Insurance.

CONTACT PERSON FOR MORE INFORMATION: Peter F. Cole, Secretary, 202-447-3325.

Dated: March 1, 1982.

Federal Crop Insurance Corporation.

Peter F. Cole,

Secretary.

[S-347-82 Filed 3-4-82; 10:18 am]

BILLING CODE 3810-08-M

2

FEDERAL ENERGY REGULATORY COMMISSION

Notice of meeting.

March 3, 1982.

TIME AND DATE: 10 a.m., March 10, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—745th Meeting, March 10, 1982, Regular Meeting (10 a.m.)

CAP-1. Project No. 4854-002, Joe G. Paesano
CAP-2. Project No. 4024-000, Gregory Wilcox; Project No. 4569-000, City of Montrose, Colorado
CAP-3. Project No. 4122-000, Kern County Water Agency; Project No. 3515-000, Fluid Energy Systems, Inc.; Project No. 4129-001, Olcese Water District
CAP-4. Project No. 5351, Tehama County Flood Control and Water Conservation District
CAP-5. Omitted
CAP-6. Project Nos. 4161, 4162, 4163, and 4164, Sierra Pacific Power Co.
CAP-7. Project No. 2965-000, East Coast Energy Technology, Inc.; Project No. 3040-000, New Hampshire Water Resources Board; Project NO. 3254-000, Concord Electric Co.
CAP-8. Project NO. 3427-000, Cascade Waterpower Development Corp.; Project No. 3867-000, Stanfield Irrigation District & Westland Irrigation District; Project No. 4136-000, Energenics System, Inc.
CAP-9. Project No. 3982-000, Utilities Board of the City of Lamar, Colo.
CAP-10. Project No. 3526-000, Harrison Western Corp.
CAP-11. Docket No. E-6454, City of Centralia
CAP-12. Docket No. El81-16-000, National Renewable Resources, Inc.
CAP-13. Docket No. ER81-779-000, Pennsylvania Power Co.
CAP-14. Docket No. ER82-146-000, Commonwealth Edision Co.
CAP-15. Docket No. ER82-229-000, Alabama Power Co.
CAP-16. Omitted
CAP-17. Docket No. ER82-211-000, Utah Power & Light Co.
CAP-18. Docket No. ER81-679-003, Pacific Gas & Electric Co.
CAP-19. Docket No. ER82-233-000, Consolidated Edison Co. of New York, Inc.
CAP-20. Docket No. ER82-223-000, The Washington Water Power Co.
CAP-21. Docket No. ER81-387-002, Central Power & Light Co.
CAP-22. Docket No. ER81-450-000, Union Electric Co.; Docket No. ER81-461-000, Missouri Edison Co.
CAP-23. Project No. 5358-001, Woods Creek, Inc.; Project No. 5404-000, Puget Sound Power & Light Co.; Project No. 5428-000, Lawrence J. McMurtrey (Martin Creek Project)
CAP-24. Project No. 4309-001, Toulumne Regional Water District; Project No. 1061-000, Pacific Gas & Electric Co.
CAP-25. Project No. 3760-001, Franklin Industrial Complex, Inc.

Miscellaneous Agenda

CAM-1. Docket No. RM81-7, Exemption from the licensing requirements of Part 1 of the Federal Power Act of certain categories of small hydroelectric power projects with an installed capacity of 5 megawatts or less
CAM-2. Docket No. RM82-10, Revision of power system statement, Form No. 12
CAM-3. Docket No. RM79-76 (Wyoming—8), High-cost gas produced from tight formations
CAM-4. Docket No. RM79-76 (Texas—3 addition), high-cost gas produced from tight formations
CAM-5. Docket No. RM79-76 (Texas—17), high-cost gas produced from tight formations
CAM-6. Omitted
CAM-7. Omitted
CAM-8. Docket No. SA81-11-000, Gasco, Inc.

Consent Gas Agenda

CAG-1. Omitted
CAG-2. Docket Nos. ST81-194-000 and CP81-232-000, Northwest Alabama Gas District
CAG-3. Docket Nos. AR 61-2, et al. and RP80-75, Southern Natural Gas Co.
CAG-4. Docket Nos. CI77-41-000 and CI77-41-001, Mobil Oil Exploration & Producing Southeast, Inc.
CAG-5. Docket No. CI82-36-000, Sun Oil Co.; Docket No. CI82-65-000, Kerr-McGee Corp.; Docket No. CI82-69-000, Mobile Producing Texas & New Mexico inc.; Docket Nos. CI73-639-002, and CI76-586-003, Arco Oil and Gas Co.; Docket No. CI82-58-000, Marathon Oil Co.; Docket No. CI82-62-000, Texas Eastern Exploration Co.;Docket No. CI82-35-000, Amoco Production Co.; Docket No. CI82-155-000, Exxon Corp.
CAG-6. Docket Nos. RP73-110, RP74-96, RP75-108, RP76-106, RP77-98, RP78-78, RP80-107 and TA80-2-26 (AP80-2), Natural Gas Pipeline Co. of America.
CAG-7. Docket No. CP81-181-000, United Gas Pipe Line Co. and Florida Gas Transmission Co.
CAG-8. Docket Nos. CP81-408-000, and CP80-297-001, Michigan Wisconsin Pipe Line Co.
CAG-9. Docket Nos. CP81-378-000, CP81-402-000, CP81-402-001, CP81-417-000 and CP81-417-001, Texas Eastern Transmission Corp.
CAG-10. Docket No. CP81-360-000, El Paso Natural Gas Co.
CAG-11. Docket No. CP79-206-001, Columbia Gas Transmission Corp.
CAG-12. Docket No. CP80-435, Alaskan Northwest Natural Gas Transportation Co.
CAG-13. Docket No. TC81-63-000, South Georgia Natural Gas Co.; Docket No. TC81-64-000, Southern Natural Gas Co.
CAG-14. Docket No. RP80-121, United Gas Pipe Line Co.

