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federal register

Thursday
September 16, 1982

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Civil Aeronautics Board
Energy Department
Interstate Commerce Commission

Aviation Safety
Federal Aviation Administration

Marketing Agreements
Agricultural Marketing Service

Medicare
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Natural Gas
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Oil and Gas Exploration
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Radio
Federal Communications Commission

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Coast Guard

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Presidential Documents

Title 3—

The President

Proclamation 4968 of September 14, 1982

Child Health Day, 1982

By the President of the United States of America

A Proclamation

There is no better way for this Nation to invest in its future than by fostering the health of its children. We can best do this by encouraging children to develop good health habits and attitudes and by giving them the protection of immunization. Good health habits and practices begun in childhood are the prelude to positive health throughout life.

Healthy children foreshadow vigorous adults whose communities will benefit from their energy and productivity. All of us should know how the personal choices we make can help prevent disease and promote good health and to transfer this knowledge to our children. By working together, parents, schools, private and voluntary organizations, and government can effect a beneficial and lasting change in the health of our Nation and the lives of our children.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, pursuant to a joint resolution of May 18, 1928, as amended (36 U.S.C. 143), do hereby proclaim Monday, October 4, 1982, as Child Health Day.

I urge all Americans to join me in encouraging good health habits and attitudes in our children and call upon all citizens to observe Child Health Day with appropriate activities directed toward establishing such practices in the youth of our Country.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of Sept. 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 seventh.

Ronald Reagan

[FR Doc. 82-25684
Filed 9-15-82; 11:07 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4969 of September 14, 1982

General Pulaski Memorial Day, 1982

By the President of the United States of America

A Proclamation

Two hundred and three years ago the Polish and American patriot General Casimir Pulaski fell at the battle of Savannah while fighting for the principles of freedom and equality in our young Nation's struggle for independence. His example of dedication to democratic ideals has provided continuing inspiration to all of us. His name and deeds remain alive in the hearts of the Polish people, never more so than in this difficult time when so many of their basic rights are being denied to them.

In remembrance of General Pulaski's heroic sacrifice and his dedication to the ideals of freedom, we pay tribute to him and to the Polish nation of which he was such an esteemed son. In doing so, we also honor the contributions made by generations of Polish-Americans to the greatness of America.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Monday, October 11, 1982, as General Pulaski Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of Sept., 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 seventh.

Ronald Reagan

[FR Doc. 82-25729
Filed 9-15-82; 12:20 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4970 of September 14, 1982

United Nations Day, 1982

By the President of the United States of America

A Proclamation

The United Nations was born out of the massive human suffering and destruction caused by the Second World War. From the outset, the United States, one of the principal architects and founders of the United Nations, has worked to make it a forum for debate among all peace-loving nations and to support its purpose of preventing war and conflict through conciliation and cooperation. Because that goal has not been fully achieved and because the U.N. has been misused, today's world is too often fraught with strife, division, and conflict. But, despite the abuse and shortcomings, the United Nations can still be instrumental in facilitating and overseeing agreements to end conflict, in providing a center for reducing tensions through dialogue and debate, and in addressing the problems of underdevelopment which can spur conflict.

Americans can take pride in having provided significant moral, political, and financial support for the United Nations since its inception. That support will be maintained and the United States will continue to play a prominent role in the organization, using it to champion the values and ideals which underlie our own society and which originally helped to inspire the formation of the United Nations.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Sunday, October 24, 1982, as United Nations Day. On this day I urge all Americans to better acquaint themselves with the activities and accomplishments of the United Nations.

I have appointed Robert Anderson to serve as 1982 United States National Chairman for United Nations Day and welcome the role of the United Nations Association of the United States of America in working with him to celebrate this special day.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of Sept., 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 seventh.

Ronald Reagan

[FR Doc. 82-25730
Filed 9-15-82; 12:21 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4971 of September 14, 1982

National Disabled Veterans Week, 1982

By the President of the United States of America

A Proclamation

As we strive to improve our military preparedness to further our goals of a lasting peace and freedom, we look for special inspiration to our disabled veterans who have so nobly sacrificed for these ideals. Few others have so fully demonstrated great courage or endured such hardships for their country and the cause of liberty.

All Americans owe a great debt of gratitude to the over two million service-disabled veterans. The immense personal adversity suffered by these our fellow countrymen is incalculable in terms of diminished health, lost career opportunities, and restricted personal fulfillment. We are also keenly aware of the substantial tragedy these injuries pose for the families of these veterans who, along with their loved ones, must shoulder the weight of this burden.

The important contributions to the national welfare made by these gallant men and women, not only in their military service but also in their later civilian activities, are a source of pride and admiration to each of us and serve as an illuminating lesson in valor and fortitude.

It is most fitting that Congress has chosen to recognize this record of distinguished service, courage, and accomplishment through passage of a joint resolution authorizing designation of "National Disabled Veterans Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning November 7, 1982, as National Disabled Veterans Week. I call upon all Americans to join in honoring those who have given so much in the defense of freedom. I ask Government agencies at all levels, and private organizations and individuals to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of Sept., 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 seventh.

Ronald Reagan

[FR Doc. 82-25731
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

FEDERAL SERVICE IMPASSES PANEL

5 CFR Chapter XIV

Regional Office; Location Change

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This document amends Appendix A, paragraph (d)(3) (46 FR 56155) of the rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel, and Federal Service Impasses Panel (Panel), published at 5 CFR Part 2400 *et seq.*, (1982) to establish a new office zip code and a new mailing address for the location of the Authority's Washington, D.C. Regional Office. The Washington, D.C. Regional Office's telephone numbers have not been changed.

EFFECTIVE DATE: September 8, 1982.

FOR FURTHER INFORMATION CONTACT: Laurence M. Evans, Assistant General Counsel (202) 382-0811.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority, General Counsel and Panel published at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. (5 CFR Part 2400 *et seq.* (1982).) These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1982). Appendix A, paragraph (d) of the foregoing rules and regulations sets forth office addresses and telephone numbers of the Regional Directors of the Authority. This amendment sets forth the changed office zip code and mailing address of the Washington, D.C. Regional Office of the Authority. The Washington, D.C. Regional Office's telephone numbers have not been changed. Accordingly, in Appendix A to Chapter XIV, paragraph (d)(3) of the Authority, General Counsel, and Panel rules and regulations (5 CFR Part 2400 *et seq.* (1982)) is amended to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(3) *Washington, D.C. Regional Office*—1111 18th Street, N.W., Suite 700, Washington, D.C. 20033, Telephone: FTS—653-8452, Commercial—(202) 653-8452
Mailing Address: P.O. Box 33758, Washington, D.C. 20033-0758

(5 U.S.C. 7134)

Dated September 10, 1982.

For the Authority:

James J. Shepard,
Executive Director.

For the General Counsel:

S. Jesse Reuben,
Acting General Counsel.
Federal Labor Relations Authority.

[FR Doc. 82-25483 Filed 9-15-82; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Crediting for Marketing Promotion

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule allows handlers of California almonds to receive credit against their pro rata expense assessment obligations for (1) the distribution of sample packages of almonds, and (2) the purchase of almond promotional materials from the Almond Board of California. These provisions are added to the administrative rules and regulations established under the Federal marketing order for California almonds and are designed to provide handlers more flexibility in promoting the sale and use of almonds and almond products.

EFFECTIVE DATE: September 16, 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 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 will result in only minimal costs being incurred by the regulated 29 handlers.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register.** The new provisions give handlers increased flexibility in conducting their marketing promotion activities. Several handlers have expressed a desire to utilize these provisions and should be given the opportunity to do so as soon as possible.

Notice of this action was published in the August 12, 1982, issue of the **Federal Register** (47 FR 34992), and interested persons were afforded an opportunity to submit written comments. No comments were received.

This final rule revises § 981.441 of Subpart —Administrative Rules and Regulations (7 CFR 981.401—981.474; 47 FR 25001). Section 981.441 is issued under § 981.41(c) of the marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement

and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board", which works with USDA in administering the order.

Section 981.41(c) provides that the Board, with the approval of the Secretary, may allow handlers to receive credit for their direct marketing promotion expenditures, including paid advertising, against their pro rata expense assessment obligations for such activities. That paragraph also provides that a handler shall not receive credit for allowable expenditures that would exceed that portion of his assessment obligation which is designated for marketing promotion including paid advertising. Section 981.41(e) provides that before crediting is undertaken, the Secretary, after recommendation by the Board, shall prescribe appropriate rules and regulations as are necessary to effectively regulate such activity.

Section 981.441 currently prescribes rules and regulations to regulate the crediting of paid advertising expenditures. This action adds provisions to that section to provide for the crediting of certain marketing promotion expenditures other than paid advertising.

This action allows handlers to receive credit against their assessment obligations for sample packages of almonds distributed by them to charitable and educational institutions. These packages are limited in size to one-half ounce or less of almonds, and will be packed under contract for the Board and sold by it to the distributing handlers at the Board's cost. That cost will also serve as the basis for determining the amount of credit to be granted by the Board to the distributing handler. "Cost" includes, but is not limited to, the value of the almonds, the packing charge, and the value of the packing material. The Board will furnish the packing material, which will display its generic label and can also be personalized to display the distributing handler's label. Credit will be granted when the Board receives "proof of distribution" in the form of a letter from the institution receiving the sample packages. The packages will have to be distributed free of charge by the institution and could not be resold.

Credit is limited to the expense assessment obligation incurred on the first 8,000,000 redetermined kernel weight pounds received by a handler during a crop year. A handler can receive credit for 150 percent of the purchase price (cost) of the sample packages against the obligation incurred on the first 4,000,000 pounds received by him during a crop year and 100 percent credit against the obligation incurred on the second 4,000,000 pounds.

This action also allows handlers credit for almond promotional materials they purchase from the Board. These materials will be produced for the Board and sold at cost to handlers. Handlers will receive credit for 100 percent of the price they pay the Board for such materials, and can personalize these promotional materials with their own labels.

The Board believes that these new provisions will give handlers more flexibility in their promotion of almonds. The provisions will be especially beneficial to handlers who have no brand name and are, therefore, unable to take full advantage of the current provisions allowing crediting for paid advertising. The sample package provisions will be advantageous to small handlers whose yearly receipts do not exceed 8,000,000 kernel weight pounds. Finally, because handlers will be purchasing sample packages and other promotional material directly from the Board, it will be easy for the Board to verify a handler's expenditures for these items and assure proper crediting.

This action necessitates a reorganization of § 981.441. Separate paragraphs are established to distinguish between provisions dealing solely with crediting for paid advertising and provisions dealing with crediting for marketing promotion other than paid advertising. The current regulation allowing a handler to defer up to 20 percent of his creditable obligation as of the June 30 redetermination report to December 31 of the subsequent crop year is expanded to include marketing promotion other than paid advertising. Also, several other conforming changes are made in the current wording of § 981.441.

List of Subjects in 7 CFR Part 981

Agricultural marketing service, Marketing agreements and orders, Almonds, California.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendation, and other available information, it is further found that to amend § 981.441 will tend to effectuate the declared policy of the act.

PART 981—ALMONDS GROWN IN CALIFORNIA

Therefore, § 981.441 of Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 47 FR 25001) is revised to read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

(a) In order for a handler to receive credit for his marketing promotion expenditures, including paid advertising, against his pro rata expense assessment obligation pursuant to § 981.41(c), the Board shall determine that such expenditures meet the applicable requirements of this section.

(b) Each paid advertisement must be published, broadcast, or displayed and other marketing promotion activities must be conducted during the crop year for which credit is requested, except that a handler may receive credit up to a maximum of 20 percent of his total creditable advertising and promotion obligation as of the June 30 redetermination report for expenditures made for advertisements published, broadcast, or displayed and other marketing promotion activities conducted no later than December 31 of the subsequent crop year. A handler utilizing this extension shall: (1) File any required documentation with the Board no later than the following January 31, and (2) certify to the Board, at the time of the June 30 redetermination, his planned expenditures during the extension period.

(c) The following requirements shall apply to crediting for paid advertising:

(1) Credit granted by the Board for paid advertising shall be that which is appropriate when compared to the applicable outlet rate published in the domestic or Canadian catalogs of Standard Rate and Data Service or station, publisher, or outdoor rate cards. In the case of claims for credit not covered by any such source, the Board shall grant the claim if it is consistent with rates for comparable outlets. For advertisements in markets other than the United States and Canada, subparagraph (4) shall apply.

(2) The clear and evident purpose of each advertisement shall be to promote the sale, consumption, or use of California almonds, and nothing therein shall detract from this purpose.

(3) Credit for paid advertising shall be granted:

(i) For 100 percent of a handler's payment to an advertising medium: (A) For a generic advertisement of California almonds; (B) for an advertisement of the handler's brand of almonds; (C) when either of these advertisements includes reference to a complementary commodity or product; or (D) for a trade media advertisement that displays branded food products

containing almonds, or announces a handler's future promotion activities, including joint promotions, and the entire expenditure is borne by the handler.

(ii) For an advertisement resulting from joint participation by a handler and a manufacturer or seller of a complementary commodity or product, and including the brands of both, the credit shall be 50 percent of the total allowable payment to the advertising medium, or the handler's payment thereof, whichever is less.

(iii) For an advertisement resulting from joint participation by a handler and manufacturers or sellers of two complementary commodities or products, and including the brands of all three, the credit shall be one-third of the total allowable payment to the advertising medium, or the handler's payment thereof, whichever is less.

(iv) When almond products are advertised, the credit shall be 50 percent of the total allowable payment to the advertising medium, or the handler's payment thereof, whichever is less: *Provided,* That (A) The almond product does not contain nuts other than almonds, (B) the almond product contains at least 50 percent raw shelled almonds by weight, and (C) the almond product displays the handler's brand.

(4) Credit for media expenditures in a foreign market shall be granted:

(i) For the handler's unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with the Foreign Agricultural Service, U.S. Department of Agriculture, provided the advertisements meet the requirements of paragraphs (c) (2) and (3) of this section and the limitations of paragraphs (c)(5) (i) and (ii) of this section.

(ii) For a handler's media expenditures for brand advertising of almonds in the following markets: Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, the Netherlands, Sweden, Norway, Finland, Switzerland, Singapore, Hong Kong, and Japan, credit shall be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising shall also apply to the crediting of advertising in these markets. The total of the foreign credit shall not exceed 20 percent, or $500,000, whichever is greater, of a handler's advertising assessments in each crop year.

(5) Credit granted a handler shall be subject to other conditions as follows:

(i) No credit shall be granted to a handler when more than two complementary branded products are included in an advertisement.

(ii) Advertisements which, in addition to promoting California almonds, also mention or promote the sale of noncomplementary commodities or products, or of competing nuts, shall not be eligible for credit.

(iii) Advertisements which direct consumers to one or more named retail outlets, other than handler operated, shall not be eligible for credit.

(6) A handler must file a claim with the Board to obtain credit for an advertising expenditure. Except as provided in paragraph (b) of this section, no credit shall be granted unless a preliminary claim is filed on or before July 15 of the succeeding crop year and a final claim is filed on or before October 15 of the succeeding crop year. Each preliminary claim must be filed on an ABC Form 31 (claim for advertising credit), stating that documentation will be submitted as expeditiously as possible, but no later than October 15. If this preliminary claim is not filed on or before July 15, there will be no consideration of the claim under any circumstances. Each final claim must be submitted on ABC Form 31 and accompanied by appropriate proof of performance as follows:

(i) For published advertisements, submit a copy of the publication invoice, agency invoice, if any, and tear sheet of the advertisement.

(ii) For radio advertisements, submit a copy of the station invoice, a copy of the script, or reference to a copy on file with the Board, and the agency invoice, if any.

(iii) For television advertisements, submit a copy of the station invoice, a copy of the script and tape or story board of the advertisement, or a reference to these in the Board files, and the agency invoice, if any.

(iv) For outdoor advertisements, submit a copy of the company invoice, a photograph of the display or a reference to a photograph in the Board files, and the agency invoice, if any.

(v) Each claim shall also include a certification to the Secretary of Agriculture and to the Board that the claim is just and conforms to requirements set forth in § 981.41(c). The Board shall advise the handler promptly of the extent to which such claim has been allowed.

(d) The following requirements shall apply to crediting for marketing promotion other than paid advertising:

(1) Credit for marketing promotion expenditures shall be granted:

(i) For the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets. Such sample packages shall be packed for the Board under its generic label and sold to the distributing handlers at the price paid for them by the Board. Credit shall be based on the price a handler pays the Board for such packages and upon receipt by the Board of acceptable proof of distribution. Such sample packages may or may not be personalized with an individual handler's label. Credit applicable to the distribution of sample packages shall be subject to the following conditions:

(A) A handler may receive credit for 150 percent of the purchase price of such packages against the creditable assessment obligation incurred on the first 4,000,000 redetermined kernel weight pounds received by him during a crop year.

(B) A handler may receive credit for 100 percent of the purchase price of such packages against the creditable assessment obligation incurred on the second 4,000,000 redetermined kernel weight pounds received by him during a crop year.

(C) No credit shall be granted in excess of the creditable assessment obligation incurred on 8,000,000 redetermined kernel weight pounds received by a handler during a crop year.

(D) No credit shall be granted for sample packages distributed to market segments where almonds are already being sold. Handlers should obtain approval from the Board prior to distribution to ensure that this condition is met.

(E) No credit shall be applicable to the distribution of sample packages in outlets where they will be used for resale.

(F) No credit shall be granted without receipt by the Board of acceptable proof of distribution. This proof shall consist of a signed statement from the organization to which sample packages were distributed, on that organization's letterhead, stating: (*1*) The name and address of the handler from whom the packages were received, (*2*) the date of receipt, (*3*) the volume of packages received, (*4*) how such packages will be used, and (*5*) a statement that such packages will not be used for resale. Except as provided in paragraph (b) of this section, no credit shall be granted for a crop year unless this proof of distribution is submitted no later than July 15 of the succeeding crop year.

(ii) For promotion materials available from the Board and sold to handlers at the price paid for them by the Board. Credit shall be granted for the amount a handler pays the Board for such

materials upon purchase. Such materials may or may not be personalized with the label of an individual handler.

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

Dated: September 13, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82–25543 Filed 9–15–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal; Order To Show Cause

Correction

In FR Doc. 82–23767, published at page 38266, on Tuesday, August 31, 1982, on page 38267, in the first column, in § 242.1(a), in the third line "alien to" should be corrected to read "alien in", and the FR Doc. line should read "82".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

10 CFR Parts 204, 660, 661, 701 and 702

Rescission of Rules

AGENCY: Department of Energy.

ACTION: Final rule; Rescission.

SUMMARY: The Department of Energy (DOE) is rescinding its regulations appearing at 10 CFR Parts 204, 660, 661, 701, and 702. As a result of a comprehensive review of DOE regulations, DOE has determined that these rules are no longer needed and therefore should be rescinded and removed from the Code of Federal Regulations.

EFFECTIVE DATE: September 16, 1982.

FOR FURTHER INFORMATION CONTACT: William Funk, Assistant General Counsel for Regulatory Oversight, U.S. Department of Energy, Room 6A–141, Forrestal Building, Washington, D.C. 20585, (202) 252–6736.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Reasons for Rescission
A. Records of Oral Communication with Persons Outside DOE (10 CFR Part 204)
B. Mandatory Petroleum Regulations—Puerto Rico (10 CFR Part 660)
C. Administrative Procedures and Sanctions (10 CFR Part 661)
D. Statement of Organization and General Information (10 CFR Part 701)
E. Rules of Practice (10 CFR Part 702)
III. Procedural Matters
A. Section 501(c) of the DOE Organization Act
B. Section 553 of the Administrative Procedure Act
C. Executive Order 12291
D. Regulatory Flexibility Act
E. Environmental Review

I. Introduction

In early 1981 DOE began a comprehensive review of all existing and proposed DOE regulations, with the aims of reducing any regulatory burdens, maximizing the net benefits of the regulations to society, minimizing any negative economic impact of the regulations on small entities, minimizing regulatory interference with the free market, and ensuring well-reasoned regulations. In conducting this review DOE considered such factors as the continued need for each regulation, public comments, changing economic and technological trends, possible duplication or conflict with other regulations, and the extent to which the regulations could be simplified. The results of this review were published in a **Federal Register** Notice on April 30, 1982 (47 FR 18574).

One of the determinations in the April 30 Notice was that the regulations appearing in 10 CFR Parts 204, 660, 661, 701 and 702 should be rescinded. DOE received comments on the April 30 Notice through July 31, 1982. No comments were received in opposition to these recommended rescissions. Accordingly, DOE is rescinding immediately the regulations that appear in 10 CFR Parts 204, 660, 661, 701 and 702.

II. Reasons for Rescission

A. Records of Oral Communication With Persons Outside DOE (10 CFR Part 204)

These regulations established procedures for the preparation and maintenance, by specified DOE employees, of written reports regarding certain types of oral communications received from and meetings held with persons outside DOE. They also established procedures for the preparation and distribution to the public of a list of meetings that had occurred between certain DOE officials and persons from outside the agency. These regulations were originally promulgated by the Federal Energy Administration (FEA), a predecessor of DOE, and automatically were incorporated into DOE's regulations at the time of the Department's creation. Because DOE's structure does not correspond to that of FEA, these regulations are unproductive and create an inordinate burden on DOE employees. Furthermore, persons who might have had an interest in the continued adherence to the regulations did not comment on our determination to rescind them. Consequently, DOE has determined that the regulations are unnecessary.

B. Mandatory Petroleum Regulations—Puerto Rico (10 CFR Part 660)

These regulations were applicable to the mandatory allocation of motor gasoline, middle distillates, propane and butane in the Commonwealth of Puerto Rico. The regulations are no longer effective or needed in view of the issuance of E.O. 12287 on January 28, 1981, which exempted all crude oil and refined petroleum products from these regulations, and the general expiration of the Emergency Petroleum Allocation Act of October 1, 1981. The Commonwealth of Puerto Rico has concurred in our determination that these regulations should be rescinded.

C. Administrative Procedures and Sanctions (10 CFR Part 661)

These regulations established the procedures that were utilized and identified the sanctions that were available, in proceedings under 10 CFR Part 660, dealing with the mandatory allocation of petroleum products in the Commonwealth of Puerto Rico. The rules are no longer effective or needed in view of the issuance, on January 28, 1981, of E.O. 12287, which exempted all crude oil and refined petroleum products from such regulations. The Commonwealth of Puerto Rico has concurred in our determination that these regulations should be rescinded.

D. Statement of Organization and General Information (10 CFR Part 701)

These regulations, originally promulgated by the Atomic Energy Commission (AEC), were transferred to the Energy Research and Development Administration (ERDA) on March 3, 1975 (40 FR 8795). The regulations were thereafter transferred to DOE when ERDA was abolished, pursuant to the DOE Organization Act. The regulations describe the organization and functions of the former AEC, and therefore are obsolete and no longer needed.

E. Rules of Practice (10 CFR Part 702)

These regulations, originally promulgated by the AEC, were transferred to ERDA on March 3, 1975 (40 FR 8795). The regulations were thereafter transferred to DOE when ERDA was abolished, pursuant to the DOE Organization Act. The regulations set forth the procedures to be followed in various AEC proceedings, including those dealing with licenses, construction permits, public rulemaking, and certain patent matters. The regulations are obsolete and, in many cases, have been superseded where appropriate by new DOE regulations. Therefore, the regulations are no longer needed.

III. Procedural Matters

A. Section 501(c) of the DOE Organization Act

Section 501(c) of the DOE Organization Act provides that if DOE determines that, with respect to a proposed regulatory action, no substantial issue of fact or law exists, and that the regulation is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, then such regulation may be promulgated in accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553. The action being taken in this Notice is to rescind four sets of regulations (10 CFR Parts 660, 661, 701 and 702) that are obsolete, and one set of regulations (10 CFR Part 204) that imposes unnecessary recordkeeping procedures on DOE employees. The rescission of these regulations will have no impact on any person outside DOE. Therefore, DOE has determined that there is no substantial issue of fact or law and that this rescission is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, this final rule will be promulgated in accordance with Section 553 of the APA.