Power Agenda

I. Licensed Project Matters

P-1. Omitted
P-2. Project No. 2893-001, BSR Co., Inc.
P-3. Omitted
P-4. Project No. 3592-000, Fluid Energy Systems, Inc.; Project No. 4125-000, Kern County Water Agency; Project No. 4805-001, Bloom Field Ranch Hydropower Project.

II. Electric Rate Matters

ER-1. Omitted
ER-2. Docket No. ER82-225-000, Resources Recovery (Dade County) Inc.

Misscellaneous Agenda

M-1. Docket No. OF81-25-000, Tulsa Energy Corp.
M-2. Omitted
M-3. Reserved
M-4. Reserved
M-5. Docket No. RM82- , Fees Applicable to general activities
M-6. Omitted
M-7. Docket No. GP80-9-000, Equitable Gas Co.

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket No. TA81-2-000, (PGA81-2, et al.), Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
RP-2. Docket No. IS81-165-000, Shell Pipe Line Corp.; Docket Nos. IS81-11-000, et al., Amoco Pipe Line Co.; Docket No. IS81-32-000, Chicap Pipe Line Co.; Docket No. IS81-116-000, et al., Cities Service Pipe Line Co.; Docket No. IS81-67-000, et al., Marathon Pipe Line Co.; Docket No. IS80-83, et al., Mid-Valley Co.; Docket No. IS81-77-000, et al., Phillips Pipe Line Co.; Docket No. IS81-58-000, Pure Transporation Co.;
RP-3. Omitted

II. Producer Matters

CI-1. Omitted

III. Pipeline Certificate Matters

CP-1. Docket No. CP79-80, Trailblazer Pipeline Co.; Overthrust Pipeline Company and Colorado Interstate Gas Co.; Docket No. CP80-7, Mountain Fuel Supply Corp.; Docket No. CP80-380, Northern Natural Gas Co.
CP-2. Docket No. CP81-505-000, Pacific Gas Transmission Co.; Docket No. CP82-22-000, Pacific Interstate Transmission Co.
CP-3. Docket No. CP81-274-000, Transcontinental Gas Pipe Line Corp.
CP-4. Docket No. CP82-136-002, Distrigas Corp.

Kenneth F. Plumb,

Secretary.

[S-346-82 Filed 3-4-82; 9:48 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8725, Monday, March 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, March 4, 1982.

PLACE: Board Room, 6th floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The Bank Board meeting scheduled for Thursday, March 4, 1982 has been cancelled.

[No. 16, March 4, 1982]

[S-349-82 Filed 3-4-82; 10:32 am]

BILLING CODE 6720-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-10]

TIME AND DATE: 10 a.m., Thursday, March 18, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 337-TA-99 (Molded-In Sandwich Panel Inserts and Methods for Their Installation)—briefing and vote.
6. Investigation 731-TA-42 (Final) (Motorcycle Batteries from Taiwan)—briefing and vote.
7. Investigations 701-TA-148/150 (Preliminary) and Investigation 731-TA-88 (Preliminary) (Carbon Steel Wire Rod from Belgium, Brazil, France, and Venzuela)—briefing and vote.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-348-82 Filed 3-4-82; 10:18 am]

BILLING CODE 7020-02-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Friday, March 5 (Revision #2).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Friday, March 5: 10:00 a.m.: Discussion of Clinch River Breeder Reactor.

ADDITIONAL INFORMATION: By a vote of 3-0 on March 2, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that the Affirmation of Indian Point Order, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

March 4, 1982.

[S-351-82 Filed 3-4-82; 3:57 pm]

BILLING CODE 7590-01-M

6

POSTAL SERVICE

(Board of Governors)

Notice of Vote To Close Meeting

On March 1, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for April 5, 1982. Except for Governor Sullivan, who was absent, each of the members voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Assistant Postmaster General Cummings.

The meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section

552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of Title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the initiation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of Title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i), and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-350-82 Filed 3-4-82; 10:32 am]

BILLING CODE 7710-12-M

federal register

Monday
March 8, 1982

Part II

Department of Agriculture

Agricultural Stabilization and Conservation Service

Peanuts; Poundage Quota Regulations for the 1982 Crop of Peanuts

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations for the 1982 Crop of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth the rules for establishing State and farm poundage quotas, farm yields, transfers of quota, determination of undermarketings, and issuance of farm quota notices to implement the Agriculture and Food Act of 1981 for the 1982 crop of peanuts. The rules for identification of marketings, assessment of marketing penalties, and processing of violations, will be issued in a later publication in the **Federal Register.** The most significant provisions of this regulation are the determination of farm poundage quota reductions, determination of under marketings, and transfers of farm poundage quotas. The promulgation of this rule is necessary in order that State and farm poundage quotas may be established for the 1982 crop of peanuts.

DATE: Comments must be received on or before March 23, 1982 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building USDA, between the hours of 8:15 and 4:45, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bruce D. Starnes (ASCS), 202–382–0150. An impact analysis is currently being prepared and will be available for review prior to publication in the Final Rule.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to are: Commodity Loans and Purchases; 10.051; as found in the Catalog of Federal Domestic Assistance. This proposed rule 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 governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Department of Agriculture 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.