B. Administrative Procedure Act

Under Sections 553(b) and (c) of the APA, in most cases, a general notice of proposed rulemaking is required to be published in the **Federal Register** and an opportunity for public comment on the notice must be given. The notice and public comment requirements of 5 U.S.C. 553 do not apply, however, to rules of agency organization, procedure, or practice, or when the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Three of the sets of regulations being rescinded (10 CFR Parts 204, 701 and 702) are rules of agency organization, procedure, or practice, and their rescission is therefore exempt from the normal notice and comment requirements of Sections 553(b) and (c). The other two sets of regulations (10 CFR Parts 660 and 661) are obsolete and no longer effective due to the issuance of E.O. 12287, which exempted all crude oil and petroleum products from these regulations. Thus, DOE finds that notice and public comment requirements are unnecessary with respect to the rescission of these regulations, and that Sections 553(b) and (c) do not apply.

Under Section 553(d) a substantive rule must be published thirty days before its effective date. For the reasons cited above, DOE has determined that the rescission of these regulations is not a substantive rule. Accordingly, their rescission will be effective immediately.

C. Executive Order 12291

Section 3 of E.O. 12291 (46 FR 13193, February 19, 1981) requires that DOE determine whether a proposed rule is a "major rule," as defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since this rule merely rescinds regulations that are obsolete or no longer effective, or that provide for internal DOE recordkeeping procedures, DOE has determined that this rule does not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agenices, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 5 U.S.C. 601-612) requires, in part, that an agency prepare an initial regulatory flexibility analysis for any proposed rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." For the reasons set out above, DOE certifies that the rescission of these regulations will not have a significant economic impact on a substantial number of small entities.

E. Environmental Review

DOE has determined that the rescission of these regulations, which are obsolete or no longer effective, or which provide for internal DOE recordkeeping procedures, clearly is not a major federal action with significant environmental impact. Consequently, this rule does not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

List of Subjects

10 CFR Part 204

Administrative practice and procedure.

10 CFR Part 660

Gasoline, Petroleum allocation, Puerto Rico, Reporting and recordkeeping requirements.

10 CFR Part 661

Administrative practice and procedure, Investigations, Penalties, Petroleum allocation and Puerto Rico.

For the reasons set out in the preamble, Title 10 of the Code of Federal Regulations is amended as set forth below.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 585 (42 U.S.C. § 7101 *et seq.*); Administrative Procedure Act (5 U.S.C. §§ 551-553); E.O. 12287, 46 FR 9909)

Issued in Washington, D.C., September 10, 1982.

R. Tenney Johnson,

General Counsel.

PARTS 204, 660, 661, 701, AND 702 [REMOVED]

Part 204 of 10 CFR Chapter II and Parts 701 and 702 of 10 CFR Chapter III are removed and reserved. Subchapter K, including Parts 660 and 661, of 10 CFR Chapter II is removed.

[FR Doc. 82-25501 Filed 9-15-82; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 73-CE-13-AD; Amdt. 39-4461]

Airworthiness Directives; Beech Models 19, 23 and 24 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule revision.

SUMMARY: This amendment revises Airworthiness directive (AD) AD 73-20-07, Amendment 39-1728, as revised by Amendment 39-3732, applicable to

Beech Models 19, 23 and 24 series airplanes by deleting the words "and the forward wing attach bolt" from paragraph (a). The FAA has determined that effective inspections for cracks may be accomplished with the bolts in place. The deletion of the requirement to remove the bolts will reduce the expense of conducting the inspections and eliminate the possibility of damage to the fittings inspected during bolt removal and replacement. Such damage could cause or accelerate cracking of the fittings.

EFFECTIVE DATE: September 3, 1982.

ADDRESSES: Beechcraft Service Instructions Number 0042-031, Rev. II, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the Service Instructions is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, Terminal Building No. 2299, Room 238, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of Amendment 39-1728, AD 73-20-07, as revised by Amendment 39-3732, which requires 100-hour repetitive inspections for cracks in the forward wing attach structure of all Beech Model 19, 23, 24 and 24R airplanes, the manufacturer issued Rev. II of Beech Service Instructions (SI) 0042-031 pertaining to the inspection required by AD 73-20-07. This revision deleted the requirement for removing the forward wing attach bolt in the area to be inspected. This revision made the instructions in Beech SI 0042-031 disagree with the inspection procedures now contained in AD 73-20-07. The manufacturer's decision to revise its service instructions was based on the results of full-scale fatigue tests on the structure involved which established that potential cracks could be easily detected without bolt removal. Further, the removal and reinstallation of the bolts may cause damage to the structure being inspected which may accelerate or cause cracking of the fittings. The manufacturer has requested the FAA to revise AD 73-20-07 to agree with SI 0042-031, Rev. II.

The FAA has reviewed those test results and concurs with the manufacturer's decision and request. Accordingly, AD 73-20-07, Amendment 39-1728, as revised by Amendment 39-3732, is being further revised by deleting the requirement for removing the forward wing attach bolts before accomplishing the inspection required by this AD.

Since the amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days after the date of its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-1728 (38 FR 27045; September 28, 1973), as revised by Amendment 39-3732 (45 FR 20777, 20778; March 31, 1980), AD 73-20-07, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

Revise paragraph (a) to read as follows:

(a) Remove the seats and sidepanels and visually inspect the forward wing attach brackets, P/N 169-400013-3 and -5 (LH) and 169-400013-4 and -6 (RH), to determine if cracks or other structural damage exists in the area around the attach bolt hole. This inspection is to be performed in accordance with Beech Service Instructions 0042-031, Rev. II.

This amendment becomes effective on September 3, 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)); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves revision of a regulation which 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 provide relief to operators of affected 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 Rules Docket at that location under the caption "**ADDRESSES.**"

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 Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on September 3, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-25163 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-22; Amdt. 39-4454]

Airworthiness Directives; Hiller Model UH-12 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Hiller Model UH-12 series helicopters by relieving a restriction. The amendment is needed to clarify the applicability to specific serial numbers of the part number 21047-9 and -11 torsional couplings.

DATES: Effective September 13, 1982. Compliance required as prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93257.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106 or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM-174W, Western Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009 telephone (213) 536-6381.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4400, (45 FR 27248), AD 82-13-04 which currently requires initial and recurring inspections to helicopters with certain serial numbered torsional couplings on Hiller UH-12 series helicopters. After issuing Amendment 39-4400, the FAA has determined that the affected S/N's applied to part numbers in addition to those identified in the AD note. Therefore, the FAA is amending Amendment 39-4400 by revising the

applicability of the required inspections on Hiller UH-12 series helicopters.

Since this amendment provides a clarification, relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 amending the applicability paragraph of Amendment 39-4400 (45 FR 27248), AD 82-13-04 to read as follows:

Hiller Aviation: Applies to Model UH-12E and UH-12L series helicopters certificated in all categories (including military Models OH-23F and OH-23G) equipped with torsional couplings P/N 21047-9 and -11 serial numbers 497 through 766.

This amendment becomes effective September 13, 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)); 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it 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 only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on August 24, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-25165 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-48-AD; Amdt. 39-4448]

Airworthiness Directives: McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes Equipped With Upper Cargo Doors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: On July 24, 1981, the FAA issued a Telegraphic Airworthiness Directive (AD), T81-16-51, effective upon receipt, to all known operators of McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes certificated in all categories. This AD requires inspection for cracked or failed upper cargo door latch hooks and latch spool bolts and replacement of defective parts, if necessary. This action was prompted by reports of cracked and separated upper cargo door latch spool bolts and a failed latch hook. Failure of one or more latch hooks may result in loss of cabin pressurization. This AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective date September 21, 1982. This AD was effective earlier to all recipients of Telegraphic AD T81-16-51, dated July 24, 1981. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information 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 FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Michael O'Neil, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: On July 24, 1981, the FAA issued Telegraphic AD T81-16-51 applicable to McDonnell Douglas Model DC-9 and C-9 (Military) series aircraft requiring inspection and replacement, if necessary, of upper cargo door latch spool bolts and latch hooks as a result of cracks or failure of these components. One operator reported ten (10) cases of cracked upper cargo door latch spool bolts; one separated bolt, and one broken latch hook on two airplanes. Subsequent inspection of the door assembly revealed the forward latch hook on the upper cargo door had failed. A failure of one or more latch hooks will allow loss of cabin pressurization. The aircraft involved had approximately 34,000 flight hours and 49,000 landings.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection for cracks and failures and replacement, if necessary, of defective parts. The AD is now published to make it effective to all persons.

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

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

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 McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, equipped with an upper cargo door, whether in use or de-activated, with more than 30,000 landings, certificated in all categories. Compliance required as indicated unless previously accomplished.

A. To detect cracked or failed cargo door latch hooks P/N 3924285 and latch spool bolts P/N 4924325, within 10 calendar days after the effective date of this AD accomplish the following:

1. Open the upper cargo door sufficiently to conduct close visual inspection of the chromed surface of the cargo door latch hooks and perform a wrench check of the latch spool bolts as defined in the Accomplishment Instructions of DC-9 Alert Service Bulletin A52-130 dated 7/24/81 or later FAA approved revision.

2. Replace any cracked or failed latch hooks or any separated latch spool bolts before further flight.

3. Safety wire both ends of all remaining latch spool bolts per item 5 of DC-9 Alert Service Bulletin A52-130 dated 7/24/81.

B. Within 2,000 landings or 6 months after the effective date of this AD, whichever occurs earlier, conduct visual and magnetic particle inspections of the cargo door latch hooks and latch spool bolts as defined in the Accomplishment Instructions of DC-9 Alert Service Bulletin A52-130 dated 7/24/81.

C. Replace any cracked or failed latch hooks and latch spool bolts before further flight.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and repairs required for the purposes of this AD when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

E. For the purposes of complying with this AD, subject to the acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing.

F. Alternate means of compliance 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 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 FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective September 7, 1982, and was effective earlier to those recipients of Telegraphic AD T81-16-51, dated July 24, 1981.

(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) of the 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 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/major 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."

Issued in Seattle, Washington on September 1, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-25164 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-16]

Revocation of Control Zone; Richland, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the control zone at Richland, Washington. This will result in return to public use, airspace no longer required for the protection of aircraft arriving/departing the Richland Municipal Airport. This amendment is necessary since weather reports, both hourly and special, are not available at the Richland Municipal Airport. Weather reports must be reported by a federally certified weather observer at the primary airport in the control zone during the times and dates a control zone is designated. Since this service is not available at the Richland Municipal Airport, the airport does not meet the basic requirements for retention of the control zone. Therefore, this action revokes the designated controlled airspace.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: John H. Smith, Airspace and Procedures Specialist, ANM-536, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 433-1640.

List of Subjects in 14 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) as republished (46 FR 540; January 2, 1981) is amended effective 0901 G.m.t., October 28, 1982, as follows:

By deleting the description of the Richland, Washington control zone.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a); (Sec. 6(c), Department of Transportation Action (49 U.S.C. 1655(c); and (14 CFR 11.61(c))

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 1103; 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, when promulgated, 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, on September 2, 1982.

Charles R. Foster,

Northwest Mountain Region.

[FR Doc. 82-25135 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

41 CFR Ch. 19

Change of Agency Name

AGENCY: United States Information Agency (USIA).

ACTION: Final rule.

SUMMARY: Effective August 24, 1982, the name of the International Communication Agency (USICA) was changed to the United States Information Agency (USIA). The United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97-241, Title III, August 24, 1982.

This document changes the Agency's name and acronym wherever it may appear in the Code of Federal Regulations, especially Titles 22 and 41.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Jane S. Grymes, Management Analyst, Management Plans, Analysis, and Directives Staff, Associate Directorate for Management, United States Information Agency, Washington, D.C. 20547, 202-724-0403

In Title 22 CFR Chapter V and in Title 41 CFR Chapter 19, or otherwise, wherever the name International Communication Agency appears it should read United States Information Agency and wherever the acronyms USICA or ICA appear they should read USIA. The titles of the Chapter headings for both Title 22, Chapter V and Title 41, Chapter 19, are changed to reflect the

new name, "United States Information Agency".

Dated: September 10, 1982.

Gilbert A. Robinson,

Acting Director, United States Information Agency.

[FR Doc. 82-25476 Filed 9-15-82; 3:45 pm]

BILLING CODE 8230-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on general operating expenses.

SUMMARY: The FHWA is giving notice of temporary operating procedures with respect to the approval of federally assisted projects for the resurfacing, restoration, and rehabilitation (RRR) of streets and highways other than freeways. This action is required as a result of a limitation on general operating expenses imposed by the Congress.

FOR FURTHER INFORMATION CONTACT: Alvin R. Cowan or Kenneth H. Davis, Office of Engineering, Room 3124, 202-426-0312, or Lee J. Burstyn, Office of the Chief Counsel, Room 4223, 202-426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Supplemental Appropriations Act, 1982 (H.R. 6863, 97th Cong., 2d Sess.) was enacted into law on September 10, 1982. Title II of that statute imposes the following limitation on general operating expenses of the FHWA: "Provided, That none of the funds in this or any other Act shall be available for the implementation of the Federal Highway Administration's rule "Design standards for highways; resurfacing, restoration, and rehabilitation of streets and highways other than freeways".

The FHWA rule was published on June 10, 1982, at 47 FR 25268, and took effect on July 12, 1982. The rule amended 23 CFR Part 625 by adding a new policy section (§ 625.2) and a new paragraph (a)(6) to § 625.3.

The rule provides for the adoption of geometric design criteria and/or procedures for nonfreeway RRR projects in each State, subject to FHWA approval. The minimum geometric design criteria included in § 625.3(a) for new construction or reconstruction projects would no longer apply to nonfreeway RRR projects unless a State elected to continue to operate under those criteria, with exceptions requested from FHWA on an individual project basis under § 625.5(e).

As a result of the limitation on general operating expenses contained in the Supplemental Appropriations Act, 1982, the FHWA is temporarily precluded from expending any funds for the implementation of the rule which took effect on July 12. Accordingly, effective immediately and until October 1, 1982, no nonfreeway RRR projects will be processed by the FHWA other than on the basis of the standards and procedures in effect and being utilized by the States prior to July 12, 1982.

(23 U.S.C. 101, 109, 315, 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: September 10, 1982.

R. D. Morgan,

Associate Administrator for Engineering and Operations.

[FR Doc. 82-25350 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1205

State and Community Highway Safety Grant Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), DOT.

ACTION: Notice of amendment to internal orders; rule related notice.

SUMMARY: The purpose of this notice is to announce publicly changes in the procedure that must be followed by the States as a prerequisite to receiving Federal funds for State and local highway safety programs. The agencies are replacing the current procedure with a streamlined version that will reduce the paperwork requirements that must be satisfied by each State. This notice also publicly announces changes in existing NHTSA funding criteria which are utilized by the States in identifying those costs that are allowable for reimbursement by NHTSA. This will increase the opportunities of the States for reimbursement of costs expended on their highway safety programs.

EFFECTIVE DATES: Revised Joint NHTSA/FHWA Order 960-2/7510.3A may, at the option of the States, be relied upon in preparing and submitting FY 1983 Highway Safety Plans and becomes mandatory for FY 1984 Highway Safety Plans. Supplement B to NHTSA Order 462-13, Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments, may be used as the basis for funding decisions for FY 1983 and becomes mandatory for FY 1984.

ADDRESS: Comments may be sent to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, with a copy to the Director of the Office of Highway Safety, Federal Highway Administration, at the address listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT:

NHTSA: Mr. George Reagle, Acting Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W. Washington, D.C. 20590 (202-426-0837)

FHWA: Mr. Howard Hanna, Office of Highway Safety, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2131) or Mr. Jerry Boone, Office of the Chief Counsel, Federal Highway Administration (202-426-0791)

SUPPLEMENTARY INFORMATION: The State and Community Highway Safety Grant Program (23 U.S.C. 402), commonly referred to as the 402 Program, provides Federal financial assistance to States that have adopted programs to reduce accidents, injuries and fatalities on the roadways with their boundaries. The 402 Program is implemented by NHTSA and FHWA, which distribute funds to all States that have approved highway safety programs. Highway Safety Plans (HSP) are proposed by a state and form the basis of a Federal-aid agreement. Funding Criteria established by the agencies assist States in preparing plans. This notice announces that the agencies have made substantial changes in the content and format of both the HSP and in the criteria by which reimbursability will be determined. These changes reflect the agencies' determination that the States should be provided with increased flexibility in determining how to spend funds they receive under the 402 Program.

Background

On April 1, 1982, NHTSA and FHWA issued a final rule which identified the six highway safety program areas which have been most effective in reducing accidents, injuries and deaths; (23 CFR Part 1205, 47 FR 15116 (April 8, 1982)). In identifying these programs, the agencies examined the magnitude of each highway safety problem, the national trend or direction of the problem, the impact of existing countermeasures, and the potential for further impact on the specific problem. Because each of these program areas represents a highway safety problem of national importance for which effective research-based countermeasures have been developed, NHTSA and FHWA determined, as stated in the April rule, that projects included within these six areas "will be subject to a minimum of Federal scrutiny, limited to a review of accurate problem identification and countermeasure selection."

In addition to identifying national priority areas, the April 1982 rule also established a mechanism by which additional programs may be identified and shown by a particular State to be needed to address a significant highway safety problem within its boundaries, and funded accordingly. Programs in these areas would receive a more detailed level of Federal review, and consequently, more information would be required in the HSP. Types of such additional information are set forth in the April rule.

The April 1982 rule also noted that the changes thereby made to increase the States' flexibility in determining how to spend funds under the 402 Program would necessitate clarification of the Federal funding criteria. This notice announces significant changes in the procedures for preparing, submitting and approving the required Highway Safety Plans (HSPs), and in the criteria or guidelines to be utilized by the States in determining allowable costs.

Highway Safety Plan

The current procedures for preparing and submitting the annual Highway Safety Plan appear as NHTSA/FHWA Order 960-2/7510.3, commonly referred to as Volume 102. This notice announces the replacement of the current Volume 102 with a revised Joint NHTSA/FHWA Order that greatly streamlines the procedures for preparing, submitting and approving the HSP. The implementation of this Order will also result in a significant reduction in the amount of paperwork that will have to be prepared and submitted to NHTSA and FHWA. This revised procedure is to be utilized by each State for its FY 1984 HSP. In addition, to enable States to obtain the benefit of reduced administrative detail as they complete work on FY 1983 HSPs, the Order is effective immediately and may be relied upon by the States.

NHTSA and FHWA have determined that because the HSP is a prerequisite to obtaining a Federal grant, this modification to the required format and content is not subject to the requirement of the Administrative Procedure Act (5 U.S.C. 553) that there be notice and opportunity for public comment on the changes themselves. Because of the importance of the HSP to the program, however, NHTSA and FHWA are publishing the Order in the **Federal Register** and will welcome comments from all interested parties. All comments received will be considered by the agencies for future changes in the Joint Order.

Concurrently with the issuance of this notice, each Governor's Representative for Highway Safety will be sent a copy of the revisions in order to provide the maximum time possible to implement the Order.

The following is a brief summary of the most significant provisions contained in the Order.

Contents of HSP

The HSP shall consist of three parts: Executive Summary, Program Areas and Evaluation. The Executive Summary shall contain an overview of the State's highway safety problems and strategies the State proposes to implement to address those problems.

For programs in the national priority areas, the Program Area shall describe each highway safety problem, the proposed countermeasures, and the kinds of data relied upon in identifying the problem and countermeasure. It shall list criteria for project selection, and, where available, the specific projects proposed. It shall also describe planned accomplishments and briefly explain how evaluations will conducted.

For programs outside the national priority areas, the Program Area shall require additional information, dependent upon the funding mechanism selected by the State. These alternative mechanisms are set forth in the April rule and the additional information is listed both in that rule and in this Order.

The Evaluation shall contain an overview of the State's accomplishments in highway safety, provide information on accident, injury and fatality trends, compare actual accomplishments with those established in the HSP, note significant legislation, administration decisions and projects and discuss the progress the State is making in correcting deficiencies identified through Regional and State reviews.

Submission and Approval of HSP

The Executive Summary and the Program Area shall be submitted by the State by August 1 of each year and shall include information on the State's highway safety program for the subsequent fiscal year. The Evaluation shall be submitted by February 1, following the end of that fiscal year. By requiring the HSP to be submitted in two installments, the State should have sufficient time to evaluate the preceding fiscal year's programs and then utilize that information in preparing the coming year's HSP.

The HSP shall be submitted to the NHTSA Regional Administrator and the FHWA Division Administrator, who will review and approve their respective portions within 30 days. In the event that a State disagrees with the decision of a NHTSA Regional Administrator to withhold approval or grant conditional approval for all or part of the NHTSA portion of the HSP, the Order establishes the procedure that will be followed in resolving this disagreement.

Miscellaneous Requirements

The Order describes the instances when the HSP must be revised and the procedure to follow.

It also notes that OMB Circulars A-102 and A-87 impose certain requirements which must be met prior to program approval. The States certify that these requirements are satisfied by their execution and submission of two forms—the Federal-Aid Agreement (Form HS-62) and the Program Cost Summary (Form HS-217). These forms are being updated and are not included as part of this notice. However, immediately upon their approval they will be mailed directly to the Governors' Representatives for Highway Safety.

Funding Criteria

The agencies recognize that the States require guidance in identifying those costs which can be reimbursed by the Federal Government. Existing funding criteria for FHWA are contained in FHWA Order M7560.3, "Highway Safety Program Standards, Program Management Guide," dated February 18, 1976. These criteria shall continue to be applicable.

Existing funding criteria for NHTSA are contained in "NHTSA 402 Funding Criteria, Limitations and Conditions" (Appendix to NHTSA Order 462-13, dated May 1981). They are in force at this time. However, as noted earlier,

NHTSA has revised the criteria, as set forth in this Order, to reflect the increased opportunities of the States for reimbursement of costs expended on their highway safety programs.

States shall be permitted to base their NHTSA funding decisions for Fiscal Year 1983 on the existing criteria or the revised criteria that appear in this notice. The revised funding criteria become binding with respect to Fiscal Year 1984 NHTSA programs.

OMB Circular A-102 establishes uniform administrative requirements for grants-in-aid to State and local governments and OMB Circular A-87 establishes principles for determining costs applicable to grants with State and local governments. These Circulars set forth the basic guidelines that all agencies must follow in determining allowable costs. The revised NHTSA funding criteria that appear in this notice supplement the provisions of these Circulars.

While the funding criteria set forth in this notice increase a State's opportunity for reimbursement, there remain six basic areas where NHTSA believes some limitations or conditions on funding should be imposed. The basic areas are facilities, equipment, travel, training, public communications and management. The specific limitations or conditions are outlined in the proposed revisions. However, with the exception of a legislative prohibition on the expenditure of funds for construction, rehabilitation, remodeling or office furnishings and fixtures for State, local or private buildings or structures, these prohibitions are not absolute and costs may be approved in appropriate cases in these areas after careful review of each request for an exception.

The following discussion focuses on the limitations and conditions and explains NHTSA's rationale behind each. Land, for instance, is a major cost item which shall be excluded to make better use of the limited available funds. Likewise, major equipment purchases are expensive and will be carefully analyzed to determine necessity, appropriateness, and potential benefit. Costs for large scale computers shall not be allowable and costs for helicopters will be allowable only if they function as multi-mission vehicles with absolute priority accorded to emergency medical services use.

In order to justify expending Federal 402 funds on equipment which is also used for purposes not related to highway safety, the cost of all such equipment shall be factored, with only that portion representing highway safety use being allowed. Because of the widespread need for ambulances to respond to automobile accidents but the difficulty that many jurisdictions have in factoring equipment costs, NHTSA will allow a 25 percent Federal contribution toward ambulance costs, without requiring factoring. If a jurisdiction desires to obtain funding above that level, costs will have to be factored based upon highway safety use of equipment. The 25 percent figure was derived from a NHTSA study which determined that currently in urban areas, which have the lowest proportionate highway accident usage circumstances, 25 percent of the costs of all ambulance responses are automobile accident related. That study is available to any interested person by writing to the address specified at the beginning of this notice.

In the past NHTSA has required that certain items of equipment purchased with Federal funds meet minimum specifications. With the exception of child restraints that must meet Federal Motor Vehicle Safety Standard No. 213 and ambulances that must meet the minimum requirements specified in the funding criteria, NHTSA has transferred the authority and responsibility for determining equipment standards to the States.

International travel shall be prohibited, except after careful scrutiny, because it is an item that can easily be misused. The cost of training shall be limited to programs utilizing DOT/NHTSA endorsed, developed or equivalent curriculum in order to ensure that a satisfactory level of quality is maintained. Development of new training materials shall be permitted provided there is no needless and expensive duplication of existing materials. In view of the Federal-State partnership approach to highway safety, NHTSA believes that costs for an employee's salary during training and the salary of his or her replacement should be borne by the State since that training will directly benefit the State.

Because of the existing practice of the communications media to donate space and time for public service announcements NHTSA does not believe it can justify the expenditure of money in this area. If a pattern of paying for some space and time were to develop, it could result in large segments of the media refusing to continue their donations.

The final cost item that is addressed in the revised 402 Funding Criteria is management. NHTSA has decided that Planning and Administration (P&A) costs will be allowable and spells out which items are considered to be P&A related. The P&A provisions shall not become effective until October 1, 1983.

Procedures for Commenting on Orders

Interested persons are invited to submit written comments on these revised Orders. Comments should not exceed 15 pages in length. Necessary attachments may be added 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 manner. Comments should be directed to the Associate Administrator for Traffic Safety Programs, NHTSA, with a copy to the Director of the Office of Highway Safety, FHWA, at the address listed at the beginning of this notice.

NHTSA and FHWA announce that the following actions have been taken:

1. Joint NHTSA/FHWA Order 960-2/7510.3 has been cancelled, effective December 31, 1983.

2. A new joint NHTSA/FHWA Order 960.2/7510.3A has been issued, as set forth below;

3. The Attachment to NHTSA Order 462-13 has been redesignated Attachment A;

4. A new Attachment B has been added to NHTSA Order 462-13, as set forth below; and

5. NHTSA Order 462-13 has been amended to permit a State to utilize the funding criteria set forth in Attachment A or Attachment B in Fiscal Year 1983, with Attachment B becoming mandatory in Fiscal Year 1984 and beyond.

(Sec. 1107(d), Pub. L. 97-35; 95 Stat. 375 (23 U.S.C. 402); delegations of authority at 49 CFR 1.48 and 1.50)

Issued on September 9, 1982.

Raymond A. Peck, Jr.,

National Highway Traffic Safety Administrator.

R. A. Barnhart,

Federal Highway Administrator.

U.S. DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

Order

[NHTSA 960-2; FHWA 7510.3A]

Subject: Highway Safety Plan.

Para.

1. Purpose
2. Definition
3. Authority
4. Background
5. General Requirements
6. Policy
7. Content of Highway Safety Plan
8. HSP Submission and Approval

1. *Purpose.* This Order establishes NHTSA and FHWA policy and procedures for the operation, program content, and evaluation requirements of each State's Highway Safety Plan, and provides submission, approval, and revision procedures for the HSP. It replaces the Highway Safety Program Manual Volume 102 issued as NHTSA/FHWA Order 960-2/7510.3, February 24, 1978.

2. *Definition.* The Highway Safety Plan (HSP) identifies the State's traffic safety problems and describes the programs and projects to address those problems. It serves as the basis for the execution of a Federal-Aid Agreement. The HSP is submitted on an annual basis.

3. *Authority.* This Order is issued under the following authority:

a. 23 U.S.C., Chapters 1, 3, and 4

b. P.L. 97-35, Stat. 357, July 29, 1981, Omnibus Budget Reconciliation Act of 1981

c. 49 CFR 1.48 and 1.50.

4. *Background.* The Congress, in the Omnibus Budget Reconciliation Act of 1981, directed the Secretary to determine which State and local highway safety programs have been most effective in reducing accidents, injuries, and fatalities and to develop a process for funding additional program areas. In August 1981, NHTSA and FHWA began a joint rulemaking action to achieve this result. The final rule was issued on April 1, 1982. It identified the six NHTSA and FHWA highway safety programs as most effective, and provided for the continued eligibility of those programs for Federal funding. It also established a mechanism by which additional programs identified by a particular State could be eligible for Federal funding.

The six most effective NHTSA and FHWA Highway Safety Programs are: Alcohol Countermeasures; Police Traffic Services; Occupant Protection; Traffic Records; Emergency Medical Services; and Safety Construction and Operational Improvements. This Order describes the format for submission of programs in these areas and the methods for identifying additional areas that would be eligible for funding.

5. *General requirements.* 23 U.S.C. 402(b)(1) and OMB Circulars A-102 and A-87 impose requirements for program approval. The State attests that these requirements are met when it submits a completed Federal-Aid Agreement, HS Form-62 (Attachment B). Applicable procedures are contained in the following issuances:

a. 23 CFR 1205 and 1252, Highway Safety Programs, April 8, 1982.

b. 23 CFR 1251, State Highway Safety Agency, September 8, 1980.

c. NHTSA Order 462-13, June 17, 1981, Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments. This Order includes the NHTSA Funding Criteria.

d. FHWA Order M 7560.3, February 18, 1976, Highway Safety Program Management Guide.

6. *Policy.* a. Projects proposed within the six National Priority Program Areas will be subject to a Federal review limited to the questions of accurate problem identification and countermeasure selection. Projects proposed outside the National Priority Program Areas will be subject to a more detailed review, as set forth in this Order.

b. Title 23, U.S.C. requires that at least 40 percent of all Federal funds apportioned under Section 402 be expended by political subdivisions in each State. It is DOT policy that political subdivisions must play an active role in the initiation, development and implementation of safety activities so credited to assure that the local participation in highway safety intended by Congress is achieved. NHTSA/FHWA Order No. 462-8/7510.2, Political Subdivision Participation in State Highway Safety Programs, dated June 23, 1976, sets forth this policy in further detail.

7. *Content of highway safety plan.* The HSP is to consist of the following three parts: a. Executive Summary; b. Program Areas; and c. Evaluation. The content of the HSP is described below:

a. *Executive Summary.* This part is to include a three to five page overview highlighting the State's highway safety problems and briefly explaining the strategies the State will employ to address these problems. This part should include the Federal-Aid Agreement (HS Form-62) and a summary of programmed and obligated costs by Program Area (HS Form-217, Attachment A).

b. *Program Areas.* Under the statutory provisions administered by NHTSA and FHWA, six program areas have been identified as each encompassing a major highway safety problem of national concern for which effective countermeasures have been identified. These are: (1) Alcohol Countermeasures; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records; (5) Emergency Medical Services; and (6) Safety Construction and Operational Improvements.

Other Program Areas identified by a State as constituting a highway safety problem in that State, e.g., motorcycle, pedestrian and bicycle programs, may be eligible for Federal funding as provided in b(2).

(1) For each National Priority Program Area contained in the HSP, the following will be included:

(a) A description of the highway safety problem, countermeasures proposed or considered to decrease or stabilize the problem, and the kinds of data relied upon in making such problem and countermeasure identifications.

(b) A description of the criteria for project selection and, where applicable, the specific projects proposed to implement planned countermeasures; planned program accomplishments; and a brief description of how the evaluation for the Program Area will be conducted.

(2) For each program outside the National Priority Program Areas, one or both of the following will apply at the State's option:

(a) *Submissions Required if Using Approved Formal Decisionmaking Process*—After approval of such a process under 23 CFR 1205.5(a), the same procedures applicable to the National Priority Areas in b(1) above will apply to proposed programs outside of such areas, with the additional submission of a statement certifying that each proposed project has been developed in accordance with the approved process.

(b) *Submission Required if Not Using Approved Formal Decisionmaking Process-Problem Identification*—as a minimum, the following information will be submitted with each proposed project:

1. The State and local data on traffic accidents used to determine the magnitude and severity of the particular highway safety problem by geographic area and/or target group. A target group would be identified as disproportionately overrepresented in accident involvement (e.g., young pedestrians). Characteristics and geographic location of the target population would be given in sufficient detail so that a highway safety countermeasure may be determined to be reasonably calculated to decrease or stabilize the problem.

2. The impact each project is estimated to have on traffic accidents and injuries.

3. Estimates of the resources necessary to carry out planned activities and projects.

4. The relation of each project to other elements of a comprehensive, balanced program.

5. The improvements in program operational efficiency and/or cost effectiveness which are expected as a result of each project.

6. The commitment of State and/or local resources to each project.

7. The prospects for proposed activities to become self-supporting or to be continued with State/local resources after Federal funding.

8. The criteria to be used to conduct administrative and impact evaluations of projects, as appropriate.

Note.—In cases where two or more projects fall within the same Program Area, the State may submit the information specified under 7.b.(2)(b) to describe the Program Area. The specific criteria for project selection must also be included.

(3) For other statutorily established eligible areas, i.e., School Bus Driver Training and P&A, a brief description of proposed activities will be submitted.

(4) Copies of all project agreements will be made available to the NHTSA Regional Office for information purposes.

c. *Evaluation of Highway Safety Plan.* Each State will submit to the NHTSA Regional Office an Annual Evaluation Report of its highway safety program implementation during the prior Federal fiscal year. The report will be submitted by the State by February 1, following the end of that fiscal year. The report will include the following information.

(1) Statewide Overview. This section will consist of a three to five page overview of statewide accomplishments in highway safety, regardless of funding source. It will include accident trends (as evidenced by fatal, injury, and property damage accidents), and relate the accomplishments to these trends.

(2) Program Areas. For each 402 supported Program Area, the following will be presented:

(a) Trends in fatal, injury and property damage accidents most closely associated with the Program Area activities.

(b) A discussion of actual accomplishments and costs, compared to those set forth in the Highway Safety Plan.

(c) Significant administrative and legislative accomplishments.

(d) Significant projects underway or completed, including:

1. A brief summary of each project considered successful or innovative, including preliminary or final findings and conclusions.

2. A brief summary on any project considered inappropriate or impractical for further application by the State or by others, including reasons, questions not answered, problems, etc.

(e) A discussion of the progress the State is making in correcting deficiencies identified through program and financial management reviews conducted by the Region and State.

8. *HSP Submission and Approval.* In accordance with the Office of Management and Budget (OMB) Circular No. A-95, Part III, the Governor or a delegated agency shall have the opportunity to review the HSP and comment on its relationship to comprehensive and other State plans and programs. Executive Order 12372, issued on July 14, 1982, directed the recision of OMB Circular A-95. However, the provisions of this Circular apply until OMB issues new rules and regulations, no later than April 30, 1983.

The HSP shall be submitted by August 1 of each year. The Governor or a designated representative shall furnish three copies of the State's HSP to the NHTSA Regional Administrator and two copies to the FHWA Division Administrator.

a. *Approval of the Highway Safety Plan.* (1) Within 30 days of receipt, unless extended by mutual agreement, written notice of approval or disapproval of the HSP, in whole or in part, shall be transmitted by the NHTSA Regional Administrator and/or the FHWA Division Administrator to the Governor, with a copy to the State Highway Safety Agency (SHSA). Agency approval or disapproval shall be joint if the HSP includes programs administered by both Agencies, or singular if funds from only one Agency are involved. If conditional approval is granted, a detailed listing of conditions, if any, shall be provided to the SHSA.

(2) Review of a denial or conditioning of approval of any part of the NHTSA portion of an HSP may be obtained by the submission of written objections to the Regional Administrator. Such objections, along with written recommendations of the RA, will be promptly forwarded to the Administrator through the NHTSA Director of Regional Operations. The decision of the Administrator shall become final and shall be transmitted to the SHSA through the Regional Administrators.

(3) The NHTSA Regional Administrator and the FHWA Division Administrator may, in writing, authorize a SHSA to proceed with implementation of specific Programs falling within their respective areas of responsibility. Such authorization shall constitute an obligation of Federal funds, and allow the State to incur costs. No costs can be reimbursed, however, until the State, NHTSA and/or FHWA have signed the Federal-Aid Agreement.

(4) The Federal-Aid Agreement, HS Form-62 (Attachment B, Exhibit I), shall be executed following authorization to proceed.

(a) The Federal Funds column on the Agreement under the section entitled, "Obligated Program", shall include those amounts to be funded.

(b) If State, local or Federal funds for any portion of a HSP are not available for obligation at the time the Agreement is executed, such funds should be shown in the "Approved Program" section only.

(5) A State may propose, as part of an HSP, or in a separate submission, the adoption of a formal administrative decision-making process for identifying, at the State level, highway safety problems and corresponding countermeasures outside the National Priority Program Areas. Approval of such a process is reserved to the NHTSA Administrator and FHWA Administrator, as applicable, and any such process shall be promptly forwarded for such purpose by the Regional Administrator or Division Administrator.

b. *Revision of the HSP.* (1) The State shall revise the HSP when:

(a) The cumulative amount of transfers of Federal funds from one Program Area to another is significant; or

(b) The nature or scope of an approved Program Area changes.

Note.—Any fund transfers between program areas must be reported to NHSA Regional Office financial personnel.

(2) The modification of Federal-Aid Agreement, HS Form 62A (Attachment B, Exhibit II), is to be used to amend the HSP agreement each time the State is:

(a) Granted approval to proceed with any additional part of the HSP;

(b) Increasing or decreasing the amount of Federal dollars obligated, or

(c) Increasing or decreasing the amount of State and/or local funds obligated.

(3) The Program Cost Summary Form HS-217 (Attachment A) is to be amended whenever a change under this paragraph occurs.

Attachment B.—NHTSA Order 462-13

NHTSA 402 Funding Criteria

I. *General Requirements.* A. These funding criteria supplement the provisions of OMB Circulars A-87 and A-102 (NHTSA Order 460-4).

B. All 402 cost items must be an integral part of an approved highway

safety program and be justified accordingly.

C. The Buy American Act applies to the 402 program when total costs of hardware or materials in a single project agreement exceed $500,000 in Federal funds.

II. *Limitations and Conditions.* The provisions in this Part are not intended to deny the State flexibility in supporting potential accident and injury reduction activities. Accordingly, on a case-by-case basis (except where legislatively prohibited), costs can be approved for 402 funding which are otherwise indicated as not allowable. Approval of such funding, however, must meet all the provisions of Part I, above.

A. *Facilities.* 1. The cost of land is not allowable.

2. The cost of construction or reconstruction of driving ranges, towers and skid pads is not allowable.

3. Costs are not allowable for construction, rehabilitation, remodeling, or for office furnishings and fixtures—for State, local, or private buildings or structures.

B. *Equipment.* 1. Costs for major equipment purchases and purchases of replacement equipment are only allowable through specific prior approval of the NHTSA Regional Administrator.

2. Where major multi-purpose equipment is to be purchased, costs shall be factored, based on utilization for highway safety purposes, except as follows:

Federal participation in the cost of ambulances shall not exceed twenty-five (25) percent, unless the State submits documentation supporting a higher percentage of highway safety utilization.

3. For helicopter cost approval, the unit must be used as a multimission vehicle, capable and equipped for, and limited in intended use to EMS missions and for police traffic safety functions related to law enforcement, with an absolute priority accorded to EMS duty needs for accident site victim removal.

4. Costs for the following equipment items are allowable, subject to compliance with applicable standards and specifications established or adopted by the State through legislation or by the actions of an appropriate State agency or commission:

a. Police traffic radar and other speed measuring devices used by the police;

b. Alcohol testing devices;

c. Ambulances. (Minimum requirements for ambulances purchased with 402 funds include: being equipped in accordance with the essential equipment list recommended by the American College of Surgeons; contains space for two litter patients and 60 inch headroom for EMTs; be manned by two basic level EMTs; and have exterior vehicle lighting sufficient for identification as an ambulance.)

5. Costs for large scale computers are not allowable.

6. Costs for Child Restraint devices are allowable if they are in compliance with NHTSA performance standard FMVSS #213 for these devices.

C. *Travel.* 1. Except as separately approved by NHTSA, cost for international travel is not allowable.

D. *Training.* 1. The cost of training is allowable using DOT/NHTSA developed, equivalent, or endorsed curriculum.

2. Development costs of new training curriculum and materials are allowable if they will not duplicate materials already developed for similar purposes by DOT/NHTSA or by other States. This does not preclude modifications of present materials necessary to meet particular State and local instructional needs.

3. Costs are not allowable to pay for the employee's salary while pursuing training, nor to pay the salary of the employee's replacement, except where the employee's salary is supported with 402 funds under an approved project.

E. *Public Communications.* 1. Cost to purchase program advertising space in the mass communication media is not allowable. This includes the purchase of television and radio time, and billboard space.

F. *Management.* 1. The Federal share of Planning and Administration (P&A) costs shall not exceed 50 percent (or the applicable sliding scale) of the total P&A costs. The State's matching share shall be determined on the basis of the total P&A costs. The Federal contribution for P&A activities shall not exceed 10 percent of the total funds the State received in 23 U.S.C. 402 funds. (Note: The provisions of this paragraph are not effective until October 1, 1983.)

2. Planning and Administration (P&A) costs are those direct and indirect costs that are attributable to the overall management of the State's Highway Safety Plan. Costs include the salary of the Governor's Representative for Highway Safety, or the salary of the Chief Administrator of the SHSA, and the salaries of his/her administrative and clerical support; the salary of the financial officer and his/her supporting fiscal services; and rent and utility costs.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Ambulance Service

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations revise current Medicare policy on coverage of ambulance services. They provide for round trip transportation to the nearest appropriate treatment facility to obtain medically necessary diagnostic or therapeutic services not available in the hospital or skilled nursing facility in which the beneficiary is an inpatient.

The regulations also specify that, in the case of a beneficiary who is being transported to a hospital, the availability of a physician or physician specialist capable of providing the necessary treatment required by the beneficiary's condition is a factor in determining whether the hospital has appropriate facilities to care for the beneficiary.

These changes are designed to make the ambulance service benefit consistent with changes in the health care delivery system, and are expected to reduce Medicare program expenditures and facilitate the sharing of services.

EFFECTIVE DATE: October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Sheila A. Ryan, Health Care Financing Administration, Room 489 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, 301-594-8561.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(s)(7) of the Social Security Act authorizes coverage of ambulance services under Part B of Medicare when other means of transportation are contraindicated by the beneficiary's condition. Ambulance transportation, however, is authorized only to the extent prescribed by regulations.

Our present regulations (at 42 CFR 405.231(j) and 405.232(i)) set forth the general conditions and limitations for coverage of ambulance transportation. They provide for coverage only if the destination is a hospital, a skilled nursing facility (SNF), or the beneficiary's home, and only if other means of transportation would endanger the patient's health. Trips to hospitals or SNFs are limited to those that begin in

the locality ordinarily served by the institution so that unnecessarily longer and costlier trips are avoided. The regulations reflect the intent expressed in the House Ways and Means Committee and Senate Finance Committee Reports on H.R. 6675, the 1965 Social Security Amendments. These reports indicated that ambulance transportation should be covered only if:

"* * * (a) normal transportation would endanger the health of the patient and (b) the individual is transported to the nearest hospital with appropriate facilities or to one in the same locality, and under similar restrictions, from one hospital to another, to the patient's home or to an extended care facility" (House Report No. 213 at page 37 and Senate Report No. 404 at page 43).

In recent years, developments in medical care practice and health care planning have made it necessary to provide round trip transportation for hospital inpatients to other facilities to obtain specialized diagnostic or therapeutic services, such as radiation therapy, computerized axial tomography (CAT) scans, etc. This need arises when these services are not available in the hospital in which the patients are receiving care. These services may be available in another hospital or in facilities such as clinics, therapy centers, and physicians' offices that are closer than the nearest hospital equipped to provide them. However, current regulations limit permissible destinations to hospitals, SNFs, and the beneficiary's home, and do not provide for payment of round trip ambulance service for a hospital inpatient to obtain specialized services not available at the hospital in which he or she is a patient. This often results in the patient being transported to another hospital that is able to meet his or her needs, but that is more distant than closer nonhospital facilities capable of providing the needed services.

The current regulations also provide that payment will be made for ambulance service to transport a beneficiary to an institution in the locality that would be expected to have appropriate facilities, or, if the institutions serving the locality lack appropriate facilities, to the nearest institution having appropriate facilities. At present, the availability of a physician or a physician specialist is not considered in determining whether a hospital has appropriate facilities. We have received inquiries from Congress, Medicare contractors, and others pointing out that small, rural hospitals frequently do not have a physician on duty 24 hours a day. When a patient is transported to a hospital that is appropriately equipped, but does not have a physician available as necessary to provide the care or treatment the patient requires, Medicare does not cover ambulance transportation to another hospital that does have a physician available.

Proposed Changes

A notice of proposed rulemaking (NPRM) containing several proposed changes was published in the **Federal Register** on August 27, 1980 (45 FR 57150). In addition, the NPRM proposed some organizational and editorial changes to the regulations that do not affect their substance.

We proposed to revise the regulations to authorize coverage of transportation of hospital inpatients to and from the nearest treatment facility capable of providing the necessary specialized diagnostic or therapeutic services not available at the originating hospital. This would eliminate program payment for unnecessarily long ambulance trips and would promote sharing and centralization of services and facilities.

We also proposed that determinations on whether a hospital has "appropriate facilities" would include a determination of the availability of a physician or a physician specialist capable of providing the needed care or treatment. We believe that the availability of a physician is a significant factor in assuring that a hospital is, in fact, equipped to provide the type of care required by the patient's condition.

Provisions of the Final Regulations

After reviewing comments received on the proposed rule, we have revised the existing regulations to include the following provisions.

1. Medicare coverage of ambulance services is revised to include round trip transportation of a hospital inpatient to the nearest treatment facility to obtain necessary diagnostic or therapeutic services not available in the hospital in which the beneficiary is an inpatient, when other means of transportation are not medically appropriate. Ambulance service will be provided only if the services cannot reasonably be brought to the patient and the cost of transporting the patient is less than the cost of bringing the service to the patient. Trips to doctors and dentists for routine care will not be covered.

2. We have added a provision to the final regulations that was not included in the NPRM. The provision specifies that beneficiaries residing in Medicare-certified SNFs will receive the same round trip ambulance coverage as hospital patients. The restrictions regarding the cost of the service and transportation for routine care will also apply.

3. We have added the criterion that the availability of a medical staff capable of providing the care and treatment the beneficiary needs is a factor in determining whether a hospital has "appropriate facilities".

Discussion of Major Comments

Over 80 comments were received from health care providers and provider organizations, Medicaid State agencies, private citizens, health insurance groups, and a health care publication. Approximately 50 of the commenters favored the proposed changes and 30 others supported them with only slight modifications. Three commenters were opposed to the regulations. Their recommendations and those of the other commenters follow.

1. *Comment:* The majority of the commenters favoring changes requested that the proposed ambulance service coverage be extended to include SNF or homebound patients. Only one commenter has a specific solution for maintaining the integrity of the ambulance services benefit when extending its coverage to those beneficiaries who are not receiving hospital inpatient services. A provider organization recommended expanding coverage only to Medicare patients receiving skilled nursing care from Medicare-certified nursing facilities or home health agencies. The commenter believes that this restriction would serve to control the use of this benefit in the same way as the restriction to hospital inpatients.

Response: After reviewing the arguments and observations made by commenters who responded to the NPRM, we concluded that transporting patients from Medicare-certified SNFs to the nearest appropriate treatment facility to receive medically necessary services could result in a cost savings to the Medicare program through the substitution of shorter trips for unnecessarily long and distant ambulance trips to hospitals to obtain treatment. Patients in a Medicare-certified SNF will be less likely to be transported out of the institution to receive routine care because the Medicare-certified institution will have

these services available while other non-certified institutions may not.

We are not proposing to extend ambulance coverage to home patients. Generally, these patients are much less sick than hospital patients. We believe that including patients living at home would be too broad a coverage policy. There would be no built-in limitation as there is for hospital and SNF inpatients as to the types of diagnostic and therapeutic services for which ambulance service would be utilized. Since home patients may have a much broader range of needs on a routine basis such as visits to a physician or dentist, it would present serious administrative problems and would be extremely difficult to assure that the benefit was being used only for specific diagnostic and therapeutic services in accordance with congressional intent.