The planting season for peanuts will begin in late March and farmers need to know the details of the peanut program authorizing price support and poundage quotas for the 1982 through 1985 crops of peanuts. Poundage quotas establish eligibility for the $550 per ton quota price support and are an important part of a farmer's financial arrangements to cover production costs such as land preparation, fertilizer, seed, and other similar costs. Therefore, it has been determined that the comment period with respect to this rule shall be limited to a period of 15 days after the publication of this document in the **Federal Register** in order that comments received can be reviewed and a Final Rule can be published at the earliest possible date.

Statutory Requirements

The Agriculture and Food Act of 1981 (the Act), Which was enacted on December 22, 1981, amended the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to make significant changes in the administration of the peanut production and price support program. The Act abolishes acreage allotments for peanuts, thus permitting anyone to produce and market peanuts, under certain conditions, without penalty. The Act provides that the national poundage quota for peanuts will be reduced from 1,440,000 tons in 1981 to 1,200,000 tons for the 1982 crop. The poundage quota is the amount of peanuts entitled to be marketed from a farm directly for domestic edible use. Any peanuts produced on a farm without a farm poundage quota or in excess of the farm poundage quota are classified as additional peanuts and must be contracted for export or crushing by April 15, or placed at harvest in the price support loan pool for additional peanuts. Quota peanuts are eligible for price support at a rate of $550 per ton. The support level for additional peanuts is $200 per ton.

The Act requires that a farm poundage quota be established for each individual farm based on the farm poundage quota established for such farm for the 1981 crop, subject to a reduction which will result in the total of all farm poundage quotas being. 1,200,000 tons, the 1982 national poundage quota. The Act specifies that the reduction in poundage quota allocated to States:

". . ., shall insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, be accomplished by reducing the farm poundage quota for each farm in the State to the extent that the farm poundage quota has not been produced on such farm. For purposes of the foregoing sentence, the farm poundage quota shall be considered as not having been produced on a farm to the extent that (i) during any crop year immediately preceding the crop year for which the adjustment is being made, such quota was not actually produced on the farm because there was inadequate tillable cropland available on the farm to produce such quota; or (ii) during any two of the three crop years immediately preceding the crop year for which the adjustment is made: (I) such quota was not actually produced for any other reason (other than natural disasters or such other reasons as the Secretary may prescribe), or (II) such quota was produced but by another operator on a farm to which the poundage quota (or the acreage allotment upon which such poundage quota was based) was transferred by lease. To achieve the reduction in the State poundage quota in any marketing year, the reductions in farm poundage quotas shall be made first under clause (i) of the preceding sentence and, if necessary, under clause (ii)(I) and then clause (ii)(II) thereof."

This proposed regulation sets forth the procedures for the establishment of farm poundage quotas and other terms and conditions of the program affecting the production of peanuts, such as transfers of quotas and the determination of yields. These regulations are based on previous regulations applicable to 1978–81 crops with respect to farm yields and the establishment of the farm poundage quotas, with modifications designed to reflect changes made by the 1981 Act. The primary impact of these regulations is to establish the manner in which the individual farm poundage quotas will be determined.

Reduction in Individual Farm Poundage Quotas

Basically, the Act sets forth farm poundage quota reduction categories for the purpose of establishing priorities in determining individual farm poundage quota reductions. The first category is for farms which did not actually produce peanuts on the farm because there was inadequate tillable cropland available on the farm to produce the quota quantity in the preceding crop year. The second category consists of those farms where peanuts were not actually produced in two out of the three preceding years except in those situations where peanuts were not produced because of a natural disaster or other such reason as prescribed by the Secretary. The third category consists of those farms for which the quota quantity was produced but by another operator on a farm to which the quota (allotment) had been transferred by lease two out of the three preceding years. The fourth category consists of all farms which were not reduced to a zero poundage quota under the first three categories or were not affected by reductions in the first three categories.

The Act requires the Secretary, insofar as practicable, to make reductions in this order and in accordance with such regulations as the Secretary determines to be fair and equitable.

During the development of this proposed rule, however, it has become apparent that there are a large number of farms falling into the third category. It has also become apparent that the application of the poundage quota reduction to farms in the third category might, in some instances, cause significant individual hardships and the disruption of normal production practices in a number of peanut growing areas. In particular, because of the late date on which the Act became law, the Department has had inadequate time to gather sufficient information upon which to evaluate the impact of reductions of farm poundage quotas in the third category. Moreover, producers have had to prepare for planting the 1982 crop of peanuts without knowing the specific manner in which the Department intended to implement the poundage quota reductions mandated by the Act.

In view of this situation, the Secretary proposes that in order to implement the Act in a fair and equitable manner, no individual farm poundage quota reductions should be made in the third category for the 1982 crop. Instead, a uniform State factor would be applied to all farms in the State if the poundage quota reductions in the first category and second category are insufficient to meet the required overall reduction in the State poundage quota.

This proposed rule would apply to the 1982 crop of peanuts only. It is anticipated that proposed regulations will subsequently be issued for the 1983 through 1985 crops of peanuts which will set forth procedures for reducing farm poundage quotas for farms in the third category. They will also afford the Department adequate time to analyze thoroughly the impact of reducing farm poundage quotas for farms in the third category.