2. *Comment:* Three commenters requested that the definition of ambulance be expanded to include ambulettes, ambu-cabs, or similar nonemergency vehicles. These vehicles are equipped to transport stable patients, but they may not meet State requirements for ambulances because they do not carry the full complement of emergency care equipment.

Response: Section 1861(s)(7) of the Act allows Medicare coverage for ambulance service only when the use of other methods of transportation is contraindicated by the beneficiary's condition. We believe Congress intended, by this very specific restriction, that coverage be limited to those vehicles that meet the generally accepted definition of "ambulance". Therefore, a patient whose condition permits transfer in any vehicle other than an ambulance would not qualify for ambulance service under Medicare Part B.

3. *Comment:* Two commenters suggested that the term "first aid" as used in the proposed 42 CFR 405.232(i)(1) ("'Ambulance' means a specially designed vehicle * * * that is staffed by personnel trained to provide first aid treatment.") should be replaced with the phrase "emergency care and life support". They believe that the term "first aid" has become obsolete when applied to the treatment provided by modern ambulance personnel who are trained as emergency medical technicians (EMT).

Response: We do not agree that the suggested revision is appropriate at this time because many areas of the country have not yet upgraded their ambulance personnel to EMTs. We do not want to deny ambulance service coverage to beneficiaries served by these ambulances, which would be the result if we restricted the definition to require personnel with the suggested specialized training.

4. *Comment:* A State agency opposed the proposed changes because it believes that the changes could mean increased cost for the State Medicaid program in deductible and coinsurance payments that the State pays on behalf of persons who are beneficiaries under both programs.

Response: We anticipate that the revisions to the Medicare ambulance service will not result in increased cost to the Medicaid program; rather, they are likely to decrease costs. By permitting shorter trips and thus less expensive ambulance service, the coinsurance that Medicaid pays may be less.

5. *Comment:* A provider organization suggested that Medicare coverage of ambulance service should be dependent upon the treating physician's diagnosis rather than the patient's destination.

Response: The physician's opinion on the medical need for ambulance service is obviously important, and, generally, it is a major consideration in processing a claim for ambulance service. However, the coverage constraints, as reflected in the statutory language, do not permit using diagnosis as the sole criterion for allowing ambulance service coverage.

6. *Comment:* A hospital director objected to the proposed rule on the grounds that it could encourage physicians to furnish their offices with sophisticated equipment, and that the health of patients who receive services outside the hospital setting will be jeopardized because emergency backup provisions are usually not available in nonhospital facilities.

Response: We believe that a physician's selection of office equipment is based primarily on factors such as the medical needs of the typical patient comprising the physician's practice, the physician's decision on special services, and similar considerations, and that the availability of covered ambulance services would be a minor element, if considered at all. Also, we believe that hospitals normally take precautions to allow the transfer of their patients only to those facilities capable of assuring their well-being.

7. *Comment:* A Congressman writing on behalf of a constituent requested that return trips from hospitals or other treatment facilities to the patient's place of origin be a covered service.

Response: The regulations now encompass this suggestion, since, as amended, they authorize round trip transportation by ambulance to a hospital or nonhospital facility (42 CFR 405.232(i)(2) (iii) and (iv)).

8. *Comment:* The attorneys for an air ambulance company wrote to request that we reevaluate our coverage and payment requirements for air ambulances. Their complaint is that Medicare carriers either do not recognize air ambulance as a covered service, or are unable to process these claims swiftly and accurately. Also, the attorneys believe that incorporation into the Medicare Carriers Manual of more stringent coverage requirements and payment limitations for air ambulance service than those found in existing law or regulation is a violation of the Administrative Procedure Act. They state that these requirements and limitations were imposed without first providing notice and an opportunity for interested parties to participate in the rulemaking process.

Response: The regulations allow Medicare reimbursement for ambulance service. The requirements detailed in the Medicare Carriers Manual are our policy interpretation of the regulations. That interpretation is to allow payment under Medicare for air ambulance service when transportation by land ambulance is contraindicated. We believe it is a reasonable application of policy to avoid payment of additional costs when suitable services are available at lesser expense. With respect to difficulties in obtaining prompt and accurate payment for air ambulance service, these problems should be brought to the attention of the carrier, and, if that action does not resolve them, the HCFA regional office should be notified.

9. *Comment:* A provider organization suggested that patient needs would be better served if the regulations allowed ambulance transportation to the nearest hospital at which the patient's personal physician has staff privileges.

Response: The regulations, in general, limit payment for otherwise covered ambulance services to transportation to an institution capable of providing the needed care. We believe that this should be the primary consideration in providing for the patient's needs, and not the individual physician's status with respect to staff privileges.

10. *Comment:* One commenter was concerned with how the regulations would affect hospital systems that have developed between a large centrally located hospital and one or more smaller hospitals. These systems have been developed for the purpose of efficient utilization of resources, the same purpose for which these regulations have been developed. The smaller hospitals transport their patients to the larger hospital to obtain specific specialized services when necessary,

thereby reducing the need for each hospital to obtain costly, sophisticated equipment. The commenter is worried that these regulations will penalize systems of this type because the central hospital may no longer be the closest facility capable of providing the special diagnostic or therapeutic services.

Response: We believe that implementation of these regulations will affect only marginally the hospital system concept, since the central hospital in such a system will most likely remain the nearest appropriate treatment facility in its locality. Nevertheless, we are obligated to provide services under Medicare by the least expensive means possible consistent with quality patient care, and we believe that these regulations are the most judicious way of attaining that objective.

11. *Comment:* One provider who opposed the rule believed that the money to be expended for the proposed changes would benefit more Medicare beneficiaries if it were used instead to increase the reimbursement rate for physician services.

Response: Ambulance coverage and physician reimbursement are derived from distinct statutory provisions of the Social Security Act. Accordingly, we cannot trade coverage of ambulance service for reimbursement of physicians' services.

12. *Comment:* One commenter asked that we include in the regulations a provision to permit expeditious payment to the commercial ambulance provider.

Response: This rule is intended to revise the coverage of ambulance transportation and does not affect reimbursement procedures. Difficulties in obtaining payment should be brought to the attention of the responsible Medicare carrier for resolution, or to the HCFA regional office.

13. *Comment:* The legal counsel for a national medical society proposed that the changes in the regulations be made effective retroactively.

Response: We will permit a limited retroactive application of the new regulations. The regulations will become effective 30 days after publication in the **Federal Register;** however, any claims that are brought to the Part B contractor's attention and on which a final determination (as defined in 42 CFR 405.842(b)) has not been made before that effective date may be processed under the new regulations. A more extensive retroactive policy would create serious administrative and legal problems. First, it would be difficult and costly for Part B contractors to retrieve and review large numbers of claims previously settled. Second, there is no legal basis for selecting a particular retroactive effective date in preference to another date.

14. *Comment:* One commenter suggested that we be consistent throughout the ambulance service regulations when referring to the types of services received by a beneficiary at a hospital or other treatment facility for which the round trip ambulance service is a covered service under Medicare. The commenters pointed out that, in 42 CFR 405.232(i)(2)(iii), we limit coverage to those beneficiaries who require "* * * necessary diagnostic or therapeutic services not available at the hospital where the beneficiary is an inpatient", yet in § 405.232(i)(3)(iii) we define the limits on reimbursement as "* * * necessary specialized services not available at the hospital where the beneficiary is an inpatient." The commenter believes there will be less confusion if we used the same wording in both sections.

Response: We agree with the comment and have revised § 405.232(i)(3)(iii) in the final regulations to read "* * * necessary diagnostic or therapeutic services."

15. *Comment:* A hospital director of emergency services requested that Medicare reimbursement be allowed for supplies and skills used by ambulance personnel in the field when those same supplies and skills would be reimbursed if the procedures were not begun until the patient reached the emergency room. For example, if an intravenous treatment is begun during the ambulance ride to the hospital, the commenter believes that the supplies and skills involved in that procedure should be reimbursed.

Response: The professional services of the ambulance attendant or the skills employed during the course of an ambulance trip are considered to be part of the basic ambulance service unless they are identified as covered services under a separate provision of the Act; for example, diagnostic testing under section 1861(s)(3) of the Act. Similarly, reusable supplies provided in the ambulance do not represent an additional cost to the ambulance company, and, therefore, are expected to be included as part of the basic service. We recognize separate charges for nonreusable supplies such as oxygen, intravenous solutions, or bandages, because such expenses do represent out-of-pocket costs for suppliers that would be difficult, if not impossible, to estimate in establishing a base rate.

16. *Comment:* A hospital controller suggested that transportation by ambulance of a hospital inpatient to a treatment facility to receive necessary specialized services be reimbursed under Medicare Part A, hospital insurance, rather than Part B, supplementary medical insurance. The commenter argued that the beneficiary has no control over the need for this ambulance service and, therefore, Medicare should cover the cost of the transfer in full (as is the case under Part A) rather than the 80 percent Part B reimbursement rate.

Response: These regulations govern those ambulance services provided under authority of section 1861(s)(7) of the Act. Under this section, reimbursement for ambulance services can be made only under Part B. However, hospitals that own ambulances or other vehicles may receive reimbursement under Part A for transportation costs, including ambulance services that could qualify under the Part B benefit, that are related to furnishing a Medicare-covered service to a hospital inpatient. The costs should be included in the hospital's cost report, as a part of the appropriate ancillary cost center, in the same manner as any other allowance cost related to caring for a Medicare inpatient. The allowable costs could not, of course, include any costs for ambulance services for which the hospital chose to file and be reimbursed under Part B.

Executive Order 12291

We have determined that these regulations will not result in an annual effect of $100 million or meet other threshold criteria in section 1(b) of the Order.

We believe that these regulations will result in cost increases to Medicare in some cases and cost decreases in others. The provision including the availability of a physician or a physician specialist as factor in determining whether a hospital has "appropriate facilities" will result in an increased cost of $1 million per year. This cost increase will be offset by revising permitted destinations, thus reducing program payment for long ambulance trips. We estimate Medicare savings of approximately $2 million per year from this provision. The regulation will therefore result in a net savings to Medicare of approximately $1 million.

This $1 million savings represents .6 percent of the $175 million we estimate Medicare will pay for ambulance services in FY 1982. Since this is less than the $100 million threshold, a regulatory impact analysis is not required.

The Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C., section 605(b) enacted by the Regulatory Flexibility Act of 1980, that this proposal will not have a significant impact on a substantial number of small entities.

As noted in the Executive Order discussion, the expected reduction in expenditures represents .6 percent of Part B payments for ambulance service in FY 82. We believe that a reduction of this magnitude will not have a significant impact on participating ambulance services. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers.

42 CFR Part 405, Subpart B, is amended as set forth below.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

The authority citation for Subpart B reads as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 301–312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395 et seq.

42 CFR 405.232(i) is revised to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

* * * * *

(i) *Ambulance service.* (1) *Definitions.* For purposes of this paragraph—

"Ambulance" means a specially designed vehicle for transporting the sick or injured that contains a stretcher, linens, first aid supplies, oxygen equipment, and other lifesaving equipment required by State and local law, and that is staffed by personnel trained to provide first aid treatment.

"Appropriate facilities" means that the institution is capable of providing the required level and type of care for the illness or injury involved. In the case of a hospital, it also means that the hospital has available a physician or physician specialist as necessary to treat the patient's condition.

"Institution" means a hospital or skilled nursing facility that meets the requirements of sections 1881(e)(1) or 1861(j)(1) of the Act.

"Locality" means the service area surrounding the institution from which individuals normally come or are expected to come for hospital or extended care services.

(2) *Limits on ambulance transportation.* Medicare Part B pays for transportation by ambulance only if other means of transportation would endanger the beneficiary's health and if the beneficiary is transported—

(i) To an institution;

(ii) To his or her home from an institution; or

(iii) Round trip from a hospital or a Medicare-certified skilled nursing facility to another hospital or non-hospital treatment facility, such as a clinic, therapy center, or physician's office, to obtain medically necessary diagnostic or therapeutic services not available at the institution where the beneficiary is an inpatient.

(3) *Limits on payment.* Medicare payments for the ambulance services specified in paragraph (i)(2) of this section are limited to the payment which would have been made for each of the following types of transportation:

(i) To an institution in whose locality the beneficiary is located or, if the beneficiary is not in the locality of an institution that has appropriate facilities, to the nearest institution that does;

(ii) To the beneficiary's home from an institution in whose locality the home is located, or from the nearest institution with appropriate facilities; and

(iii) For a hospital inpatient or skilled nursing facility patient, round trip to the nearest hospital or nonhospital treatment facility capable of providing medically necessary diagnostic or therapeutic services not available at the institution where the beneficiary is an inpatient.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 28, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 20, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-24890 Filed 9-15-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[CGD 76-193a]

Radar Observer Endorsement—Demonstration of Skills

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations governing the issuance of and renewal of radar observer endorsements on merchant marine officers' licenses. More emphasis is being placed on requiring deck officers to demonstrate important skills, such as radar operation and interpretation, instead of relying on written examinations. This proposal would clarify the requirements for a radar observer's endorsement, including the type of proficiency which would be required.

EFFECTIVE DATE: November 15, 1982.

FOR FURTHER INFORMATION CONTACT: Commander S. D. McCowen, Office of Merchant Marine Safety (G-MVP-3/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202-426-2251).

SUPPLEMENTARY INFORMATION: In the January 17, 1977, issue of the **Federal Register** (42 FR 3186), the Coast Guard published proposed amendments governing the renewal of a merchant marine officer's license with a radar observer endorsement.

After considering the adverse comments received and the inconsistencies between the qualification standards in 46 CFR 10.05-46 and the manning standards in 46 CFR 157.20-32, the Coast Guard withdrew the proposal. On November 6, 1980 the Coast Guard published a proposed rule (45 FR 73716) concerning this amendment, and interested persons were invited to submit comments. The public comment period for the proposed regulations ended on December 31, 1980. Fifteen comments were received from representatives of the maritime industry, labor organizations, maritime academies and other governmental entities. Additionally, other comments were received orally at a public hearing. The majority of letters and verbal comments contained specific suggestions for altering particular provisions of the proposed regulations which are summarized in the following analysis.

General Comments

The Port and Tanker Safety Act of 1978 mandated the establishment of standards relating to, *inter alia*, "qualification for licenses by use of simulators for the practice or demonstration of marine oriented skills"; for vessels which carry or which are constructed or adapted to carry oil or any hazardous materials in bulk as cargo or in residue. The International Conference on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 adopted resolutions (Resolution 18 and Resolution 20) which urged simulator training, and developed training standards centered around live marine radar equipment including simulators. Also the IMCO assembly at its twelfth session adopted Resolution A.482(XII) concerning radar training. Additionally, safety recommendation M-80-53 issued by the National Transportation Safety Board urged the Coast Guard to expedite the rulemaking process that would require applicants for radar observer endorsements to complete an approved radar training course at least once in every 5 years.

Three commenters felt that the concept of radar observer courses using simulators is not a valid criteria for granting an endorsement. Rather, the existing system should continue. The Coast Guard disagrees with this view. The Coast Guard recognizes that other means of instruction, including lectures and written examinations are valid methods to train personnel in many aspects of radar utilization. The training requirements in the regulations will employ a combination of lecture, examination and practical demonstration on simulators. Lectures are excellent tools for imparting knowledge of the theoretical aspects of radar and the mathematical bases for the solution of radar plotting and collision avoidance problems. The degree of assimilation of the knowledge can be measured by examination. However, a person having thorough knowledge of the theory and uses of radar may not be proficient in the actual interpretation and use of the information displayed on radar, especially in a "real-time" situation. Simulators provide realistic "hands-on" experience in the full range of problem solving situations without risk to vessels, and can do this in a minimum amount of time. Use of a simulator is an extremely effective, rapid means to determine whether individuals have developed and/or maintained sufficient ability to effectively use radars and radar generated data in their work environment.

Nine commenters expressed concern that potential applicants for radar observer training who reside in remote areas would face substantial economic hardship in order to meet the training requirements contained in these regulations. This hardship would be substantial for persons residing in Puerto Rico, the U.S. Virgin Islands, Alaska, Hawaii and Guam where no simulators are located. Because of this, the Coast Guard has modified the regulations to allow persons currently possessing radar observer endorsements who reside in remote locations to renew their endorsements under the prior scheme (i.e., written examination administered by the local Officer in Charge, Marine Inspection). However, all new applicants from remote areas desiring radar observer endorsement will be required to meet the provisions of the below regulations. It is felt that this will allow for an orderly transition from the current system in remote locations to the below regulations.

One commenter remarked that there was a difference in cost between the Maritime Administration Radar Observer Schools in San Francisco and Seattle. The commenter felt that this difference in cost was attributable to there being a private course to compete for students in Seattle. The Maritime Administration advised that their tuition costs were uniform throughout the country.

One commenter, who operates a private non-approved radar observer course, felt that the requirement for students to give a practical demonstration of their proficiency on a simulator would require purchasing new equipment for the commenter's school. This may be the case. It is possible that this may result in a substantial capital expense to the school. However, the Coast Guard feels that a practical demonstration on a simulator is an essential element of any radar observer training program.

One commenter felt that the regulations, as proposed, would allow training schools to self-evaluate their own effectiveness. The commenter felt that this would result in a training program that would be less than completely objective and contrary to the principle of impartial examination. The Coast Guard disagrees with this view. The procedures whereby a school obtains Coast Guard approval contained in Title 46, Code of Federal Regulations, Subpart 10.30 assure that courses are initially approved and, during the life of the course, monitored by the Coast Guard. This procedure is used to ensure that any approved course will meet minimum standards of training and examination. Based upon experience to date, this procedure is very effective in achieving the above goal.

One commenter felt that the Coast Guard is shifting responsibility for evaluating proficiency of mariners to other agencies and organizations. The Coast Guard does not agree with this view. The reasoning for the Coast Guard's position is discussed in the above paragraph.

Specific Section Comments

§ 10.05-46

One commenter felt that the term "Radar Observer (Inland)" is inappropriate and that the term "Radar Observer (Limited)" should be substituted throughout the proposed regulations. The Coast Guard does not agree with this position. The area covered by the Inland Rules of the Road are specifically the areas in which the Coast Guard desires to require different radar observer training from an unlimited endorsement. It is felt that substitution of the word "Limited" would only confuse what is perceived to be a clear delineation of radar observer endorsements.

Two commenters felt that the provisions contained in § 10.05-46 (i) and (j) were not adequate, in that the radar observer endorsement could expire at a different time than the license. The commenter felt this would create confusion and unnecessary expense. The Coast Guard does not agree with this view. As stated in §10.05-46(j), the radar observer endorsement may be renewed at any time during its validity. If a holder is concerned about different expiration dates (e.g., license and radar observer endorsement), the endorsement may be renewed at the convenience of the holder, to coincide with the renewal date for the license.

One commenter felt that the provisions for two different endorsements runs counter to the intent of recent legislation and international agreements. The Coast Guard does not agree with this view. The two separate endorsements reflect a recognition on the part of the Coast Guard that vessel operating conditions, and the consequent uses of radar, are different between those vessels primarily operating in international waters and those operating in inland waters. It is envisioned that schools offering both types of courses will provide different emphases within their course content, depending on the endorsement sought by the student.

§ 10.30–5

One commenter felt that the provisions of § 10.30–5 should be made more specific by requiring both examination and demonstration on a simulator, rather than lecturing and written examination. The Coast Guard feels that the provisions of § 10.30–5(a) impose the requirements suggested by the commenter.

Two commenters felt that the training requirements contained in § 10.30–5 would serve no useful purpose for pilots. The Coast Guard disagrees with this view. The curriculum standards are specifically designed to assure that any licensed user of radars aboard inspected vessels of 300 Gross Tons and over are aware of the uses and limitations of radar. Whether one is a pilot or licensed deck officer, this increased level of training will improve the likelihood that data from the radar is properly evaluated and informed and informed decisions made as to whether the data is appropriate or usable. Although, as one commenter mentioned, pilots may not actively plot while aboard the vessel, the Coast Guard feels that it is reasonable for pilots to be formally exposed to radar plotting. This will assure that pilots understand, in detail, the limitations and capabilities of radar plots which may be done by crewmembers.

(§ 10.30–5(c)): Two commenters felt that the term "Radar Observer Certificate" was inappropriate and should be changed to "Radar Navigator Certificate." The Coast Guard feels that such a change would be inappropriate for two reasons. First, a change of title would be somewhat confusing to individuals. The term, Radar Observer, is generally understood and accepted in the merchant marine. Second, the term Radar Navigator is not a completely accurate description of what licensed officers and pilots use radar data for. While piloting in reduced visibility is commonly referred to as "Radar Navigation," radar is not used for navigation purposes on the high seas. In addition a primary purpose of requiring skill in the use of radar is for collision avoidance under all conditions of visibility.

(§ 10.30–5(d)): One commenter felt that the requirement of a specific number of hours of training for original and renewal certificates served no useful purpose. The commenter felt that using units of days would be more acceptable. After careful review the Coast Guard feels that specifying any rigid minimum instruction time (whether stated as hours or days) is not appropriate. As a result, the requirement for set minimum training hours has been deleted from § 10.30–5(d)(1), (d)(2) and (d)(3). It is the Coast Guard's view that the goal of training in these regulations is to assure a minimum level of competency. Attainment of minimum competency can occur at different rates depending on a multitude of factors. Validation of attainment of competency is still assured through the requirements contained in § 10.30–5(a) which prescribes that students successfully complete both examinations and practical demonstration on a simulator.

(§ 10.30–5(d)(3)): Three commenters felt that the required renewal course should not be used. Rather, the current system for renewals should be continued. The Coast Guard does not agree with this view. The renewal training assures that an individual's proficiency in interpretation and plotting of radar data continues to meet a minimum level of acceptability. The current renewal system does not adequately address whether individuals can adequately interpret radar data because the renewal examination is a static situation and no live radar data is used in answering the questions or solving the problems.

Two commenters felt that any required demonstration of qualification for renewal of endorsements should be undertaken at Marine Safety Offices throughout the country. The recommendation is not feasible. The capital costs of such an alternative are not within the capacity of Coast Guard resources. In addition on July 1, 1982 the Coast Guard published a rulemaking which would significantly increase the number of renewals that would be accomplished by mail. (85 FR 18929) Further, the Maritime Administration has assured the Coast Guard that it "* * * is prepared to effectively provide the additional radar simulator training and recertification capability which would be required."

§ 10.30–7

One commenter felt that the increased student load at the Maritime Administration's Seattle facility would be overwhelming. As noted previously, the Maritime Administration has assured the Coast Guard that its facilities will be adequate to assure training of personnel under the new regulations.

§ 157.20–32

One commenter requested clarification concerning whether it is the Coast Guard's intent to exclude persons who serve on vessels of less than 300 Gross Tons from the requirements of these regulations. This is the Coast Guard's intent in these regulations.

One commenter felt that the categories of personnel regulated is inadequate to assure improved safety in the marine environment. Specifically, the commenter felt that the proposed regulations should require radar observer training for deck personnel aboard all commercial vessels which require licensed personnel, including towboat operators. There is no requirement for radar to be installed aboard uninspected towing vessels or small passenger vessels. It is doubtful that the Coast Guard can compel individuals who work aboard vessels which have voluntarily installed radar units to obtain an endorsement. Without a legislative mandate, the Coast Guard feels it cannot require radar observer training of this portion of the maritime industry.

Future Changes

The Coast Guard is considering developing amendments to these regulations governing the qualifications of personnel using automatic radar plotting aids. There is no requirement for Automatic Radar Plotting Aid (ARPA) training or endorsement in Title 46, Code of Federal Regulations, Part 10. However, a final regulation, making changes to Title 33, Code of Federal Regulations, Part 164, (found in 45 FR 54037 of the **Federal Register**) requires all self-propelled vessels of 10,000 Gross Tons or more that are U.S. vessels or call at a U.S. port and that carry oil or liquid hazardous materials in bulk as cargo or in residue to install ARPA. Further the International Maritime Organization (I.M.O.), in which the United States participates, has developed standards of training in ARPA. The United States supports these standards. As a result, there will be a need in the future to modify portions of Title 46, Code of Federal Regulations, Part 10 to reflect this new training requirement and endorsement.

There are currently no courses specifically directed toward ARPA. However, the majority of Coast Guard approved radar observer schools have either formally or informally incorporated portions of ARPA training into their current radar observer course. Further, most radar observer training courses have at least one radar simulator which is currently adapted for ARPA simulation exercises. Because of the above, it is felt that there will not be a lack of available training programs when the contemplated changes to these regulations are developed.

Evaluation and Regulatory Flexibility Analysis

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition this regulation is not considered to be significant 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). A final evaluation has been prepared and has been included in the public docket. A copy of the final evaluation may be obtained from: Commandant (G–CMC), (CGD 76–193a) U.S. Coast Guard, Washington, DC 20593.

Radar observer endorsements are already required. This rule only clarifies the requirements for a radar observer endorsement, including the proficiency which will be required. Additionally the curriculum is listed rather than referenced.

Because individuals will be attending radar observer courses offered at a number of locations throughout the United States, there will be an economic impact. Tuition fees are required at some radar observer schools, but many applicants receive radar observer training as part of a larger curriculum at no additional cost. Travel and per diem costs vary widely with the individual applicant and there is no basis for arriving at a meaningful estimate. Using available statistics for 1977–1981, the increased costs of attending radar observer courses was estimated to be $376,000 during the first year. Since the data concerning source of training is based on poor sampling techniques, an alternate analysis starting with absolute worst case conditions was made. The Coast Guard has issued an average of 1360 original and 2040 renewal endorsements a year. Assuming that all applicants for an original endorsement took and paid for an eight day course, the cost of the required course would be $428,000.00 per year. Reducing this by this estimated number taking the five day course, and those receiving the training at no additional cost to them, the estimated cost is $186,400.00 per year. However, the estimated cost is likely to be further reduced as these rules no longer require a radar observer endorsement or renewal upon upgrading a license. For an individual applicant for an original radar observer endorsement the maximum required course and per-diem expenses are estimated to be less than $750.00. The endorsement is valid for five years, and salaries for persons employed in a position requiring a radar observer license are estimated to be $25,000.00 per year and up. The maximum cost to renew a radar observer endorsement should not exceed $150.00.

Anticipated benefits from the regulations would fall into tangible and intangible categories. Tangible benefits would flow from possible reductions in the number of vessel collisions, personnel injuries/deaths and a reduction in collision incidents causing pollution. It was felt that an economic estimate of these benefits would at best be highly speculative and inaccurate and therefore no attempt was made to assign a dollar figure to them. Intangible benefits will be improved qualifications of persons holding radar observer endorsements and improved navigation procedures when using radar generated data.

Since the notice of proposed rulemaking was published prior to July 1, 1981 this rulemaking is not subject to the Regulatory Flexibility Act (Pub. L. 98–354). However the issues raised by public comments received in response to the initial regulatory flexibility analysis lead the Coast Guard to believe that in fact these regulations may have a significant economic impact upon a substantial number of small entities, therefore an evaluation was made.

The Coast Guard's examination of small businesses which would be affected by these rules reveals that there are a total of 14 radar schools which are presently equipped with radar simulators which have obtained Coast Guard approval. There are three radar schools which do not presently have radar simulators and have not received Coast Guard approval for their training programs. Thus, of the 17 existing radar schools, three will be directly affected by these regulations in that they would be required to purchase radar simulator equipment in order to comply. This figure represents 17.6 percent of the total number of schools and could be considered a "substantial number of small entities." To comply with the regulations each of these schools would have to make an initial capital investment in excess of $200,000. This investment appears to represent a "significant economic impact."

As a result of the Coast Guard's examination of the subject of requiring simulator based training, alternative standards for training courses not utilizing simulators were considered. The alternatives were determined to be unsatisfactory for the reasons stated above in the discussion of specific comments. Congress, the National Transportation Safety Board, and international forums have recognized the desirability of using simulators to demonstrate levels of skill and competence in the use of radar, and have called for their usage. To continue to accept a less satisfactory method of demonstrating skill and competency in the use of radar in order to ease the burden on those schools not presently equipped with simulators is not justified.

Environmental Statement

The Coast Guard has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that this action is categorically excluded from further environmental documentation.

Information collection requirements contained in this regulation § 10.05–46(e)) have been approved by the Office of Management and Budget under the provisions of (Pub. L. 96–511) and have been assigned OMB control number 211–0514.

List of Subjects in 46 CFR Parts 10 and 157

Seamen.

In consideration of the foregoing, Parts 10 and 157 of Title 46 of the Code of Federal Regulations are amended as follows:

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

1. By removing § 10.02–9(e)(4) through (6).

2. By revising § 10.02–9(e)(3) to read as follows:

§ 10.02–9 Requirements for renewal of license.

* * * * *

(e) * * *

(3) The qualification requirements for radar observer are in § 10.05–46 of this part.

* * * * *

3. By revising § 10.05–46 to read as follows:

§ 10.05–46 Radar observer.

(a) This section contains the requirements that must be met to qualify as radar observer. § 157.20–32 of this chapter specifies the persons who must be qualified as a radar observer.

(b) If an applicant meets the requirements in this section, one of the following radar observer endorsements will be added to a deck officer's license:

(1) Radar Observer (Unlimited).

(2) Radar Observer (Inland Waters).

(c) Endorsement as Radar Observer (Inland Waters) is valid only for those

waters covered by the Inland Navigational Rules or the Great Lakes Rules of the Road.

Note.—Refer to Pub. L. 96–951. Effective December 24, 1981 Western Rivers Rules of the Road were incorporated into the Inland Navigational Rules. The effective date for the Inland Navigational Rules on the Great Lakes has been established as March 1, 1983.

(d) Except as provided in paragraphs (f) and (g) of this section each applicant for a radar observer endorsement or for renewal of an endorsement must complete the appropriate course for the endorsement desired and receive the appropriate certificate of training from an approved radar training school. (See § 10.30–7 of this part.)

(e) Each applicant for a radar observer endorsement or for renewal of an endorsement must present the certificate required by paragraph (d) of this section, dated within 1 year of the date of application, to the Officer in Charge, Marine Inspection. (Approved by the Office of Management and Budget under OMB control number 2215–0514).

(f) Applicants for renewal of a radar observer endorsement who reside in remote areas, including Puerto Rico, the U.S. Virgin Islands, Hawaii, Guam or Alaska, who possess a radar observer endorsement prior to (effective date), and are able to substantiate, to the satisfaction of the Officer in Charge, Marine Inspection, at the office at which renewal is sought their inability to attend an approved radar observer renewal course, may have their endorsement renewed upon successful completion of a written examination, administered by the Coast Guard, of the subjects contained in § 10.30–5(c)(1)(iii) and (iv).

(g) Applicants who possess a radar observer endorsement issued prior to (effective date) and who reside in other remote geographic areas not covered in paragraph (f) and who are able to substantiate to the satisfaction of Officer in Charge of Marine Inspection, that their absence would disrupt normal movement of commerce, may have their endorsement renewed upon successful completion of a written examination, administered by the Coast Guard, of the subjects contained in § 10.30–5(c)(1)(iii) and (iv).

(h) An endorsement as radar observer issued under this section is valid for 5 years after the month of issuance. The radar observer endorsement is not terminated by the issuance of a new license during this 5 year period.

(i) The month and year of the expiration of the radar observer endorsement is placed on the license.

(j) A radar observer endorsement may be renewed at any time during the period of its validity.

(k) A radar observer endorsement issued prior to November 15, 1982, remains valid until November 15, 1984, or until the license expires, whichever occurs later.

(l) An applicant for renewal of a license that has a radar observer endorsement may renew the license without the radar observer endorsement.

(m) An applicant for renewal of a license that does not have a radar observer endorsement may renew the license without meeting the requirements for a radar observer endorsement.

(n) An applicant who does not have a radar observer endorsement may have a license raised to a higher grade or increased in scope without meeting the requirements for a radar observer endorsement.

4. By revising § 10.30–5 to read as follows:

§ 10.30–5 Radar observer qualifying courses.

(a) A student who takes an approved course of training, including both examinations and practical demonstration on a simulator, and who meets the requirements of this section is entitled to an appropriate radar observer certificate—

(1) In a form prescribed by the school that is acceptable to the Coast Guard; and

(2) Signed by the head of the school and the local Officer in Charge, Marine Inspection, or the Officer in Charge, Marine Inspection's representative, who shall be designated in writing.

(b) The following radar observer certificates shall be issued under this section:

(1) Radar Observer (Unlimited).

(2) Radar Observer (Inland Waters).

(3) Radar Observer (Unlimited Renewal).

(4) Radar Observer (Inland Waters Renewal).

(c) A school with an approved radar observer course may not issue a certificate listed in § 10.30–5(b) to a student unless the student has completed the appropriate curriculum as follows:

(1) Radar Observer (Unlimited). Classroom instruction, including demonstration and practical exercises using simulators, and examination in the following subjects:

(i) Fundamentals of radar:

(A) How radar works.

(B) Factors affecting the performance and accuracy of marine radar.

(C) Description of the purpose and functions of the main components that comprise a typical marine radar installation.

(ii) Operation and use of radar:

(A) The purpose and adjustment of controls.

(B) The detection of malfunctioning, false and indirect echoes, and other radar phenomena.

(C) The effect of sea return and weather.

(D) The limitation of radar resulting from design factors.

(E) Precautions to be observed in performing simple maintenance of radar equipment.

(F) Range and bearing measurement.

(G) Effect of size, shape, and composition of ship targets on echo.

(iii) Interpretation and analysis of radar information:

(A) Determining the course and speed of another vessel.

(B) Determining the time and distance of closest point of approach of a crossing, meeting, overtaking, or overtaken vessel.

(C) Detecting changes of course and/or speed of another vessel after its initial course and speed have been established.

(D) Factors to consider when determining change in course and/or speed of a vessel to prevent collision, on the basis of radar observation, of another vessel or vessels.

(iv) Plotting (any method that is graphically correct may be used):

(A) The principles and methods of plotting relative and true motion.

(B) Practical plotting problems.

(2) Radar Observer (Inland Waters). Classroom instruction, including demonstration and practical exercises using simulators, and examination, in the subjects listed in paragraph (c)(1) above with emphasis on the unique problems attendant to Inland Waters.

(3) Radar Observer (Unlimited Renewal) and Radar Observer (Inland Waters Renewal). Classroom instruction, including demonstration and practical exercises using simulators, and examination, appropriate for the specific endorsement sought, in the subjects listed in paragraph (c)(1) (iii) and (iv) above.

(d) Each instructor of an approved radar observer course must hold a valid license endorsed as "Radar Observer," or possess other appropriate qualifications acceptable to the Coast Guard.

5. By adding a new § 10.30–7 to read as follows:

§ 10.30-7 Training schools with approved radar observer courses.

The Commandant (G-MVP-3/14) U.S. Coast Guard, 2100 Second St., Washington, D.C. 20593, (202) 426-2251, maintains the list of approved schools and specific courses. This information is available by writing or calling the aforementioned address.

PART 157—MANNING REQUIREMENTS

6. By revising § 157.20-32 to read as follows:

§ 157.20-32 Radar observer.

(a) Each person in the required complement of deck officers, including the master, for radar equipped vessels of 300 gross tons or over which are issued Certificates of Inspection, must hold a valid endorsement as radar observer appropriate to the route of the vessel.

(b) Each person who is employed or serves as pilot in accordance with federal law on board radar-equipped vessels of 300 tons or over which are issued Certificates of Inspection, must hold a valid endorsement as radar observer appropriate to the route of the vessel.

(c) The requirements for a radar observer endorsement are in § 10.05-46 of this chapter.

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); R.S. 4417a, as amended (46 U.S.C. 391a); sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated July 29, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-25539 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 151

[CGD 80-001]

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors and omissions in 46 CFR Table 151.05 of a final rule relating to unmanned barges carrying certain bulk dangerous cargoes (46 FR 63274, December 31, 1981) by reprinting the changes to the table, and correcting the misidentification of the table in the words of issuance as set forth below.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, Office of Merchant Marine Safety (G-MTH-3) Room 1208, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, telephone (202) 426-6262.

As corrected, amendments 2 and 3 of the final rule appearing at 46 FR 63276 and 63279, December 31, 1981 read as follows:

§ 151.05-1 [Amended]

2. The following items are added in alphabetical order to Table 151.05:

[Table 151.05]

TABLE 151.05—SUMMARY OF MINIMUM REQUIREMENTS

Cargo Identification					Tanks			Cargo transfer		Environmental Control						
Name	Pressure	Temp	Hull type	Cargo segregation tank	Type	Vent	Gaging	Piping class	Control	Cargo tanks	Cargo handling space	Fire protection required	Special req. section	Elect hazard class group	Temp. control install	Tank internal inspec
Benzene-Hydrocarbon Mixtures (containing acetylenes) (having 10% benzene or more).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.50-71	I-D	NA	G
Benzene Hydrocarbon Mixtures (having 10% benzene or more).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Benzene, Toluene, Xylene Mixtures (having 10% benzene or more).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Butadiene, Butene Mixtures (inhibited) (containing acetylenes).	Press	Amb	II	1NA 2ii	Indep Press	SR	Restr	II	P-1	NR	Vent F	Yes	151.50-72	I-B	NA	8 yr.
Butylamine	Atmos	Amb	II	1ii 2ii	Indep Grav	PV	Closed	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-D	NA	G
Butylmethacrylate (inhibited).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Butyraldehydes (crude)	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Open	II	G-1	NR	Vent F	Yes	No	I-C	NA	G
Carbon Dioxide, liquid	Press	Low	III	1 NA 2i	Indep Press	SR	Restr	I-L	P-1	NR	Vent F	No	151.50-30	NA	151.40-1(b)(1)	G
Chemical Wastes (Mixture of chlorinated hydrocarbons and caustic materials).	Atmos	Amb	III	1i 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	No	NA	NA	G
Creosote	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Cresylate Spent Caustic	Atmos	Amb	III	1ii 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	No	151.50-73 151.55-1(b)	NA	NA	G
iso-Decyl Acrylate (inhibited).	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	151.55-1(c)	NA	NA	G
2 2'-Dichloroethyl Ether	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(f)	I-D	NA	G
Dichloromethane	Atmos	Amb	III	1i 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	No	NA	NA	G
Diethylamine	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-C	NA	G
Diisobutylamine	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-C	NA	G
Diisopropylamine	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Closed	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-C	NA	G
Dimethylformamide	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(e)	I-D	NA	G
1,4-Dioxane	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Closed	II	G-1	Inerted	Vent F	Yes	No	I-C	NA	G

TABLE 151.05—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo Identification					Tanks			Cargo transfer		Environmental Control						
Name	Pressure	Temp	Hull type	Cargo segregation tank	Type	Vent	Gaging	Piping class	Control	Cargo tanks	Cargo handling space	Fire protection required	Special req. section	Elect hazard class group	Temp. control install	Tank internal inspec
Di-n-propylamine	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-C	NA	G
Ethylamine (72% or less)	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Closed	II	G-1	NR	Vent F	Yes	151.55-1(b)	I-D	NA	G
Ethyl Cyclohexylamine	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(b)	I-C	NA	G
Ethylene Dibromide	Atmos	Amb	II	1ii 2i	Integ Grav	PV	Closed	II	G-1	NR	Vent F	No	No	NA	NA	G
2-Ethyl Hexyl Acrylate (inhibited).	Atmos	Amb	III	1i 2ii	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Ethylidene Norbornene (inhibited).	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Closed	II	G-1	NR	Vent F	Yes	151.50-5 and 74	I-C	NA	G
Ethyl n-Butylamine	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(b)	I-C	NA	G
Ferric Chloride Solutions	Atmos	Amb	III	1ii 2ii	Integ Grav	Open	Open	II	G-1	NR	Vent N	No	151.50-20 and 75	I-B	NA	4 yr.
Hexamethylenediamine Solutions.	Atmos	Amb	III	1i 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-D	NA	G
Hydrochloric Acid, Spent (15% or less).	Atmos	Amb	III	1ii 2ii	Integ Grav	Open	Open	II	G-1	NR	Vent F	No	151.50-75(a) 151.50-76	I-	NA	4 yr.
Hydrofluorosilicic Acid (25% or less).	Atmos	Amb	II	1ii 2ii	Indep Grav	PV	Closed	II	G-1	NR	Vent F	No	151.50-20 and 77	I-	NA	4 yr.
2-Hydroxyethyl Acrylate (inhibited).	Atmos	Amb	I	1ii 2i	Integ Grav	PV	Closed	I	G-1	NR	Vent F	Yes	151.50-5	NA	NA	G
Industrial Wastes containing Dimethyldisulfide, Methyl Mercaptan, and Methomyl.	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.50-78	I-D	NA	G
Methylacetylene Propadiene Mixture.	Press	Amb	III	1 NA 2ii	Indep Press	SR	Restr	II	P-2	NR	Vent F	Yes	151.50-79	I-D	NA	G
2-Methyl Pyridine	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-D	No	G
2-Methyl-5-Ethyl Pyridine	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	151.55-1(e)	NA	NA	G
alpha-Methyl Styrene (inhibited).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Nitric Acid (70% or less)	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	151.50-20 and 80	I-	NA	4 yr.
Nitrobenzene	Atmos	Amb	I	1ii 2ii	Integ Grav	PV	Closed	I	G-1	NR	Vent F	Yes	151.50-5	I-D	NA	G
1- or 2-Nitropropane	Atmos	Amb	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.50-81	I-C	NA	G
1, 3 Pentadiene (inhibited).	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Perchloroethylene	Atmos	Amb	III	1i 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	No	NA	NA	G
Phthalic Anhydride	Atmos	Elev	III	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	No	NA	NA	G
Polyethylenepolyamine	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	151.55-1-(e)	NA	NA	G
Polymethylene-polyphenyl-isocyanate.	Atmos	Amb	II	1ii 2i	Integ Grav	PV	Closed	II	G-1	(4)	Vent F	Yes	151.55-1(e)	NA	NA	G
Polyvinylbenzyltrimethyl Ammonium Chloride Solution.	Atmos	Amb	II	1ii 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	No	151.50-82	NA	NA	G
iso-Propylamine	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Closed	II	G-1	NR	Vent F	Yes	151.55-1(c)	I-D	NA	G
Pyridine	Atmos	Amb	III	1i 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(e)	I-D	NA	G
Sodium Chlorate Solution (50% or less).	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	No	No	NR	NR	G
Sodium Sulfide, Hydrosulfide Solutions (H_2S 15ppm or less).	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	No	151.50-83 151.55-1(b)	NA	NA	G
Sodium Sulfide, Hydrosulfide Solutions (H_2S greater than 15ppm but less than 200ppm).	Atmos	Amb	III	1ii 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	151.50-83 151.55-1(b)	NA	NA	G
Sodium Sulfide, Hydrosulfide Solutions (H_2S greater than 200ppm).	Atmos	Amb	II	1ii 2i	Integ Grav	PV	Closed	II	G-1	NR	Vent F	No	151.50-83 151.55-1(b)	NA	NA	G
Tetraethylene Pentamine	Atmos	Amb	III	1i 2ii	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	151.55-1(c)	NA	NA	G
Toluene Diisocyanate	Atmos	Amb	I	1ii 2ii	Integ Grav	PV	Closed	I	G-1	(4)	Vent F	Yes	151.50-5 151.55-1(e)	NA	NA	G
Trichloroethylene	Atmos	Amb	III	1i 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	No	No	I-D	NA	G
1,2,3-Trichloropropane	Atmos	Amb	II	1ii 2i	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.50-85	NA	NA	G
Triisopropanolamine	Atmos	Amb	III	1i 2i	Integ Grav	Open	Open	II	G-1	NR	Vent N	Yes	151.55-1(c)	NA	NA	G
Triethylamine	Atmos	Amb	II	1ii 2ii	Integ Grav	PV	Restr	II	G-1	NR	Vent F	Yes	151.55-1(e)	I-C	NA	G

3. The following footnote 4 is added to the footnotes following Table 151.05:

[4] Padded with dry nitrogen (100 ppm or less of water).

Dated: August 23, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-25317 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Railroad Administration

49 CFR Part 232

[Docket No. PB-6, Notice No. 2]

Railroad Power Brakes and Drawbars: Miscellaneous Amendments

Correction

In FR Doc. 82-22828, published at page 36792, on Monday, August 23, 1982, make the following corrections:

1. On page 36795, in the first column, in paragraph § 232.12 (a)(1)(i), in the second line "initial terminal;" should be corrected to read "(initial terminal);"

2. Also on page 36795, in the first column, in paragraph § 232.12(a)(1), the subparagraphs now designated (i), (ii) and (ii) should have been designated as (i), (ii) and (iii) respectively.

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 180
Thursday, September 16, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-10]

Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

Correction

In FR Doc. 82-23781, published on page 38705, on Thursday, September 2, 1982, in the table "Petitions for Rulemaking", in the third column "Description of the rule requested", in the entry for Docket No. 23071, in the first line "FAR Part 139.51(c)." Should be corrected to read "FAR Part 139.51(b)."

BILLING CODE 1505-01-M

14 CFR Part 39

[Docket No. 82-NM-62-AD]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which would require inspection and repair, if necessary, of the wing rear spar terminal fitting. The proposed AD is prompted by numerous reports of fatigue cracks in the wing rear spar terminal fitting. Failure to detect cracks prior to reaching critical length may severely reduce the load carrying capability of the wing.

DATE: Comments must be received on/or before October 29, 1982.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration Northwest Mountain Region, Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, at the above address, telephone (206) 767-2516. Mailing address: Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 17900 Pacific Hwy. South, C-68966, Seattle, Washington 97168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-62-AD, 17900 Pacific Hwy. South, C-68966, Seattle, Washington 98168.

Discussion: The Boeing Company has conducted a structural reassessment of the B-727 airplane as part of their program to develop a supplemental inspection document (SID) for the airplane. In conducting this reassessment Boeing used advanced analysis techniques which were not available during the original design and certification of the B-727 and used as guidelines the requirements of FAR 25.571(25-45). The reassessment included structural details that have a history of cracking. The analysis has revealed that certain of these details should receive increased emphasis in the maintenance program of operators to maintain the structural integrity of the airplane. The wing rear spar terminal fitting is one such detail.

The FAA issued Advisory Circular AC 91-56 on May 6, 1981, which provides guidelines for the development and implementation of supplemental inspection programs for large transport category airplanes. AC 91-56 states, in part, "any service bulletin or other service information publications found to be essential for safety during the initial SID assessment process should be implemented by AD action."

During fatigue tests at Boeing, cracks were found at four fastener holes in the wing rear spar terminal fitting at approximately 18,000 landings. Boeing issued Service Bulletin No. 727-57-103 in 1971 to provide modification instruction for the fitting. Since the original release of the service bulletin, there have been 23 in service reports of cracks involving the fitting at between 15,000 and 40,000 landings. The reassessment has established the appropriate inspection thresholds and repeat intervals necessary for detecting cracks prior to reaching critical length. Failure to detect cracking prior to reaching critical length may severely reduce the load carrying capability of the wing.

The FAA has determined, based on AC 91-56 and the structural reassessment of this detail, that AD action is required. The proposed AD would require periodic inspections of the wing rear spar terminal fitting on certain B727 airplanes.

Approximately 620 airplanes of U.S. registry would be affected by this AD. It is estimated that the inspections would require approximately 336 manhours and that the average labor cost would be $40 per manhour. Based on the figures the total cost impact of this AD is estimated to be $8,332,800 per inspection cycle. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes certificated in all categories listed in Boeing Service Bulletin No. 727-57-103, Revision 3 or later FAA approved revisions.

Compliance is required as indicated.

To detect cracks in the wing rear spar terminal fitting accomplish the inspections in accordance with the procedures listed in Table I of the Addendum, Flight Safety Section, Boeing Service Bulletin No. 727-57-103, Rev. 3 or later FAA approved revisions:

A. Inspect the wing rear spar fitting for cracks at the following thresholds:

1. For those airplanes which have not been modified in accordance with the above referenced service bulletin, inspect within the next 3000 landings after the effective date of the AD or prior to accumulating 30,000 landings, whichever occurs later.