Therefore, for purposes of the 1982 crop only, the proposed rule defines the categories of farms in which poundage quota reductions will be made as follows:

A. *Category 1. Inadequate Tillable Cropland.* Adequate tillable cropland is land determined by the county committee for the preceding crop year to be: (1) suitable for the production of peanuts; and (2) land on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable for the production of peanuts includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

B. *Category 2. Non-production of the quota during two out of the three preceding years.* In this category, the farm poundage quota shall be reduced for the current year to the extent that the county committee determines that peanuts were not actually produced during two out of the three years of the base period, except when the county committee determines that the quota quantity was not produced because of natural disasters or other reasons beyond the control of the producer. Such reasons include:

(1) The farm or poundage quota was purchased after the latest normal 1980 planting date but was produced on the farm in 1981. This condition will apply only to establishing the farm poundage quota for such farm for the 1982 crop.

(2) The farm allotment (poundage quota) was in the Eminent Domain pool.

(3) The farm poundage quota was apportioned to the farm from the new farm reserve and produced in 1981. The considered produced credit for 1980 shall not exceed the produced and considered produced poundage quota for such farm for 1981 and shall apply only to establishing the farm poundage quota for the 1982 crop.

C. *Category 3. Farms not reduced to zero in categories 1 or 2.* A uniform State factor will be determined and applied against the preliminary farm poundage quotas on all farms not reduced to zero in the first two reduction categories. Because each State's reduction will be made independent of other States, the application and size of the factor may vary with respect to categories between States. Included in this group will be farms that received a partial reduction in categories 1 or 2 and still retained farm poundage quota. Also, some farms may be reduced in one or two categories prior to a factor being applied because of a combination of circumstances. For example, a farm may take a partial reduction in category 1 because of inadequate tillable cropland and also a reduction for not producing in category 2.

D. *Calculation of the farm poundage quota reduction in categories 1 or 2.* Calculations of farm poundage quota reductions will be done by individual categories in order of priority. In category 1, the reduction will equal the amount of nonproduction of the farm poundage quota that is attributable to inadequate tillable cropland during the previous crop year. In category 2, the reduction will be based on the average of the two highest percentages of nonproduction of the farm poundage quota during the three base period years. The amount of the reduction would equal: (1) the product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reduction made under category 1, but may not be less than zero. The amount of reduction under category 1 is subtracted in order to prevent a duplication of reductions between the two categories. Otherwise, the cumulative effect of reductions in categories 1 and 2 could cause the farm poundage quota to be reduced below the amount of actual marketings of quota peanuts on the farm during the base period years.

The following is an example of how the calculations described above would be made. The example assumes that the farm poundage quota for each of the base period years (1979, 1980, and 1981) was 50,000 pounds, and that the preliminary farm poundage quota for 1982 is also 50,000 pounds.

EXAMPLE OF QUOTA REDUCTION CALCULATIONS

[All numbers in pounds]

	Year		
	1979	1980	1981
Inadequate tillable cropland			10,000
Nonproduction of quota	5,000	15,000	10,000
Actual production of quota	45,000	35,000	40,000

Category 1

Amount of nonproduction due to inadequate tillable cropland = 10,000
Potential reduction = 10,000

Category 2

Two highest percentages of non-production = 15,000 divided by 50,000 = .3 (1980)
Average of two highest percentages = .25
Potential reduction (average percentages × preliminary farm poundage quota) – Category 1 reduction = .25 (50,000) minus 10,000 = 2,500
Total Potential Reduction (Category 1 plus 2) = 12,500
1982 Adjusted Preliminary Farm Poundage Quota = 50,000 minus 12,500 = 38,500*

Reserve for Correction of Errors

The Act requires the Secretary to reduce the farm poundage quota on farms in the States on such fair and equitable basis as is practicable. To accomplish this objective, the proposed rule would require the State committee to establish a State reserve for the correction of errors. The reserve would not exceed 2 percent of the State poundage quota and would be allocated to counties upon request. The reserve will be used to the extent available to correct errors including, but not limited to, missed farms and errors in establishing preliminary farm poundage quotas. Requests for reconsideration and appeal may be made under the provisions of 7 CFR Part 780.

Other Significant Considerations

The Act also modified or affected the terms and conditions for transfers of quota, carryover of undermarketings, farm yields, and quota in the Eminent Domain pool.

(a) *Farm poundage quota transfers.* The Act now allows transfers by lease or sale across county lines within a State in those States which had a State poundage quota of 10,000 tons or less for the 1981 crop. Those States are: Arizona, Arkansas, California, Louisiana, Missouri, Mississippi, New Mexico, and Tennessee. In addition, the owner or the operator of a farm may transfer all or any part of a farm's poundage quota to another farm in the same county or a contiguous county within the State that is owned or controlled by the owner or operator of the transferring farm. If the owner or operator transfer is across county lines, the receiving farm must have had a farm poundage quota for the 1981 crop.

(b) *Carryover of undermarketings.* The Act provides for undermarketings to be cumulative beginning with unused undermarketings from the 1980 crop. Each farm's unused undermarketings will be pooled for each farm under this proposed regulation and carried forward until used or until the authority to carry out this program expires. The total of all farm pooled undermarketings for all States will continue to be subject to the 10 percent maximum carryover for any given crop year. Consistent with previous practice, transfers of actual and effective undermarketings will not be permitted.

(c) *Farm yields.* The Act continues the same base period (i.e. 1973 through 1977) for determining farm yields as was applicable under previous legislation. Farm yields will not, therefore, change significantly.