2. For those airplanes which have been modified in accordance with the above referenced service bulletin, inspect within the next 3000 landings after the effective date of the AD or prior to accumulating 30,000 landings after modification, whichever occurs later.

3. For those airplanes listed as Group II, III, and IV in the above referenced service bulletin, inspect the portions of the fittings described in the service bulletin as not requiring rework within the next 3000 landings after the effective date of the AD or prior to accumulating 30,000 landings, whichever occurs later.

B. Repeat the inspections required by paragraph A at intervals not to exceed 20,000 landings.

C. Cracked structure is to be repaired in accordance with Service Bulletin No. 727-57-103, original issue, or later FAA approved revisions. Inspections are to continue in accordance with paragraph A.

D. For the purpose of this AD, and when approved by the Manager, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, the number of landings may be computed by dividing each airplane's time-in-service by the operator's fleet average time from takeoff to landing for the aircraft type.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. Alternate means of compliance which provide equivalent level of safety may be used when approved by the Manager, Seattle 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 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.

(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 11.85).

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 1, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-25166 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket Number 81-NW-58-AD]

Airworthiness Directive: Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking; extension of comment period.

SUMMARY: This Document further extends the comment period for a Notice of Proposed Rulemaking issued on March 22, 1982 (47 F.R. 12186). That NPRM proposed the installation of a positive cockpit system to indicate normal and unwanted engine starter operation.

DATES: The comment period for this NPRM is hereby further extended from July 31, 1982, to October 10, 1982.

ADDRESSES: Submit written comments on the proposed rule in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 81-NW-58-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Mullin, Propulsion Branch, ANM-140S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, WA, Phone: (206) 767-2520.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rulemaking (NPRM), Docket Number 81-NW-58-AD, was published in the **Federal Register** on March 22, 1982 (47 F.R. 12186). The proposed rule would require the installation of a cockpit system that would provide a positive indication of the normal and unwanted operation of the engine starters. This action is necessary to alert flight crews of unwanted starter operation so that they might take action before the starter is destroyed and damages other equipment or aircraft structure.

The original comment period was extended from May 31, 1982, to July 31, 1982, at the request of the Air Transport Association (ATA) in their TELEX of May 19, 1982, Notice of Proposed Rulemaking. Extension of the comment period was published in the **Federal Register** on July 6, 1982, (47 FR 29255). On July 15, 1982, a second telegraphic request was received from the Air Transport Association (ATA) which requested a lengthening of the comment period until September 10, 1982. The purpose of the request is to allow a time period for the aircraft manufacturer and the ATA to compile the data which has been submitted by the airplane operators and to allow the ATA member airlines to review and comment on the compilation prior to its submittal to the FAA.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Since it has been determined that an extension of the comment period would be in the public interest in that a greater number of possible alternate solutions can be explored, the comment period for this NPRM is hereby extended until October 10, 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 11.85).

Note.—Since this action merely extends the time period for public comment on a Notice of Proposed Rulemaking and imposes no additional burden on any person, it may be made effective in less than 30 days. It is neither a proposed nor final rule and, therefore, is not subject to Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (47 F.R. 11031; February 26, 1979).

Issued in Seattle, Washington on September 1, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-25131 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-67-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series -30, -40, and -50 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require inspection and replacement, as necessary, of main landing gear (MLG) shock strut restrictor supports on certain McDonnell Douglas Model DC-9-30, -40 and -50 series airplanes. This action is needed to detect improperly heat treated MLG shock strut restrictor supports; the failure of which could cause a loss of strut pressure and may result in failure of the landing gear support structure.

DATES: Comments must be received no later than November 8, 1982.

ADDRESSES: The applicable service information 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 FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, Calfornia 90808.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-MN-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During the past eight months two operators have reported two failures of the MLG gear shock strut restrictor support. The failed supports were found during scheduled maintenance on one aircraft having logged 70 flight-hours and the other aircraft having 3,709 flight-hours. Investigation revealed the failures were caused by improper heat treatment of the supports tubes. If these restrictor supports are not replaced, a loss of strut pressure could be experienced, resulting in damage to the landing gear support structure. Eddy current inspection will determine the heat treated condition of the support. Replacement of existing "soft" (7075-F) condition supports with new "hard" (7075-T6) condition supports will eliminate the possibility of support failure.

Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being proposed which will require eddy current inspection of suspected MLG shock strut restrictor supports and replacement of the non-heat treated support tube assembly with properly heat treated units.

In consideration of the hazardous consequence of MLG strut restrictor support failures, the proposed AD is considered to be necessary.

The costs associated with the AD are as follows:

The proposed AD applies to certain serial numbered MLG shock struts, for the inspection and/or replacement of unheat-treated P/N 5925786-501 support tubes. It is estimated that support tubes in a total of 89 MLG struts are suspected of being improperly heat treated and, of these, 36 supports will have to be replaced on U.S. registered aircraft. It will take approximately 22 manhours per strut (inspection/replacement) to accomplish the required actions, and the average labor cost will be $35.00 per manhour. Based on these figures, the total cost impact of this AD is estimated to be $27,720.00. For this reason, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-30, -40 and 50 series airplanes, with the following MLG strut serial numbers installed: R4429N, R4430 thru R4436, R4438 thru R4449, R4462 thru R4469, R5415 thru R5420, R7475, R7476, R7478 thru R7526, R8726, R8734, R8736, R8742 and R8743, certificated in all categories. Compliance required prior to January 29, 1983, unless previously accomplished. To prevent failure of the main landing gear support structure, accomplish the following:

A. Perform an eddy current inspection to determine the heat treat condition of the restrictor support tube in accordance with the Accomplishment Instructions of McDonnell Douglas DC-9 Servcie Bulletin 32-186, original issue, dated January 29, 1982, or later revisions approved by the Manager, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. Replace restrictor support tubes if any are found to be improperly heat treated in accordance with the Accomplishment Instructions of service Bulletin 32-186, or later revisions approved by the Manager, Los Angeles Area Aircraft Certification Office, FAA 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 requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, 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 proposal 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 FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, since it involves few, if any, small entities. A regulatory evalution has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 7, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-25474 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-31]

Airworthiness Directives; Pratt & Whitney Aircraft Models JT9D-7, -7H, -7A, -7AH, -7F, and -7J Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require replacement of the bleed control fuel signal manifold assembly on JT9D-7, -7H, -7A, -7AH, -7F, and -7J turbofan engines. This action provides for a more flexible bleed valve control fuel signal manifold assembly which minimizes the likelihood of cracking. Tube cracking during operation and subsequent fuel leakage may result in an engine fire that may be difficult to extinguish.

DATES: Comments on the proposed rule must be received on or before November 1, 1982.

Proposed compliance date December 31, 1982.

ADDRESS: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 82-ANE-31, 12 New England Executive Park, Burlington, Massachusetts 01803

The applicable Service Bulletin may be obtained from Pratt & Whitney Aircraft, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108.

Copies of the Service Bulletin [1] are contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher, Transport Engine 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: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been at least 25 reports of fuel signal manifold cracking resulting in fuel leakage. Two of these leaks resulted in engine fires. The first occurred in October 1980 and the second occurred in June 1982. In both cases the crew, after actuating both fire bottles, was unsuccessful in extinguishing the fire. Ground assistance was required to extinguish the fire. An element in the failure to extinguish the fire was ignition of the engine's magnesium gearboxes.

The cause of tube assembly failure is high bending stresses at the ferrule of the flange, which is due to the variability of mounting the bleed control unit, resulting in fatigue. Stresses in the tube become marginal to unacceptable when adverse installation tolerances are combined with engine induced thermal loading. To reduce installation and operating stresses a design change providing a more durable tube was issued.

This directive requires the removal of the old tube and the installation of a new tube and clamp. This new more flexible manifold design reduces stresses and minimizes the likelihood of cracking, therefore, reducing chances of fuel leakage and engine fire.

Based on a fleet survey, approximately 62% of the 785 engine population incorporate the new flexible designed tube. The estimated cost to United States and foreign airlines to modify the remaining engines is $138,000. This cost is for labor and materials.

[1] Bulletin filed as part of original document.

List of Subjects

Engine, Aircraft, Air transportation, Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 89.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following AD:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft models.

JT9D-7, -7H, -7A, -7AH—Engines prior to and including S/N 695827 and those engines obtained by conversion which incorporate Service Bulletin 3741.

JT9D-7F—Engine S/N's 695600 through 695614, S/N 702000, S/N 702001, S/N702550 through 702557, and all engines prior to and including S/N 689635.

JT9D-7J Engines prior to S/N 701697.

Compliance requred prior to December 31, 1982, unless already accomplished.

To prevent fuel signal manifold cracking in operation, replace manifold assemby P/N 711391 with assembly P/N 783391 and clamp P/N ST1104-06 in accordance with Pratt & Whitney Aircraft Service Bulletin Number 5202, Revision 1, dated March 18, 1981, or later revision approved by the Manager, Engine Certification Branch, New England Region.

All persons affected by the directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD which includes the material in full is maintained by the FAA at the New England Region office.

(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)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carrier operators of B-747 aircraft in which the JT9D-7 series engines are installed, none of which are believed to be small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-31, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on September 2, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-25473 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 321

[Procedural Regs. Docket: 40959]

Unused Authority Procedures

Dated: September 2, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to require applicants for dormant authority to include fitness information in their applications. The CAB also proposes to revoke the dormant authority of those carriers that unreasonably delay their fitness investigation or that are found to be unfit. This action is taken at the CAB's initiative to maintain the quality of the air transport system.

DATES: Comments by: November 15, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: October 1, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40959, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Under the Federal Aviation Act of 1958 (Pub. L. 85-726), as amended by the Airline Deregulation Act of 1978 (Pub. L. 95-504), there are two ways for a person to obtain certificate authority from the CAB to provide air transportation within the United States. Under section 401(d)(1), it may obtain an operating certificate if it shows that it is fit, willing, and able to provide the transportation applied for, and will comply with the requirements of the law and Board rules. Most persons now apply for authority under this provision.

Section 401(d)(5) provides an alternate method for obtaining route authority. It is known as the dormant authority or unused authority provision. Under this provision, the Board must issue a certificate to the first applicant for a route for which another carrier has authority that it is not using. The applicant must certify that its aircraft meet all requirements of the Secretary of Transportation and that it is able to conform to the rules and requirements of the Board.

Dormant authority under section 401(d)(5) differs from the route authority under section 401(d)(1) in two important respects. Dormant authority is narrower than section 401(d)(1) authority, but, under current rules, easier to obtain.

A certificate awarded under section 401(d)(1) no longer specifies the points that the carrier is authorized to serve in the U.S. (section 160(a)(1)(C)). Once awarded the 401(d)(1) certificate, the carrier may provide air service to any domestic point. It thus has no need to seek dormant, or any other, route authority. Dormant authority, on the other hand, is limited to the pair of points applied for. The carrier cannot provide scheduled passenger service on other routes unless it files additional dormant authority applications under section 401(d)(5).

Section 401(d)(5) sets time limits in which the dormant authority application must be granted.* Applications under subparagraphs (A) or (B) must be granted within 15 days. Applications under subparagraphs (D) or (E) must be granted in 60 days. More important, section 401(d)(5) makes no reference specifically to the fitness of the applicant to provide the service applied for. Thus, a person could obtain operating authority under section 401(d)(5) in a very short time without any examination of its fitness, as it would be subject to under section 401(d)(1). This loophole tends to attract those operators who have reason to avoid such an examination.

While recognizing that applicants may have a right to receive dormant authority prior to an examination of their fitness, the Board has concluded that it has an obligation to examine the carrier's fitness as soon thereafter as possible to protect the public interest. Section 401(r) of the Act states:

"(r) The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate or other authority in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able".

The purpose of section 401(r) was explained in the report on the same provision (section 422(m)) in the Senate bill preceding the Deregulation Act. S. Rep. No. 95-631, 95th Cong., 2nd Sess., 98 (1978). The report states:

Subsection (m) requires that any air carrier holding operating authority under title IV is subject to a continuing fitness requirement. Failure to comply with the fitness standard can result in revocation of operating authority * * * The rationale for increasing the scope of coverage is similar to that described in connection with the insurance provisions. The provision will facilitate the ability of the Board to maintain the high quality of the air transport system.

In discussing the insurance provisions the Senate Report states, at p. 97:

* * * While there has never been a problem with the financial responsibility of the scheduled carriers, the act significantly reduces barriers to entry into all forms of air transporation. Given the expected growth of the industry, the committee believes this section is desirable to insure that the Board will have ample authority to protect travelers

*The Board could, however, deny the application on procedural, format, or other nonsubstantive grounds.

and shippers from financial losses stemming from the operation or maintenance of aircraft.

These passages indicate that Congress did not intend new airlines to operate with lower standards than established carriers, and expected the Board to exercise its authority accordingly. Moreover, the Board has previously held that section 401(r) is fully applicable to dormant authority certificates. See Orders 79-6-187 (June 28, 1979) and 82-7-111 (July 29, 1982).

In order to ensure that the Board is able to examine the fitness of applicants for dormant authority not previsously found fit under section 401 as soon as possible, amendments are proposed below to 14 CFR Part 321, the rule that sets out procedures for dormant authority applications. Under amended paragraph (3) of § 321.11, applicants that had not yet been found fit to provide certificated service by the Board would have to include, in their dormant authority applications, the information required of other applicants for certificate authority that is set forth in § 204.5. Some dormant authority applicants may already have been found fit to provide air transportation as charter or commuter carriers. For these carriers, amended § 321.11(e) would require the applicant to submit the additional fitness information called for by the expanded scope of its proposed operations. Under present §§ 321.13, 321.14, and 321.15, answers, replies, and responses to replies may be filed by any person.

If the application meets the standards of section 401(d)(5), the unused route authority applied for will be granted by the Board. At the same time, however, the Board would begin a fitness investigation to fulfill its obligations to the public under section 401(r) of the Act. This investigation will include the same procedural steps as a fitness proceeding instituted under section 401(d)(1), including oral evidentiary hearings if necessary to resolve issues of material fact. The Director of the Bureau of Domestic Aviation has recently been delegated authority to institute fitness investigations. OR-199, 47 FR 29223, July 6, 1982. Answers to the order instituting the investigation would be permitted. If after the hearing the Board concluded that the carrier was not fit to provide the scheduled passenger service, its authority to do so would be revoked for failure to meet the continuing fitness requirement.

A carrier, concerned about the Board's ultimate finding on its fitness, would not, under paragraph (b) of proposed § 321.52, be able to avoid revocation by unduly delaying or failing to participate in its fitness case. This paragraph implements the provision of section 401(r) that authorizes the Board to revoke the certificate of a carrier that fails to file the reports that the Board needs to determine whether the carrier is complying with the continuing fitness requirement. This is intended to prevent the continuing fitness requirement from being frustrated by a carrier's failure to provide the necessary information. In cases of such failure, proposed § 321.52 would authorize the Board to revoke the carrier's authority.

Persons will not be able to avoid a fitness examination by filing a dormant authority application before the effective date of this rule, because the Board has the authority to institute fitness investigations on its own initiative in individual cases.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Few persons are likely to apply for operating authority under Part 321 because, as explained above, they can obtain broader authority under section 401(d)(1) of the Act.

List of Subjects in 14 CFR Part 321

Administrative practice and procedure, Air Carriers.

PART 321—UNUSED AUTHORITY PROCEDURES

Accordingly, the Board proposes to amend 14 CFR Part 321, *Unused Authority Procedures,* as follows:

1. A new Subpart F would be added to the Table of Contents, to read:

Sec.

* * * * *

Subpart F—Continuing Fitness

Sec.

321.50 Order instituting proceeding.
321.51 Answers.
321.52 Revocation of authority.

2. Paragraphs (d) and (e) of § 321.11 would be revised to read:

§ 321.11 Contents of applications.

Each application shall:

* * * * *

(d) For applicant not yet found by the Board to be fit, willing, and able to provide any sort of air transportation service, include the material required by § 204.5 of this chapter to support such a finding. The applicant may incorporate by reference material submitted in a prior fitness proceeding before the Board, updated as necessary.

(e) For applicants already found by the Board to be fit, willing, and able to provide air transportation, cite the most recent Board order establishing that finding and—

(1) If the finding pertained to certificated charter air transportation, include the material required by § 204.4 of this chapter;

(2) If the finding pertained to operations as a commuter air carrier, include the material required by § 204.5 of this chapter.

3. A new Subpart F would be added, to read:

Subpart F—Continuing Fitness

§ 321.50 Order instituting proceeding.

(a) Within 15 days after an application is filed under this part, the Board may issue an order instituting an investigation of the applicant's fitness.

§ 321.51 Answers.

Any person may respond to the Board's order instituting the investigation by filing with the Board a written answer or a petition to intervene under § 302.15 of this chapter, within the time specified in the order.

§ 321.52 Revocation of authority.

The Board may revoke the authority granted under this part in either of the following situations:

(a) The Board finds, after notice and hearing conducted pursuant to the procedures of Part 302 of this chapter, that the carrier is not fit, willing, and able to provide scheduled passenger air transportation.

(b) The Board finds, after notice and hearing, that the carrier has unduly delayed, or has failed to participate fully in, the proceeding to establish its fitness.

(c) The hearing under this section may be conducted by written submissions rather than by an oral evidentiary hearing.

(Secs. 204, 401, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 788; 49 U.S.C. 1324, 1371, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-25538 Filed 9-15-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-138 (New Mexico-17)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 197(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on October 25, 1982.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 27, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, OPPR

Issued September 10, 1982.

I. Background

On August 23, 1982, the State of New Mexico Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 *Fed. Reg.* 56034, August 22, 1980), that the Dakota Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended area is located in San Juan County in the northwestern part of the San Juan Basin. It consists of approximately 165,120 acres, of which 78% is public land, 11% Indian land, and 11% fee acreage. The area includes a portion of the city of Farmington and acreage west, northwest, and south of Farmington. The Dakota Formation in the specified area ranges in thickness from 250 to 300 feet and is found at an average depth of 5,952 feet.

New Mexico Order No. R-1670-V, issued on May 22, 1979, authorizes infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions of the recommended area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the Commission's regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7515, Order No. R-7021 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil pay day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Dakota Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 25, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-138 (New Mexico-17), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 27, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set

forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulations.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(138) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(138) *Dakota Formation in New Mexico.* RM79-76-138 (New Mexico-17).

(i) *Delineation of formation.* The Dakota Formation is located in the northwestern portion of the San Juan Basin in San Juan County. The Dakota Formation underlies all of Township 26 North, Ranges 12 and 13 West; Township 27 North, Range 12 West, Sections 8-S/2, 9-S/2, and 16 through 36; Township 27 North, Range 13 West, Sections 3-W/2, 4 through 9, 10-W/2, and 14 through 36; Township 28 North, Range 13 West, Sections 7 through 9, 16 through 21, 28 through 33, and 34-W/2; Township 29 North, Range 13 West, Sections 4 through 9, 16 through 19, 20-W/2, 29W/2, 30, 31, and 32-W/2; Township 29 North, Range 14 West, Sections 1, 2-W/2, and SE/4, 3 through 18, 19-NE/4, 20 through 27, 28-N/2 and SE/4, 34-N/2, 35 and 36; Township 29 North, Range 15 West, Sections 1 through 6, 7-N/2, 8-N/2, 9-N/2, 10-N/2, and SE/4, 11, 12, 13-N/2 and 14-N/2; Township 30 North, Range 14 West, Sections 1 through 12, 15 through 23, and 26 through 34; and all of Township 30 North, Range 15 West; NMPM.

(ii) *Depth.* The Dakota Formation ranges in thickness from 250 to 300 feet. The average depth to the top of the Dakota Formation is 5,952 feet.

[FR Doc. 82-25522 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 300

Assistance to States for Education of Handicapped Children

AGENCY: Education Department.

ACTION: Notice of revised schedule of briefings and public hearings.

SUMMARY: On Wednesday, September 8, 1982 (47 FR 39652), the Secretary published a notice of revised schedule of briefings and public hearings on the notice of proposed rulemaking to amend the regulations for the Assistance to States for Education of Handicapped Children program (47 FR 33836). This notice announces a change of location for the briefings and hearings in Philadelphia, Pennsylvania, Kansas City, Kansas, and Denver, Colorado. Additionally, this notice announces technical corrections concerning the previously announced hearing schedules in New York, Dallas, Los Angeles, and Seattle.

The locations and dates for the briefings and hearings in Philadelphia, Kansas City, and Denver are set out below. See "Supplementary Information" for the technical corrections concerning New York, Dallas, Los Angeles, and Seattle.

DATES: Hearings will be held on October 4-6 in Philadelphia. *An additional day, October 6, 1982 has been added for preregistered commenters. Time of hearings extended to 5:00 pm on all days.*

Hearings will be held on October 5-6 in Kansas City, Kansas. Time of hearings extended to 4:30 pm on all days.

Hearings will be held on September 20-21 in Denver, Colorado. Time of hearings extended to 10:00 p.m. on both days.

ADDRESSES: Hearings will be held at the following locations:

Region III, Philadelphia, October 4-6, 1982—Philadelphia Board of Education Building, Auditorium (second floor), 21st Street south of the Parkway, Philadelphia, Pennsylvania 19103. Contact Dr. Joseph Ambrosino, (215) 596-1001

Region VII, Kansas City, October 5-6, 1982—Kansas City Kansas Community College, Performing Arts Theater, 7250 State Avenue, Kansas City, Kansas 66112. Contact Ms. Cynthia A. Harris, (816) 374-2276.

Region VIII, Denver, September 20-21, 1982—Student Center, 955 Lawrence, Auraria Campus, Denver, Colorado 80202. Contact Mr. Tom Tancredo, (303) 837-3544.

FOR FURTHER INFORMATION CONTACT: For further information or to submit written comments, write or call Dr. Ed Sontag or Ms. Shirley A. Jones, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohoe Building (Room 4000), Washington, D.C. 20202. Telephone (202) 426-6114.

SUPPLEMENTARY INFORMATION: The technical corrections in the previously announced hearings are:

Region II, New York—*The September 17, 1982 hearing will be held at 26 Federal Plaza, Room 305B, New York, New York 10278 (9:00 am—1:00 pm) for preregistered commenters*

Region VI, Dallas—*The September 24, 1982 hearing will begin at 8:00 am for preregistered commenters*

Region IX, Los Angeles—*The hearings will be held in the Grand Theater (previously announced as Grant Theater)*

Region X, Seattle—*The dual sessions to be held on September 23, 1982 will be in the North and South Auditoriums*

(Catalog of Federal Domestic Assistance No. 84.027; Assistance to States for Education of Handicapped Children)

Darld Long,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 82-25637 Filed 9-15-82; 9:13 am]

BILLING CODE 4000-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CG D 81-058]

Boundary Lines: Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: In the **Federal Register** of June 7, 1982 (47 FR 24604) the Coast Guard solicited comments on the proposed revision of regulations delineating Boundary Lines, presently found in 46 CFR Part 7. This notice extends the public comment period to December 7, 1982.

ADDRESSES: Comments and requests for information should be mailed to: Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C., (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Patrick A. Turlo, (G-MVI-1/24), Room 2415, U.S. Coast Guard Headquarters, Washington, D.C. 20593. (202) 426-1464.

Drafting Information: The principal persons involved in drafting this proposal are: Lieutenant Commander Patrick A. Turlo, Project Manager, Office of Merchant Marine Safety, and Lieutenant Mark Hanlon, Project Attorney, Office of the Chief Counsel.

Discussion: A written comment was received requesting a 90 day extension of the comment period. Due to the complexity of issues involved the Coast Guard has determined that an extension is needed to provide a sufficient opportunity for public input.

List of Subjects in 46 CFR Part 7

Law enforcement, Vessels.

Dated: September 8, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-25541 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-181, Advance Notice No. 82-3]

Performance-Oriented Packaging Standards; Extension of Time for Public Comment

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Extension of time for public comment.