(d) *Quota in the Eminent Domain pool.* Producers who had farm poundage quota displaced and pooled through the right of eminent domain prior to December 22, 1981 will have a preliminary farm poundage quota established for the 1982 crop. Such quota must then be permanently transferred to an eligible farm prior to the establishment of the 1983 preliminary farm poundage quota or be subject to reduction due to inadequate tillable cropland.

Accordingly, it is proposed to amend the regulations at 7 CFR Part 729 by adding a new subpart to read as follows:

PART 729—PEANUTS

Subpart—Poundage Quota Regulations for the 1982 Crop of Peanuts

General

Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 65, as amended, 66, as amended, 91 Stat. 944, as amended, 95 Stat. 1248 (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375 as amended); Sec. 108A, 95 Stat. 1254 (7 U.S.C. 1445c–1)

Subpart—Poundage Quota Regulations for 1982 Crop of Peanuts

General

§ 729.111 Basis and purpose.

(a) The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and are applicable to the 1982 crop of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto.

(b) The acreage allotment, marketing quota, and poundage quota regulations for peanuts for the 1978 and subsequent crops (43 FR 28987 and 44 FR 25404, 28294, as amended) are hereby

*Prior to the application of any uniform State factor should further reductions in category 3 be necessary.

superseded but remain effective with respect to the 1978 through the 1981 crops of peanuts.

§ 729.112 Extent of calculations and rule of fractions.

Computations shall be rounded according to Part 793 of this chapter. The terms set forth below shall be expressed as follows:

(a) Acreage in acres and tenths of acres.

(b) Penalty or damages in dollars and cents.

(c) The quantity of peanuts produced, considered produced and marketed; a preliminary farm poundage quota; a farm poundage quota; an effective farm poundage quota; a farm yield; and an actual yield per acre, in whole pounds.

(d) Factors as a four place decimal except where a different place decimal factor is established by the Deputy Administrator.

§ 729.113 Definitions.

The definitions in and provisions of Parts 718, 719, and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter require otherwise, the following words and phrases, as used in this subpart and in all related instructions and forms shall mean:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Areas.* (1) The southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Base period.* The 3 calendar years immediately preceding the year for which a farm poundage quota is being established.

(d) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, or cooperative, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(e) *Considered produced.* The number of pounds of peanuts to be considered produced for the current year or for a base period year for use in computing a future farm poundage quota. Considered produced pounds for a farm will be the sum of the pounds (limited to the farm poundage quota less the pounds of peanuts marketed) which:

(1) Were not produced because of a natural disaster as determined by the county committee in accordance with instructions issued by the Deputy Administrator, State and County Operations, Agricultural Stablization and Conservation Service (hereinafter referred to as the "Deputy Administrator").

(2) Were in an eminent domain pool.

(3) Are equal to the farm poundage quota on a farm where the farm was either purchased or a transfer by sale was approved, after the latest normal planting date for peanuts for the county for the 1980 crop year, and only to the extent that such farm poundage quota was produced or considered produced on the farm to which allocated during the 1981 crop year.

(4) Are equal to the total pounds produced or considered produced on a farm to which was allocated for the 1981 crop year a new farm allotment and quota in accordance with § 729.17 of this chapter.

(f) *Cropland.* Land on a farm which is determined by the county committee to be suitable for the production of peanuts and on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncorp uses as determined by the county committee.

(g) *Crushing.* The processing of peanuts (1) to extract oil for food uses and meal for feed uses, or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stablization and Conservation Service, U.S. Department of Agriculture.

(i) *Domestic edible use.* Peanuts which are: (1) used for milling to produce domestic food peanuts, other than peanuts used for crushing; (2) used for seed; or (3) dug peanuts used or consumed on the farm.

(j) *Effective farm poundage quota.* The quota determined in accordance with § 729.126.

(k) *Excess peanuts.* The quantity of peanuts marketed or considered marketed for domestic edible use in the current marketing year in excess of the effective farm poundage quota.

(l) *Farm poundage quota.* The quota determined in accordance with Section 729.124.

(m) *Farm yield.* The farm yield determined in accordance with § 729.127.

(n) *Farmers stock peanuts.* Dug peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers.

(o) *False identification.* False identification shall include the following:

(1) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(p) *Final acreage.* The acreage on the farm from which peanuts are produced as determined and adjusted in accordance with Part 718 of this chapter.

(q) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(r) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the U.S. Department of Agriculture.

(s) *Marketed.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "market", "marketing", and "for market" shall have corresponding meanings to the term "marketed" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts, for the harvesting,

picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer pursuant to an oral or written sales agreement. Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when unloaded at the delivery point. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts or marketings for domestic edible use.

(t) *Marketing year.* For each crop of peanuts, the period beginning August 1 of the current year and ending July 31 of the following year.

(u) *National poundage quota.* 1,200,000 tons for 1982.

(v) *Planted acreage.* The final acreage of peanuts on a farm determined in accordance with the provisions of Part 718 of this chapter.

(w) *Peanuts.* All peanuts produced, excluding any peanuts which were not dug or were not picked or threshed before or after marketing from the farm and excluding any peanuts marketed by the producer before drying or removal of moisture from such peanuts by natural or artifical means for consumption exclusively as boiled peanuts (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal-State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in the southeastern and southwestern areas and 8 percent in the Virginia-Carolina area). If the lot of peanuts is not inspected by the Federal-State Inspection Service, the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of the shelled peanuts by 1.5.

(x) *Preliminary farm poundage quota.* The quota determined in accordance with § 729.123.

(y) *Produced.* The total pounds of peanuts dug.

(z) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except the following: (1) green peanuts; (2) peanuts which are placed under loan at the additional support rate and not redeemed by the producer; or (3) peanuts which are marketed under a contract between a handler and a producer for export and/or crushing.

(aa) *Seed sheller.* A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's corp.

(bb) *Segregation 1 peanuts.* A lot of farmers stock peanuts which (1) have at least 99 percent peanuts of one type, (2) have not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, and (3) are free from visible Aspergillus flavus mold.

(cc) *Undermarketings.* The number of pounds determined in accordance with § 729.125.

(dd) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage of peanuts.

§ 729.114 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* These peanuts are commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner, Wilmington Runner, Dixie Runner, or Runner. They are produced principally in the southeastern peanut producing area of the United States and are identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation; seeds crowded in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* These peanuts are commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish. They are produced principally in the southeastern and southwestern peanut-producing areas of the United States and are identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel, and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* These peanuts are commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia. They are produced principally in Tennessee and New Mexico and are inditified by the following general characteristics: Typically three or four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* The peanuts are commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia. They are produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and are identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type, pods are roughly cylindrical, with veining and corrugation deep, and seeds cylindrical with pointed ends, length two or three times diameter, and practically smooth.

§ 729.115 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take. The State committee shall correct or require the county committee to correct any action taken by the county committee which is not in accordance with this subpart. The State committee shall also require the county committee to withhold taking any action which is not in accordance with this subpart.

§§ 729.116–729.119 [Reserved]

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

§ 729.120 Instructions and forms.

The Director shall issue such forms and instructions as are necessary for carrying out the regulations in this subpart.

§ 729.121 Determination of State poundage quota.

The State poundage quota shall be the State's share of the current year's national poundage quota calculated to equal the percentage of the 1981 national poundage quota allocated to farms in the State.

§ 729.122 Reserve for corrections.

For the purpose of correcting errors, the State committee shall establish a reserve of not to exceed 2 percent of the State poundage quota. If the amount of poundage quota necessary to correct errors is in excess of the reserve established by the State committee, such errors may nevertheless be corrected with the approval of the Deputy Administrator. However, the Deputy

Administrator may require the State committee to recalculate the farm poundage quotas for all farms in the State, if the Deputy Administrator determines that the amount of poundage quota necessary to correct errors is substantially in excess of the reserve. In such case, the State committee shall reissue corrected farm poundage quotas for all farms in the State and such corrected farm poundage quota shall be considered the farm poundage quota for the farm for all purposes.

§ 729.123 Determination of preliminary farm poundage quota.

The preliminary farm poundage quota shall be the farm poundage quota established for the farm for the preceding year.

§ 729.124 Determination of farm poundage quota.

The farm poundage quota shall be the preliminary farm poundage quota adjusted downward for poundage quota reductions as required by this section, plus permanent adjustments from reserves and permanent transfers.

(a) *Poundage quota reductions.* The preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for the reserve for the current marketing year.

(1) Inadequate tillable cropland. The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage quota during the preceding crop year. A farm for which the acreage allotment and farm poundage quota was in the eminent domain pool on December 22, 1981 shall be considered as having adequate tillable cropland.

(2) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two of the base period years. An individual determination shall be made for the farm as constituted during each year of the base period if the current constitution differs from any one or more of the base period years.

(3) *Calculation of farm poundage quota reductions under subparagraphs (a)(1) and (2).*

(i) The amount of the farm poundage quota reduction made under subparagraph (a)(1) of this section shall equal the amount of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(ii) The amount of the farm poundage quota reduction made under subparagraph (a)(2) shall equal: (A) the preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three base period years minus (B) the amount of any reduction under subparagraph (a)(3)(i) of this section, but not less than zero.

(4) *Application of State factor.*

(i) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraphs (a)(1) or (2) of this section are more than the required reduction (including amounts withheld for the reserve) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reductions exceed the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(ii) If the cumulative total of individual farm poundage quota reductions in paragraphs (a)(1) and (2) of this section is less than the required reduction (including amounts withheld for the reserve) in State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero in paragraphs (a)(1) and (2) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(b) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraph (a) of this section, if any, shall be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

(c) *Eminent domain pool quota.* The farm poundage quota in the eminent domain pool on December 22, 1981 shall not be adjusted by the county committee pursuant to paragraph (a) (1) and (2) of this section. Notwithstanding the provisions of § 719.11 of this chapter, peanut farm poundage quotas in the eminent domain pool on December 22, 1981 shall only be transferred from the eminent domain pool in accordance with § 729.147. Peanut farm poundage quotas on farms acquired by an agency having the right of eminent domain after December 22, 1981 shall not be eligible to be pooled under the provisions of § 719.11. In order to preserve farm poundage quotas in the eminent domain pool on December 22, 1981, such quota must be transferred pursuant to the provisions of § 729.147 during calendar year 1982.

§ 729.125 Determination of undermarketings.

(a) *Actual undermarketings.* Actual undermarketings are the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1980 crop) were less than the total amount of the applicable farm poundage quotas (disregarding adjustments for undermarketings from prior marketing years) for such marketing years. For purposes of the foregoing sentence, total marketings of quota peanuts for any marketing year shall be the larger of (1) the total production of segregation 1 peanuts on the farm for such year, or (2) the total amount of quota peanuts which were marketed or considered marketed from the farm. However, the total marketings of quota peanuts for any marketing year shall not exceed the effective farm poundage quota for that farm for such year.