SUMMARY: MTB published an advance notice in the **Federal Register** on April 15, 1982 (Docket No. HM-181; Notice No. 82-3; 47 FR 16268). The advance notice addresses the need for, and possible methods of establishing a set of performance-oriented packaging standards for hazardous materials packaged in containers having a capacity of 450 liters or 400 kilograms, or less, and a reorganization of bulk packaging requirements for hazardous materials. On June 17, 1982, a second notice was published (Notice No. 82-3; 47 FR 26172) which made certain corrections and gave notice of a meeting to be held in St. Louis, Missouri, on September 14, 1982, to discuss this proposal. In order to allow adequate time for submission of written comments by the public following the September 14 meeting and in response to a request for an extension of time for public comment, this notice extends the time for public comment from October 1, 1982, to January 13, 1983.

DATE: Comments must be received on or before January 13, 1983.

ADDRESS: Address comments to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket (Docket No. HM-181) and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-2075.

Issued in Washington, D.C. on September 8, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulations, Materials Transportation Bureau.

[FR Doc. 82-25999 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1117, 1118, and 1135

[Ex Parte No. 432]

Reorganization of Railroads, Corporate Reorganization of Carriers and Corporations and Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to excise our regulations dealing with reorganizations of rail and motor carriers. The Bankruptcy Act of 1978 has substantially reduced our involvement in rail reorganizations and eliminated our role in motor reorganizations. The 1978 amendments make the regulations in Parts 1117, 1118 and 1135 applicable rarely or not at all.

DATE: Comments should be filed on or before October 18, 1982.

ADDRESSES: An original and 10 copies of comments should be submitted to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245, Richard Gaynor (202) 275-6019.

SUPPLEMENTARY INFORMATION: Under former section 77 of the Bankruptcy Act, as amended in 1935, the Commission played an important role in rail reorganization proceedings in conjunction with the reorganization court. The Commission's responsibilities included (1) ratification of the court-appointed trustee; (2) approval of persons seeking to act as protective committees for holders of rail securities; and (3) certification of an approved reorganization plan, after hearing, to the court. Under former section 177 of that Act, motor carrier reorganization plans were also submitted to the Commission prior to approval by the bankruptcy court.

Our regulations at 49 CFR Parts 1117, 1118, and 1135 reflect these responsibilities. Part 1117 sets forth application requirements and procedures for protective committees and trustees, while Parts 118 and 1135 deal respectively with reorganization plans for rail and motor carriers. These regulations were promulgated in 1935 (rail) and 1939 (motor).

The Bankruptcy Act of 1978 has substantially reduced our involvement in rail reorganizations and eliminated our role in motor reorganizations. In particular, we no longer have a direct role in the organization of protective committees, ratification of trustees, and confirmation of rail reorganization plans with respect to bankruptcies occurring after the passage of the 1978 Act. Motor reorganization plans are not submitted to the Commission, because section 177 was deleted by the 1978 Act. Consequently, Parts 1117, 1118, and 1135 are not used rarely, if at all. We propose to delete them.

The only problem we foresee is that applications may be filed in reorganization proceedings begun before 1979. However, our records show only a handful of rail reorganizations now pending with the Commission, and no ongoing motor reorganizations.[1] Retention of outmoded regulations under the circumstances appears unjustificable. Should an application under former section 77 or 177 be contemplated in the future, the Commission will inform the parties on an *ad hoc* basis of the information required.

Normally, parties to a bankruptcy proceeding have experienced counsel, and we foresee no difficulties with this procedure should it become necessary. Moreover, these regulations have not been revised in over 40 years. They are difficult to read and impose burdensome informational requirements on applicants. We should be able to discharge our responsibilities through this *ad hoc* procedure while reducing

[1] Railroads involved in such proceedings include the Boston and Maine Corporation; the Chicago, Milwaukee, St. Paul and Pacific Railroad (Milwaukee); the Morristown and Erie Railroad Company; and the New York, Susquehanna and Western Railroad Company. The Milwaukee is the only railroad that does not have a reorganization plan which is pending with or approved by the Commission.

applicants' burden by asking only for the information we need.

The proposed elimination of regulations will not have a significant impact upon either the quality of the human environment or the conservation of energy resources. Furthermore, this proposal will not have a significant economic impact on substantial number of small entities.

Regulatory Flexibility Analysis

Deletion of our regulations concerning rail and motor reorganizations is being proposed. This action will have little or no effect on rail and motor carriers because these regulations were made essentially obsolete by statutory changes to the bankruptcy law. The action will further the general regulatory goal of eliminating unneeded regulations.

List of Subjects

49 CFR Parts 1117 and 1118

Bankruptcy, Railroads.

49 CFR Part 1135

Bankruptcy, Motor carriers.

This notice is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553 and 559.

Decided: September 10, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gardison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25523 Filed 9-15-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47 No. 180
Thursday, September 16, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 2:30 p.m., Tuesday, October 5, 1982, in the seventh floor conference room at Cadwalader, Wickersham & Taft, 1333 New Hampshire Avenue, NW., Washington, D.C. The Committee will meet to discuss Dean Paul Verkuil's study of limitation of judicial review of agency rules at the enforcement stage.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States. 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

Richard K. Berg,
General Counsel.
September 10, 1982.
[FR Doc. 82–25510 Filed 9–15–82; 8:45 am]
BILLING CODE 6110–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Notice is hereby given in accordance with § 800.6(d)(3) of the regulations of the Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that a panel of five members of the Council will meet on September 24 and 25, 1982, to consider the proposed Rincon Point-South Beach Redevelopment Project, San Francisco, California, an undertaking utilizing Community Development Block Grant funds from the Department of Housing and Urban Development. It has been determined that this undertaking will adversely affect properties included in, or determined eligible for inclusion in, the National Register of Historic Places.

Pursuant to § 800.6(d)(2) of the Council's regulations, the Chairman of the Council decided on September 2, 1982, that a panel should consider this project in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470f, as amended).

The Council was established by the National Historic Preservation Act to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretary of the Interior, the Architect of the Capitol, the Secretary of Agriculture, and the heads of four other Federal agencies appointed by the President, one Governor and one mayor appointed by the President, the President of the National Conference of State Historic Preservation Officers, the Chairman of the National Trust for Historic Preservation, and seven private citizens appointed by the President.

The Council's regulations require that the panel be composed of five members, three from the private sector (with one chairing) and two Federal members. This panel will be chaired by Mr. Alexander Aldrich of Saratoga Springs, New York. The panel will meet at San Francisco. Place and time have yet to be set and may be obtained from the Executive Director.

The panel will consider written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by September 17, 1982. Persons wishing to make oral statements should notify the Executive Director by September 22, 1982. Additional information concerning the meeting or the submission of statements is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street NW, Washington, D.C. (202–254–3967).

Dated: September 10, 1982.
Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 82–25482 Filed 9–15–82; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sangre de Cristo Wilderness Study Area, Greenhorn Mountain Wilderness Study Area, Spanish Peaks Wilderness Study Area, and Buffalo Peaks Wilderness Study Area; Hearing Notice

Notice is hereby given that public hearings will be held on the proposed future management of the following Wilderness Study Areas located within the State of Colorado:

Sangre de Cristo Wilderness Study Area comprised of approximately 130,700 acres located within the Rio Grande National Forest in Saguache and Alamosa Counties; approximately 87,200 acres located within the San Isabel National Forest in Huerfano, Custer, and Fremont Counties. (The hearing will also be held for four contiguous Bureau of Land Management Wilderness Study Areas containing approximately 4,910 acres which include the Black Canyon, South Piney Creek, Papa Keal, and Zapata Creek units located in the Saguache and Alamosa Counties.);

Greenhorn Mountain Wilderness Study Area comprised of approximately 22,330 acres located within the San Isabel National Forest in Pueblo and Huerfano Counties;

Spanish Peaks Wilderness Study Area comprised of approximately 19,570 acres located within the San Isabel National Forest in Huerfano and Las Animas Counties; and

Buffalo Peaks Wilderness Study Area comprised of approximately 56,950 acres located within the Pike and San Isabel National Forests in Chaffee, Lake, and Park Counties.

The hearings will be held as follows:

Tuesday, October 19, 1982, 7:30–10:30 p.m., Carson Auditorium, Adams State College, Alamosa, Colorado
Wednesday, October 20, 1982, 7:30–10:30 p.m., Salida High School Auditorium, Salida, Colorado
Thursday, October 21, 1982, 7:30–10:30 p.m., Centennial III Room, Holiday Inn North, Colorado Springs, Colorado

A brochure containing a map and information on each of the proposals for the Wilderness Study Areas may be obtained from the Forest Supervisor, Pike and San Isabel National Forests, 1920 Valley Drive, Pueblo, Colorado 81008.

Individuals and organizations may express their views by appearing at any of these hearings or may submit written comments for inclusion in the official record to the Forest Supervisor at the above address. To be included in the official record, written comments must be received by November 20, 1982.

F. Dale Robertson,
Associate Chief.
September 13, 1982.
[FR Doc. 82-25502 Filed 9-15-82; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 40962]

Lone Star Certificate Amendment and Transfer Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., September 10, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.
[FR Doc. 82-25587 Filed 9-15-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40948]

Northwest Airlines, Inc. Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., September 13, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.
[FR Doc. 82-25586 Filed 9-15-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council and its Shrimp Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Shrimp Subpanel. The Council and its Shrimp Subpanel will hold separate public meetings as follows:

AGENDAS:

Council—Review status reports on the development of fishery management plans; consider foreign fishing applications, if any, as well as discuss other fishery management business.

Shrimp Subpanel—Discuss the proposed amendment to the Shrimp Fishery Management Plan to allow for a flexible opening of the Tortugas shrimp sanctuary.

DATES: The Council meeting will convene on Thursday, October 7, 1982, at approximately 1:30 p.m., and will adjourn at 5 p.m.; reconvene on Friday, October 8, 1982, at approximately 8:30 a.m., and adjourn at noon. The Shrimp Subpanel meeting will convene on Wednesday, October 6, 1981, at approximately 8 a.m., and will adjourn at approximately noon. The public meetings will take place at the Barclay Airport Inn, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: September 13, 1982.

Jack L. Falls,
Chief, Administrative Support Staff, National Marine Fisheries Service.
[FR Doc. 82-25569 Filed 9-15-82; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Advisory Committees

Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of Defense Advisory Committees listed below have been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

Office of the Secretary of Defense

Advisory Group on Electron Devices
Board of Visitors, Defense Systems Management College
Defense Advisory Committee on Military Personnel Testing
Defense Advisory Committee on Women in the Services
Defense Science Board
DoD Wage Committee
Defense Policy Advisory Committee for Trade Policy Matters (DPAC)

Organization of the Joint Chiefs of Staff

Board of Visitors, National Defense University, and Defense Intelligence School
Scientific Advisory Group for the Joint Strategic Target Planning Staff

Army

Armed Forces Epidemiological Board
Army Advisory Panel on ROTC Affairs
Army Science Board
U.S. Military Academy Board of Visitors
Command and General Staff College Advisory Board
Department of the Army Historical Advisory Committee
Environmental Advisory Board, Chief of Engineers
National Board for the Promotion of Rifle Practice
Scientific Advisory Board, Armed Forces Institute of Pathology
U.S. Army Coastal Engineering Research Board
U.S. Army Medical Research and Development Advisory Committee

Navy

U.S. Naval Academy Board of Visitors
Chief of Naval Operations Executive Panel Advisory Committee
Naval Research Advisory Committee
Naval Resale System Advisory Committee
Secretary of the Navy's Advisory Board on Education and Training
Secretary of the Navy's Advisory Committee on Naval History

Air Force

Advisory Committee on the Air Force Historical Program
Air University Board of Visitors
U.S. Air Force Academy Board of Visitors
Community College of the Air Force Advisory Committee
USAF Scientific Advisory Board

Defense Nuclear Agency

Scientific Advisory Group on Effects

Defense Intelligence Agency

Defense Intelligence Agency Advisory Committee

Defense Communications Agency

Defense Communications Agency Scientific Advisory Group

National Security Agency

National Security Agency Advisory Board

Public Cryptography Advisory Committee (PCAC)

Dated: September 9, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-25296 Filed 9-15-82; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Bonus/Awards Schedule for Senior Executive Service (SES)

SUMMARY: Notice is hereby given of the schedule of bonuses to be awarded senior executives in Department of the Army.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Chief, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697-2204.

SUPPLEMENTARY INFORMATION: In accordance with the general recommendations provided in the Office of Personnel Management's memo of 21 July 1980, the Department of the Army bonuses/are scheduled for payment prior to 31 October, 1982.

Carol D. Smith,

Chief, SES Office.

[FR Doc. 82-25576 Filed 9-15-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board
Date of Meeting: 5-6 October 1982
Time: 0830-1600—5 October 1982, 0830-1300—6 October 1982
Place: McCormick Facility, Parsons Island, Kent Island, Maryland
Proposed Agenda: Agenda items for the meeting include discussions concerning an overview of medical research and development, the Army chemical defense programs, schistosomiasis and leptospirosis chemoprophylaxis, venereal disease update, immune deficiency syndromes in association with hepatitis B immunization, immunization schedules for select recruit populations, select subcommittee and respective military preventive medicine officer reports.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: September 3, 1982.

Robert F. Nikolewski,

Col., USAF, BSC, Executive Secretary.

[FR Doc. 82-25579 Filed 9-15-82; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Epidemiological Board, Subcommittee on Epidemiological Methods in Clincial Health Care Delivery Systems; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Epidemiological Methods in Clincial Health Care Delivery Systems
Date of Meeting: 4 October 1982
Time: 1300
Place: McCormick Facility, Parsons Island, Kent Island, Maryland
Proposed Agenda: Epidemiological methods in clinical health care delivery systems.

2. This meeting will be open to public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: September 3, 1982.

Robert F. Nikolewski,

Col, USAF, BSC, Executive Secretary.

[FR Doc. 82-25577 Filed 9-15-82; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Epidemiological Board, Subcommittee on Disease Control; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Disease Control
Date of Meeting: 4 October 1982
Time: 1300
Place: McCormick Facility, Parsons Island, Kent Island, Maryland
Proposed Agenda: Current immunization requirements for recruit populations and other active duty personnel; recent trends in surveillance and control penicillinase producing *Neisseria Gonorrhoeae* (PPNG).

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: September 3, 1982.

Robert F. Nikolewski,

Col. USAF, BSC, Executive Secretary.

[FR Doc. 82-25578 Filed 9-15-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact and Notice of Availability of Environmental Assessment for the Conduct of Detailed Site Through the Construction of an Exploratory Shaft on the Hanford Site

AGENCY: Department of Energy.

ACTION: Finding of no significant impact and notice of availability.

SUMMARY: The Department of Energy has prepared an Environmental Assessment on the construction of an exploratory shaft on its Hanford Site in Benton County, Washington. Based on the findings presented in the Environmental Assessment, which is available to the public on request, the Department of Energy has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, no environmental impact statement is required.

The proposed action is to conduct detailed site studies on the Hanford Site through the construction of an exploratory shaft. The purpose of this action is to gather additional, more detailed data about the site to aid in the evaluation of the suitability of the site for use as a nuclear waste repository.

Four basic alternatives to this proposed action were considered: (1) Take no action, i.e., cessation of all activities leading to the selection of a site on the Hanford Site for detailed

study; (2) use alternative site characterization methods, i.e., attempt to characterize the site using methods other than an exploratory shaft; (3) delay the action, and (4) select an alternative site.

The impact of the proposed action are primarily due to the disturbance of the land surface in the immediate vicinity of the site. The major impact, as noted in the environmental assessment, will be the selective clearing and grading of eight hectares (20 acrea) of land. Over half of the plants in this area will be destroyed and all the animals will be displaced. Biological monitoring has shown that no threatened or endangered species are resident on the site. Other impacts include blowing dust due to wind erosiion of disturbed soil; wet suppression of dust during construction of roadways and parking lots will be followed by surfacing with gravel. Another effect which will result from the accumulation of drill cuttings and mined rock are spoil piles. Possible mechanisms by which spoil piles can cause environmental damage are by dust emissions, chemical leaching, and mechanical slip or collapse. Existing dust-suppression techniques, which have proven effective, will be used to keep emissions from the spoil piles within applicable limits. Measures are also planned to mitigate the effects of chemical leaching and mechanical slip or collapse.

Based on its evaluation of the impacts of the proposed actions, which are summarized above and presented in detail in the Environmental Assessment, the Department of Energy concludes that the proposed action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.

AVAILABILITY: Copies of the Environmental Assessment are available from: U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, Washington 99352, Telephone 509-376-720.

FOR FURTHER INFORMATION CONTACT:

On the project: Mr David Squires, U.S. Department of Energy, Richland Operations Office, P.O. Box 500, Richland, Washington 99352. Telephone: 509-376-7240

On the NEPA Process: Dr. Robert J. Stern, Office of Environmental Compliance, U.S. Department of Energy, Washington, D.C. 20585. Telephone: 202-252-4600

Issue date: September 7, 1981.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82-25339 Filed 9-15-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-82-020; OFP Case No. 61044-9222-21-22]

Acceptance of Petition for Exemption and Availability of Certification by Augusta Kraft Company

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On July 21, 1982 Augusta Kraft Company, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption for certain fuel mixtures from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in certain new major fuel burning installations (MFBI's). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Eligibility and evidentiary requirements governing the permanent fuel mixtures exemption are contained in 10 CFR 503.38.

The proposed MFBI for which the petition is filed is a boiler (designated as Unit #1), burining a mixture of woodwaste and No. 6 fuel oil and/or natural gas to be installed at the petitioner's proposed pulp and paper mill near Augusta, Georgia.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and is therefore accepted pursuant to 10 CFR § 501.3. Pursuant to this section, ERA retains the right to request additional information from the petitioner at any time during the course of these proceedings. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting material on this proceeding are available upon request through the DOE Freedom of Information Reading Room, Room 1E-190, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments or a request for public hearing concerning this petition are due on or before November 1, 1982.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, Forrestal Bldg., 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Docket No. ERA-FC-82-020 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-2993

Allan J. Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B-178, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: Title II of the Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption from the prohibitions has been granted by ERA. The petitioner proposes to install a boiler at its proposed pulp and paper mill near Augusta, Georgia. Unit #1 will produce 240,000 pounds of steam per hour at 875 PSI pressure and 825 degrees Fahrenheit, and will have a designed heat input rate of 383.88×10^6 Btu per hour while output will be 378.38×10^6 Btu per hour. The primary purpose of the

boiler is to supply steam to operate a turbine-generator and to be used in the pulp and paper-making process. The primary energy source will be a mixture of woodwaste and natural gas and/or No. 6 fuel oil, the amounts of the latter fuels not to exceed twenty-five percent (25%) of the total Btu input of the installation on an annual basis.

Section 212(d) of the Act provides for a permanent exemption for certain fuel mixtures. In accordance with 10 CFR 503.38(d) of the final rule, the petitioner has provided the following:

(1) A duly executed certification stating that the amount of petroleum or natural gas proposed to be used as a primary energy source in the mixture will not exceed twenty-five percent (25%) of the total annual Btu heat input of the installation; and (2) the environmental certifications as required under 10 CFR 503.13(b).

NEPA Compliance

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations 40 CFR 1500 *et seq.*, and DOE guidelines implementing those regulations (45 FR 20694, March 28, 1980). NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on September 10, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-25500 Filed 9-15-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-478-000]

ANR Michigan Storage Co.; Application

September 10, 1982.

Take notice that on August 10, 1982, ANR Michigan Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-478-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a gas storage service for ANR Storage Company (ANR) for the account of Transcontinental Gas Pipe Line Corporation (Transco), and to develop and operate certain gas storage fields and appurtenant facilities, to drill and operate certain wells, and to construct and operate certain pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to enter into a gas storage agreement with ANR providing that during the 1984 and subsequent Summer Periods (April 1 through October 31), ANR would deliver to Applicant for storage for the account of Transco up to 20,000,000 Mcf of natural gas at rates up to 150,000 Mcf of gas per day at a proposed interconnection of the facilities of ANR and Applicant in Grand Traverse County, Michigan (Whitewater Delivery Point). The storage agreement would further provide that during the 1984-85 and subsequent Winter Periods (November 1 through March 31), Applicant would redeliver to ANR at the Whitewater Delivery Point thermally equivalent volumes of gas at daily rates up to 300,000 Mcf reduced by a volume of gas for compressor fuel usage equal to 0.3 percent of the volumes so redelivered. Applicant indicates that the term of the storage agreement with ANR would be for twenty years commencing on April 1, 1984, or such other date as specified in the storage agreement.

In order to render this gas storage service, Applicant proposes to develop and operate the Whitewater 36/36A Gas Storage Field in Whitewater Township and the Union 8/8A Gas Storage Field in Union Township, principally in Grand Traverse County, Michigan. It is stated that these fields are presently under production for natural gas, but are substantially depleted and would be acquired by Applicant prior to conversion to gas storage. Applicant states that it would acquire all necessary oil and gas leases, property interests, storage and mineral rights and the gas producing properties in these fields. It is further stated that when developed, these fields would have a total working storage capacity of 20,000,000 Mcf.

In order to develop and operate the storage fields described above, Applicant proposes, at the Whitewater 36/36A Field, to rehabilitate two existing wells, to drill and complete ten new gas wells, and to construct a gathering system and appurtenances, including a 3.0-mile 16-inch pipeline. At the Union 8/8A Field, Applicant proposes to rehabilitate two existing wells, to drill and complete nine new gas wells, and to construct a gathering system and appurtenances, including a 3.5-mile 16-inch pipeline. Finally, Applicant proposes to construct and operate a 12,000 horsepower compressor station, along with gas heating and regulating facilities and facilities for the removal of water and liquid hydrocarbons which may be present in the gas during withdrawal operations.

The total cost of the proposed facilities is estimated at $53,845,000 to be financed initially through equity contributions and short-term loans, such loans to be repaid with the proceeds from long-term debt securities of Applicant.

Applicant asserts the instant application is a companion filing to the one made by ANR in Docket No. CP82-420-000, and to filings made by Transco in Docket No. CP82-125-000, as amended, and Docket No. CP82-385-000. It is stated that there are also applications by Transco before the Canadian National Energy Board to export and the Department of Energy's Economic Regulatory Administration to import, certain volumes of gas, which include the storage volumes herein discussed. It is further stated that an application has been filed by Great Lakes Gas Transmission Company in Docket No. CP82-428-000 to transport gas for Transco and one would be filed by Michigan Consolidated Gas Company to transport gas for ANR for the account of Transco.

Applicant submits that the proposed storage service is and would be required by the present and future public convenience and necessity in that Transco needs additional storage service to meet the peak day and winter period requirements of its customers during the 1984-1985 and subsequent heating seasons.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25405 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6585-000]

Arizona Public Service Co.; Application for Preliminary Permit

September 10, 1982.

Take notice that Arizona Public Service Company (Applicant) filed on August 10, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6585 to be known as the New Waddell Pumped Storage Project located on the Agua Fria River in Maricopa County, near Phoenix, Arizona. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. D. Jarman, Vice-President, Engineering and Construction, Arizona Public Service Company, P.O. Box 21666, Station 5579, Phoenix, Arizona 85036.

Project Description—The New Waddell Dam is being studied by the U.S. Bureau of Reclamation as part of the Central Arizona Project to operate as a facility for storing water in the winter months for delivery during peak water demand in the summer months. The New Waddell Dam would be owned by the Department of the Interior. The Bureau's proposed project would replace the existing Waddell Dam which backs up water on the Agua Fria River to form Lake Pleasant. The Applicant proposes to use the New Waddell Dam and Lake Pleasant as the upper reservoir in a pumped-storage project and to construct the lower reservoir by the installation of a new smaller dam at a location downstream on the Agua Fria River. The facilities constructed by the Applicant would consist of: (1) An earth-fill dam; (2) a newly constructed powerhouse with one or more generating units having a total rated capacity of 150 MW; (3) an intake structure and penstocks designed to regulate power during an average daily generation period of 8-12 hours on a 7-day cycle; (4) a 230-kV transmission line 10 miles in length and connecting to the Westwing switchyard, operated and partially owned by the Applicant; and (5) appurtenant facilities. The project would be located on non-Federal land or property, except for that part of the project which would be located on the New Waddell Dam. The Applicant estimates that the average annual energy output would be 340 million kWh. Energy generated by the proposed project would be sold by the Applicant to customers in its service area.