(b) *Effective undermarketings.*

(1) If 10 percent of the national poundage quota for the marketing year to which the actual undermarketings are to be applied is equal to or greater than the actual undermarketings on all farms, the effective undermarketings for the farm shall be the same as the actual undermarketings.

(2) If the conditions in paragraph (b)(1) of this section are not applicable, the actual undermarketings will be apportioned to each farm in such manner that the effective undermarketings (i) will not be less than the smaller of the actual undermarketings or 10 percent of the farm poundage quota; (ii) will not be more than the actual undermarketings; and (iii) will be apportioned so as to cause, insofar as practicable, the total of the effective undermarketings on all farms to equal 10 percent of the national poundage quota for the marketing year

to which the effective undermarketings are to be applied.

§ 729.126 Determination of effective farm poundage quota.

The effective farm poundage quota shall be the farm poundage quota adjusted for temporary transfers and effective undermarketings.

§ 729.127 Determination of farm yield.

The farm yield established for a farm for which a farm poundage quota is established for the current year shall be the farm yield established for the farm for the immediately preceding year. If a farm yield is not established for a farm on which a farm poundage quota is established, the county committee shall establish a farm yield in accordance with instructions issued by the Deputy Administrator.

§ 729.128 Determination of farm yield for reconstituted farm.

For reconstitutions which are effective after farm yields have been established the farm yield shall be determined as follows:

(a) *Combination*—(1) *Quota farm.* The farm yield for a combined farm shall be the weighted average of the farm yields for the tracts being combined.

(2) *Quota and nonquota farm.* A combined farm shall be assigned the farm yield of the tract with an established quota if placed in combination with a nonquota tract even though a farm yield previously had been established for such nonquota tract.

(3) *Nonquota farms.* The farm yield for combined nonquota tracts shall be established by the county committee in accordance with § 729.127 even though a farm yield had been previously established for such tracts.

(b) *Divisions*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is being divided.

§ 729.129 Approval of farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, preliminary farm poundage quota, farm poundage quota, and effective farm poundage quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee. The initial notice of farm poundage quota shall not be mailed to a farm operator until the farm poundage quota has been approved. A revised notice may be mailed without prior approval in any case resulting from: (1) farm reconstitution that does not require allocation of additional poundage quota; or (2) a transfer by lease, sale, owner or operator of poundage quota.

(b) *Notice to farm operator.* (1) As soon as possible after the farm poundage quota or the effective farm poundage quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If a farm poundage quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of farm poundage quota or the effective farm poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the operator shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper has an interest in the farm for which the quota is established.

§ 729.130 Erroneous notice of effective farm poundage quota.

If the official notice of effective farm poundage quota issued for a farm erroneously stated a quota larger than the correct effective farm poundage quota, the quota shown on the erroneous notice shall be used as the effective farm poundage quota and shall serve as the basis for marketing penalty computations for the farm for the current marketing year only, if the county committee determines and the State Executive Director concurs that: (1) the error was not so substantial as to place the operator on notice thereof, and (2) the operator was not notified of the correct effective farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct effective farm poundage quota. Notwithstanding the foregoing, undermarketings for farms for which the erroneous notice of the effective farm poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

§ 729.131 Request for reconsideration or appeal.

Any producer who is dissatisfied with the initial determination of the farm poundage quota or the effective farm poundage quota which is established for such farm may file a request for reconsideration with the county committee in accordance with Part 780 of this Chapter. Such request must be filed no later than 15 days after the producer receives the notice of the farm poundage quota or effective farm poundage quota. If after reconsideration the producer remains dissatisfied with the determination, the producer may appeal such determination to the State committee in accordance with Part 780 of this Chapter. Determinations rendered by the State committee with respect to the determination of individual farm poundage quotas and effective farm poundage quotas shall be final and there shall be no further administrative appeal.

§ 729.132 Farms with one acre or less of peanuts.

Peanuts produced on a farm on which the acreage of peanuts is one acre or less are eligible to be marketed for domestic edible use provided that all producers that share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

§§ 729.133–729.139 [Reserved]

Transfers of Farm Poundage Quota

§ 729.140 Transfer by sale or lease.

The owner and operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not have a farm poundage quota. If the owner(s) and operator of the farm from which the transfer by sale or lease is to be made are different persons, each shall execute the record of transfer. However, only the owner(s) or operator of the receiving farm is required to execute the record of transfer.

§ 729.141 Transfer by owner or operator.

The owner or operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from such farm to another farm owned or controlled by the applicant: (a) in the same county; or (b) in a county that is contiguous to the transferring county in the same State if the receiving farm had a farm poundage quota established for the 1981 crop.

§ 729.142 Transfer within State.

Notwithstanding the provisions of § 729.140 and § 729.141, a transfer of a farm poundage quota by sale, lease, owner or operator, may be made to any other farm in the same State, pursuant to instructions issued by the Deputy Administrator, in the States of Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, New Mexico and Tennessee.

§ 729.143 Witness of signatures.

A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnesses in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations, or who may be unduly inconvenienced, may be waived provided the county office mails Form ASCS–375 or such other form approved by the Deputy Administrator to such person for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

§ 729.144 Filing transfer agreement and time for filing.

No transfer of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this subpart, has been executed on Form ASCS–375 or such other form approved by the Deputy Administrator and filed within the time periods set forth in this section with the county committee in the county where the farms are administratively located.

(a) *Transfer filed by July 31.* A record of transfer filed after July 31 may be considered filed by July 31 if the county committee, with approval of the State committee, finds that (1) the transfer was agreed upon no later than July 31, and (2) the record of transfer was not filed by July 31 because of conditions beyond the control of the parties to the transfer.

(b) *Transfer filed after July 31.* A transfer filed after July 31 shall not become effective unless filed no later than December 31 of the current year. A record of transfer filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee with approval of the State committee finds that (1) the transfer was agreed upon no later than December 31, and (2) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

§ 729.145 Maximum period of transfer.

(a) *Owner transfer.* (1) An owner transfer may be approved to a farm owned by such person permanently or temporarily but not beyond the 1985 marketing year. (2) An owner transfer to a farm controlled by such person may be approved for only one year.

(b) *All other transfers.* Transfers by lease and by operator may only be approved for one year. Multiyear leases and permanent operator transfers shall not be permitted.

§ 729.146 Transfer not to be approved.

The county committee shall not approve:

(a) A transfer of poundage quota by sale if poundage quota was transferred to the farm by sale within the 3 preceding crop years.

(b) Temporary transfers by an operator for more than one year.

(c) Permanent transfers by an operator.

(d) Transfers filed after July 31 for more than 1 marketing year.

(e) Transfers of actual or effective undermarketings.

§ 729.147 Permanent transfer of quota in eminent domain pool.

A farm poundage quota established prior to December 22, 1981 as a pooled poundage quota or allotment under Part 719 of this Chapter may be permanently transferred only during calendar year 1982 by the owner to a farm such person owns. Temporary transfers of pooled quota shall not be approved.

§ 729.148 Consent of lienholder.

A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in writing by the lienholder.

§ 729.149 Transfer to and from a farm (subleasing).

(a) *Transfer filed before July 31.* Generally the county committee shall not approve a transfer which is filed (or considered filed) on or before July 31 if the approval would result in a transfer both to and from the farm during the period ending July 31 of the same crop year. However, a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(b) *Transfer filed after July 31.* A temporary transfer of poundage quota either to or from the same farm (but not both) may be approved by the county committee if filed after July 31 even though a transfer which was filed on or before July 31 is in effect for the farm provided the producers so certify and the county committee determines that the (1) acreage of peanuts planted on the farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the current farm yield for the farm, and (2) the production to peanuts was limited to less than the effective farm poundage quota because of conditions beyond control of the producer.

§ 729.150 Effect of permanent transfer on determination of farm poundage quota.

The quota, pounds produced, pounds considered produced, pounds transferred and produced on a receiving farm for both the transferring farm and the receiving farm shall be adjusted for the current year and for 2 preceding years to reflect the applicable increase or decrease in the farm poundage quota and other historic data or farm practices affecting the determination of farm poundage quotas.

§ 729.151 County committee action.

(a) *Approval of transfer.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record has been received and that the transfer complies with the requirements of this subpart. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(b) *Notice of revised quotas.* A revised notice of farm poundage quota must be issued for each farm affected by the transfer of farm poundage quota.

(c) *Cancellation of transfer.* (1) A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled effective as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or

the transfer approval was made in error by the county committee, and

(ii) The parties to the transfer agreement were not notified of the cancellation prior to the marketings of quota peanuts in excess of the revised effective farm poundage quota.

(2) Where cancellation of a transfer is required, the county committee shall issue revised notices of poundage quota showing the reasons for cancellation.

§ 729.152 Withdrawal or minor revision.

Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of a transfer upon written request by all parties to the transfer. However, a temporary transfer may be withdrawn or revised before peanuts are harvested during any year of the agreement, and a permanent transfer may be withdrawn or revised before peanuts are harvested only during the first year of the agreement.

§ 729.153 Recomputation of previously approved multiple year transfer.

For a multiple year temporary transfer approved after 1982, the county committee shall annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (a) the poundage quota initially transferred, or (b) the farm poundage quota for the transferring farm.

§ 729.154 Amendment of multiple year transfer agreements approved on or before December 22, 1981.

Notwithstanding any other provision in this section, a multiple year temporary transfer approved on or before December 22, 1981 shall not be effective after the 1981 crop year unless an amended record of transfer is filed. The county committee shall notify the operator of both the transferring farm and the receiving farm of the requirement for filing an amended record of transfer in order for the previously filed transfer agreement to remain in effect. The amended record of transfer must be filed at the county ASCS office within 30 days from the date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of the farm poundage quota established for the farm for 1982 and shall be agreed upon and signed by each person whose signature is required and in accordance with the provisions of this subpart.

Signed at Washington, D.C. on March 4, 1982.

Richard E. Lyng,

Acting Secretary.

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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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.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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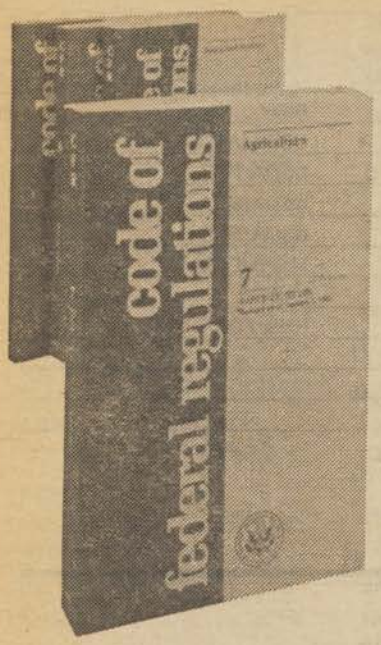

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