Proposed Scope of Studies Under Permit—A preliminary pemit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, the Applicant will decide whether to prepare an application for license to begin construction and operation of the project. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be approximately $950,000.

Competing Application—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 22, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 22, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 21, 1983.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or motions to intervene must be filed on or before November 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing

application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25431 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6545-000]

Bowers Hydro-Electric I, Inc.; Application for Preliminary Permit

September 10, 1982.

Take notice that Bowers Hydro-Electric I, Inc. (Applicant) filed on July 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6545 to be known as the Eagleville Waterpower Project located on the Willimantic River in Tolland County, Connecticut. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Edward Bowers, Jr., 60 Woodmere Road, Newington, CT 06111; and Mr. Albert F. Delaney, Jr., Ten Prospect Street, Hartford, CT 06103.

Project Description—The proposed project would consist of: (1) An existing 350-foot long and 22-foot high masonry dam owned by the State of Connecticut; (2) an existing reservoir with a storage capacity of 580 acre-feet and a surface elevation of 277 feet NGVD; (3) new intake structures; (4) a new 4-foot diameter penstock 125 feet long; (5) a new powerhouse with an installed capacity of 500 kW; (6) a new 1,500-foot long transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 1,250,000 kWh. Project energy would be offered for sale to New England public utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before December 20, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in respone to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before November 18, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25432 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6522-000]

The City of Chicopee and the Chicopee Municipal Lighting Plant; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 13, 1982.

Take notice that on July 15, 1982, and amended on August 31, 1982, The City of Chicopee and the Chicopee Municipal Lighting Plant (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6522 would be located on the Chicopee River in the City of Chicopee, Hampden County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. Herve Plasse, Chicopee Municipal Lighting Plant, 725 Front Street, Chicopee, Massachusetts 01013.

Project Description—The proposed project would consist of: (1) An existing dam consisting of a 9.0-foot-high, 256-foot-long masonry spillway with an addition of 17-inch-high flashboards, a 10.4-foot-high, 58-foot-long concrete spillway structure and a gate structure with 3 gates; (2) a 120-acre reservoir with a usable storage capacity of 310 acre-feet at 3 feet of drawdown, at elevation 108.15 feet M.S.L. with flashboards in place; (3) a new powerhouse located near the south dam abutment containing two turbine-generators with a total rated capacity of 2.5 MW; (4) a 280-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The dam is owned by the City of Chicopee. The project would generate up to 10,600,000 kWh annually for use of the municipal electric system.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Massachusetts Department of Fish and Wildlife are requested, for the purposes

set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 4, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25453 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-765-000]

Central Hudson Gas & Electric Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson) on September 1, 1982, tendered for filing as a rate schedule an executed agreement dated October 30, 1981 between Central Hudson and the Power Authority of the State of New York (PASNY). Central Hudson states that the proposed rate schedule provides for Electric Transmission Service and Standby Electric Service for generation associated with PASNY's Ashokan Hydro Electric Generating Plant.

Central Hudson further states that the rate schedule provides for a monthly transmission charge of $1.39 per kilowatt and a standby charge of $8.27 per kilowatt per month during summer and winter peak periods.

Central Hudson proposes an effective date of October 1, 1982.

Copies of this filing were served upon PASNY.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25416 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-758-000]

Central Vermont Public Service Corp., Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on August 31, 1982, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its FERC Electric Service Rate No. 97. Central Vermont states that the proposed changes would increase revenues from jurisdictional sales and service by $20,977 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with the Village of Ludlow Electric Light Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of the filing were served upon the village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25406 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-753-000]

Central Vermont Public Service Corp.; Filing

September 9, 1982.

The filing Company submits the following:

Take notice that on August 31, 1982, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a proposed change in its FERC Electric Service Rate No. 96. The proposed change would increase revenues from jurisdictional sales and service by $54,571 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Contract with Village of Ludlow Electric Light Department which provides that charges under the Contract will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October 1982 and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of the filing were served upon Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§385.211, 385.214). All such motions or protests should be filed on or before September 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25417 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-755-000]

Central Vermont Public Service Corp.; Filing

September 9, 1982.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1982, tendered for filing a proposed change in its FERC Electric Service Rate No. 92. The proposed change would not change revenue from jurisdictional sales and service for the twelve month period ending October 31, 1982. No transactions have occurred under the Contract during the preceding twelve months, and none are contemplated during the succeeding twelve months.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Contract with Lyndonville Electric Department which provides that charges under the Contract will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October 1982 and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Central Vermont requests an effective date of November 1, 1982.

Copies of the filing were served upon Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25418 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-756-000]

Central Vermont Public Service Corp.; Filing

September 9, 1982.

The filing Company submits the following:

Take notice that on August 31, 1982, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a proposed change in its FERC Electric Service Rate No. 88. The proposed change would increase revenues from jurisdictional sales and service by $239,753 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Contract with Vermont Electric Generation and Transmission Cooperative, Inc. which provides that charges under the Contract will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October 1982 and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of the filing were served upon Vermont Electric Generation and Transmission Cooperative, Inc. and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 24, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25419 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-754-000]

Central Vermont Public Service Corp.

(September 9, 1982).

The filing Company submits the following:

Take notice that on August 31, 1982, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a proposed change in its FERC Electric Service Rate No. 106. The proposed change would increase revenues from jurisdictional sales and service by $43,300 for the twelve month period ending October 31, 1982.

Central Vermont states that the chance in accordance with Article V of Central Vermont's Contract with Village of Johnson Water and Light Department which provides that charges under the Contract will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October 1982 and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Central Vermont requests an effective date of November 1, 1982.

Copies of the filing were served upon village of Johnson Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 325 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25420 Filed 9-15-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER82-762-000]

Central Vermont Public Service Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1982, tendered for filing changes in its FERC Electric Rate No. 102. The proposed changes would increase revenues from jurisdictional sales and service by $625 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with Rochester Electric Light and Power Company which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont requests an effective date of November 1, 1982.

Copies of the filing were served upon the Rochester Electric Light and Power Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25421 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-760-000]

Central Vermont Public Service Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1982, tendered for filing proposed changes in its FERC Electric Service Rate No. 99. The proposed changes would increase revenues from jurisdictional sales and service by $359 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with Village of Hyde Park Water and Light Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont requests an effective date of November 1, 1982.

Copies of this filing were served upon the Village of Hyde Park Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 27, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25422 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-757-000]

Central Vermont Public Service Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) tendered for filing on August 31, 1982, proposed changes in its FERC Electric Service Rate No. 93. The proposed changes would increase revenues from jurisdictional sales and service by $10,573 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article II of Central Vermont's transmission service agreement with Lyndonville Electric Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of the filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 27, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25423 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-761-000]

Central Vermont Public Service Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1982, tendered for filing proposed changes in its FERC Electric Service Rate No. 101. The proposed changes would increase revenues from jurisdictional sales and service by $1,620 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with Allied Power and Light Company which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont requests an effective date of November 1, 1982.

Copies of the filing were served upon the Allied Power and Light and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 27, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25424 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-759-000]

Central Vermont Public Service Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on August 31, 1982, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its FERC Electric Service Rate No. 107. The proposed changes would increase revenues from jurisdictional sales and service by $11,159 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with Village of Johnson Water and Light Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of this filing were served upon the Village of Johnson Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 27, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25425 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-390-000]

Channel Industries Gas Co.; Application

September 9, 1982.

Take notice that on July 28, 1982, Channel Industries Gas Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. ST82-390-000, an application pursuant to Subpart C of Part 284 of the Commission's Regulations for prior authorization of a natural gas transportation service rendered on behalf of East Tennessee Natural Gas Company (East Tennessee), an interstate pipeline, and for approval of Applicant's transportation rates, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas which East Tennessee is selling to Houston Lighting and Power Company from the existing point of interconnection between Applicant's pipeline and that of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), in Newton County, Texas, to a point on Applicant's pipeline system in Cedar Bayou in Chambers County, Texas. Applicant proposes to transport, on an interruptible basis, up to approximately 100,000 Mcf of gas per day, for a total quantity not to exceed 10,850,000 Mcf for a period terminating October 31, 1982. Further, Applicant proposes to transport daily quantities of gas in excess of 100,000 Mcf per day in the event that Applicant, in its sole discretion, determines that it has sufficient capacity to transport such excess quantities and subject to interruption should Applicant need additional capacity to fulfill the needs of its customers.

Applicant states that it will charge a rate of 10.39 cents per million Btu for the subject service. Further, Applicant states that the proposed transportation rate is fair and equitable and not in excess of the rate which an interstate pipeline would be permitted to charge for providing a similar transportation service. Applicant asserts that if, at any time during the term of the transportation arrangement, Applicant is authorized to charge a fee for this or any other transportation arrangement under Section 311(a) (2) of the Natural Gas Policy Act of 1978, which exceeds 10.84 cents per Mcf or 10.39 cents per million Btu, then the fee charged East Tennessee shall automatically escalate to equal such higher fee authorized on the effective date of such authorization.

Any person desiring to be heard or to make any protest with reference to said

application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25407 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-768-000]

Cleveland Electric Illuminating Co.; Notice of Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on September 2, 1982, the Cleveland Electric Illuminating Company (CEI) tendered for filing on behalf of the Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and the Toledo Edison Company (collectively referred to as CAPCO Group) Amendment No. 2, entered into as of the 1st day of September, 1982, to the CAPCO Basic Operating Agreement, as amended September 1, 1980, which is on file with the Commission and identified by the Rate Schedule numbers shown for each listed Company:

	FERC schedule No.
The Cleveland Electric Illuminating Company	15
Duquesne Light Company	15
Ohio Edison Company	144
Pennsylvania Power Company	35
The Toledo Edison Company	27

CEI states that the Amendment No. 2 amends Schedule G—Emergency Power of the CAPCO Basic Operating Agreement to broaden the Companies' rights and obligations relating to the delivery of emergency power.

CEI further states that no new facilities will be installed nor will existing facilities be modified in order to provide the service covered by the proposed Amendment.

CEI proposes an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25454 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-482-000]

Colorado Interstate Gas Co.; Notice of Application

September 13, 1982.

Take notice that on August 12, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-482-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing interruptible sales of natural gas to off-system customers and for permission and approval to abandon such sales, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has and will have volumes of natural gas in excess of its system requirements which it could make available for sale without jeopardizing service to existing customers. Applicant projects surplus annual volumes of 97,565,000 Mcf, 67,481,000 Mcf, and 25,771,000 Mcf of gas for October 1 to September 30 fiscal years in 1983, 1984, and 1985, respectively. Applicant asserts that its gas supply surplus is the result of its gas acquisition effort to accommodate long-term requirements and a coincident decrease in annual demand for gas on its system, caused primarily by increased conservation and competition from available alternate fuels. It is stated that Applicant's current surplus of natural gas is exacerbated by many of its gas purchase contracts which contain high-deliverability requirements and take-or-pay provisions and that Applicant has incurred over $13.2 million in such expenditures from January 1, 1982 through July 31, 1982. Applicant notes that these expenditures were the result of specific payment requests and that it could be liable for further take-or-pay expenditures.

Applicant therefore proposes to make off-system sales of natural gas during its 1983, 1984, and 1985 fiscal years pursuant to the terms and conditions of a *pro forma* gas sale and purchase agreement. Applicant states that the agreement provides that each sale would be for an initial term not exceeding one year and could be extended for up to an additional one-year period, but not beyond fiscal year 1985. Further, it is indicated that all sales would be on a best-efforts and interruptible basis and that all volumes of gas sold under the blanket certificate would be from Applicant's general system supply and would be surplus to the needs of then existing long-term customers. It is stated that no sales would continue beyond September 30, 1985.

For the sale of such gas Applicant proposes to charge a price per Mcf of gas equal to the effective Rate Schedule Ex-1 rate in its FERC Gas Tariff, Original Volume No. 1, currently 341.27 cents per Mcf of gas.

Applicant further proposes that the sales authority be self-implementing in nature and that each contract of sale executed be filed as a rate schedule to be included in Applicant's FERC Gas Tariff, Original Volume No. 2, within 10 business days of the commencement of sales. It is asserted that the tariff filing would set forth the purchaser, the end-use of the gas, the volume, the price, the initial term of the sale, transportation arrangements, and other relevant information. It is stated that if Applicant has surplus gas available and the purchaser has a continuing need for gas, an extension of the applicable rate schedule would be filed which would permit the continuation of the sale for up to an additional 1 year period, but not beyond Fiscal Year 1985 which terminates September 30, 1985. It is stated that the filing to extend the rate schedule would be made at least 90 days prior to the expiration of the sales contract term.

Applicant notes that other parties may be required to transport natural gas which it sells pursuant to the blanket authority requested herein. It is stated that transportation to implement sales to other interstate pipeline companies,

intrastate pipeline companies, and local distribution companies would be conducted pursuant to Part 284 of the Commission's Regulations and that transportation to implement sales to end-users (other than to displace fuel oil whereby transportation could be pursuant to Part 284, Subpart F of the Commission's Regulations) would be applied for under Section 7(c) of the Natural Gas Act as necessary. Applicant states that any third-party transportation costs would be reimbursed by the purchaser.

Applicant explains that because of the short-run nature of these sales, abandonment pursuant to Section 7(b) of the Natural Gas Act be authorized, effective upon the expiration of the contractual term, including any extensions, of each individual arrangement undertaken pursuant to the blanket certificate. It is stated that the appropriate rate schedule of Applicants FERC Gas Tariff, Original Volume No. 2, would be timely cancelled.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25455 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-174-001]

Continental Divide Pipeline Co.; Notice of Amendment to Application

September 10, 1982.

Take notice that on August 16, 1982, Continental Divide Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP 82-174-001 an amendment to its pending application filed January 25, 1982, in Docket No. CP82-174-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect an increase in the quantities of natural gas proposed to be transported, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on January 25, 1982, Applicant filed for certificate authorization to construct and operate 162.2 miles of 30-inch pipeline and related facilities from the southern terminus of Northwest Pipeline Corporation's (Northwest) main transmission system to Transwestern Pipeline Company's (Transwestern) compressor station No. 5 in McKinley County, New Mexico, and to operate a new compressor station consisting of 3 gas turbine-driven compressors located near the northern terminus of the proposed line in the vicinity of Ignacio, Colorado.

It is stated that Applicant also sought authorization therein for the transportation of quantities of natural gas for Transwestern and Texas Eastern Transmission Corporation (TETCO) pursuant to a precedent agreement which provides for the transporation of up to 162,500 dt of gas per day each for Transwestern and for TETCO from the southern terminus of Northwest's pipeline system in the vicinity of Ignacio, Colorado, to transwestern's compressor station No. 5 in McKinley County, New Mexico.

Applicant explains that it has entered into an amended precedent agreement with transwestern and TETCO whereby Applicant has agreed to transport for Transwestern an additional 66,000 dt equivalent of natural gas which Transwestern has purchased from ProGas Limited (ProGas), a Canadian Corporation, up to a total of 228,500 dt equivalent of gas per day.

Applicant proposes to amend its original application to reflect such increase in the quantities of natural gas which it has agreed to transport. It is stated that aside from the transportation of additional quantities of gas for Transwestern, there would be no changes to the proposed facilities or transportation service for TETCO but that the facility charge would be revised to reflect a charge of $1,849,139.00 per month to Transwestern and a charge of $1,315,027.66 per month to TETCO. Applicant alleges that there would be no change in the total cost of service shown in the original application.

Applicant indicates that Transwestern required the additional gas to meet the future requirements of its customers at its current level of commitment to them.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25434 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-751-000]

Delmarva Power & Light Co.; Filing

September 9, 1982.

The filing Company submits the following:

Take notice that on August 31, 1982, Delmarva Power & Light Company (Delmarva) tendered for filing a revised FERC Electric Tariff, Volume No. 11. The total revenue increase proposed is $6,241,747 on the basis of the proposed test period information and the revised tariff includes new provisions for transmission services.

Delmarva states that the foregoing tariff changes are being filed so that it can achieve a fair and reasonable return on its investment in facilities used to provide jurisdictional services.

Delmarva requests an effective date of October 30, 1982.

Copies of this filing were served upon Delmarva's jurisdictional customers, the Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25426 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6552-000]

Mr. Frederick D. Ehlers; Application for Preliminary Permit

September 10, 1982.

Take notice that Mr. Frederick D. Ehlers (Applicant) filed on July 23, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6552 to be known as the Sprague River Waterpower Project located on the North Fork Sprague River in Klamath County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Appicant should be directed to: Mr. Steven A. Zamsky, 110 N. 6th Street, Klamath Falls, Oregon 97601.

Project Description—The proposed project would consist of: (1) A concrete intake structure within the south bank of the river; (2) a 4,800-foot-long pipeline; (3) a forebay; (4) a 256-foot-long, 42-inch-diameter penstock; (5) a powerhouse to contain a single generating unit with a rated capacity of 750 kW, operating under a head of 180 feet; and (6) a 12-mile-long transmission line. The estimated average annual energy output is 5,500,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which the Applicant would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $10,000. No new roads will be constructued.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 18, 1983.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25435 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-16-000]

The Detroit Edison Co.; Filing

September 9, 1982.

The filing Company submits the following:

Take notice that on August 25, 1982, The Detroit Edison Company (Edison), 2000 Second Avenue, Detroit, Michigan 48226, submitted an Application for Authority to Sell Certain Public Utility Facilities which are proposed to be sold and conveyed to the Michigan Public Power Agency (MPPA) and for such further relief as may be appropriate.

Edison's filing states that the facilities consist of transmission towers, conductors and groundwires located in the Counties of Macomb, Monroe, St. Clair, Washtenaw and Wayne, Michigan. Edison will sell and convey an approximate 40 percent undivided ownership interest in the facilities to MPPA, and Edison and MPPA will, thereafter, jointly own the facilities as tenants in common. The sales price is expected to be between $14,000,000 and $16,000,000. MPPA is a public body politic and corporate organized pursuant to Act 448, Public Acts of Michigan 1976 and consists of sixteen municipal electric utility members. MPPA is empowered, among other things, to plan, finance, develop, own and operate

projects to supply electric power and energy for the present and future needs of its members.

The sale and conveyance to MPPA of the facilities is proposed in connection with the establishment of (1) the respective ownership interests of Edison and MPPA in the fossil fuel-fired steam electric generating station presently under construction in St. Clair County, Michigan (Belle River), (2) the respective obligations and rights of Edison and MPPA with respect to the construction, operation and maintenance of Belle River, and (3) the terms and conditions under which Edison is willing to make available to MPPA certain back-up electric capacity and energy. Edison requests approval of its Application pursuant to the provisions of Section 203 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before September 24, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25406 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2874-004]

Electric Plant Board of the City of Glasgow, Kentucky; Notice of Application for License (Over 5 MW)

September 14, 1982.

Take notice that the Electric Plant Board of the City of Glasgow, Kentucky (Applicant) filed on March 31, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Barren River Lake Project No. 2874. The project would be located on the Barren River in Barren County, Kentucky. Correspondence with the Applicant should be directed to: Mr. William M. Lewis, W. M. Lewis & Associates, Inc., Post Office Box 1383, Portsmouth, Ohio 45662.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 2874 would consist of: (1) A proposed 127-foot-high intake structure on the right side of the reservoir, approximately 200 feet from the existing dam and with a flow control achieved by the use of a verticle arrangement of five 84-inch butterfly valves; (2) a proposed 1600-foot-long tunnel containing a 180-inch inside diameter steel lining, passing through sound bedrock and circumventing the existing earthern dam on the right side; (3) a proposed powerhouse to be located approximately 200 feet downstream from the toe of the existing dam, below the right abutment; (4) the installation of three turbine/generators with a total installed capacity of approximately 12 MW; (5) a proposed transmission line that would interconnect with an existing Tennessee Valley Authority transmission line 6 miles from the proposed project; and (6) appurtenant facilities. Applicant estimates the average yearly energy production to be 52.7 GWh.

Purpose of Project—To generate power to be sold to the Tennessee Valley Authority.

Competing Applications—Anyone desiring to file a competing application must file to the Commission, on or before November 26, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25456 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-501-000]

Equitable Gas Co.; Application

September 10, 1982.

Take notice that on August 19, 1982, Equitable Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP82-501-000 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 two taps and related pipeline to permit the conditioning of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement with Gulf Energy Processing Corporation (Gulf Energy) dated July 28, 1982, it would deliver up to 35,000 Mcf of natural gas per day to Gulf Energy near Equitable's Copley Run compressor station, in Lewis County, West Virginia. Gulf Energy would accept delivery, condition the gas, and redeliver it to Equitable at the Copley Run compressor station.

Applicant proposes to construct and operate the facilities necessary to deliver unconditioned natural gas and accept redelivery of conditioned natural gas. These facilities are estimated to cost $200,000. Applicant would finance the proposed facilities from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25410 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6484-000]

Feldspar Energy Corp.; Application for Preliminary Permit

September 10, 1982.

Take notice that Feldspar Energy Corporation (Applicant) filed on July 6, 1982, and revised on August 23, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6484 to be known as the Boyd Dam Project located on Fish Creek in the City of Point Rock in Lewis County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Charles B. Mierek, 838 Arlington Drive, Tucker, Georgia 30084.

Project Description—The proposed project would utilize the existing facility owned by the City of Rome, New York, and would consist of: (1) An 85-foot high, 515-foot-long concrete-gravity dam having a 150-foot-long ogee-type spillway; (2) a 7-foot high 300-foot-long earth dike located near the right (east) abutment; (3) a reservoir with a surface area of 210 acres and a storage capacity of 4,345 acre-feet at normal pool elevation 1280 feet NGVD; and (4) a gated intake structure and two 36-inch steel outlet conduits.

Applicant proposes to construct: (1) A powerhouse at the toe of the dam containing a generating unit having a rated capacity of 1,900 kW; (2) a 7-foot diameter, 190-foot-long steel penstock; and (3) a 400-foot-long 13-kV transmission line.

Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 12 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period 18 months, during which time it would perform technical, economic, financial, environmental, and feasibility studies, would consult with Federal, State, and local agencies, and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 20, 1982, the competing application itself [see: 18 C.F.R. 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 F.R. 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25436 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1414-000]

Robert F. Gilkeson; Notice of Application

September 10, 1982.

The filing individual submits the following:

Take notice that on August 30, 1982, Robert F. Gilkeson filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Trustee, Penn Mutual Life Insurance

Director, Philadelphia Electric Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211; 285.214). All such motions or protests

should be filed on or before September 30, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25457 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5468-001]

Homestake Consulting and Investments, Inc.; Notice of Surrender of Preliminary Permit

September 13, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Flower Creek Hydroelectric Project No. 5468, has requested that its preliminary permit be terminated. The permit was issued on March 26, 1982, and would have expired August 31, 1983. The project would have been located on the Flower Creek in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5468 is deemed accepted as of the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25458 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-72-000]

Gulf States Utilities Co.; Application

September 9, 1982.

Take notice that on September 2, 1982, Gulf States Utilities Company (Applicant) filed an application seeking authorization under Section 204 of the Federal Power Act authorizing the Applicant to enter into a Guaranty Agreement with certain banks for the repayment of up to $250,000 of the obligations of Louisiana Exposition, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214.)

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25427 Filed 9-15-82; 8:45 am[

BILLING'CODE 6717-01-M

[Project No. 5112-001]

Homestake Consulting and Investments, Inc.; Notice of Surrender of Preliminary Permit

September 13, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Falls Creek Hydroelectric Project No. 5112, has requested that its preliminary permit be terminated. The permit was issued on February 2, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Falls Creek in Bonner County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5112 is deemed accepted as of the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25459 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6408-000]

Hydro-Cor; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 14, 1982.

Take notice that on June 7, 1982, Hydro-Cor (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6408 would be located on Tenas Creek, a tributary to the Suiattle River, within the Snoqualmie-Mt. Baker National Forest, in Skagit County, Washington. Correspondence with the Applicant should be directed to: Mr. Jay R. Bingham, President, Hydro-Cor, 165 Wright Brothers Drive, Salt Lake City, Utah 84116.

Project Description—The proposed project would consist of: (1) A 16-foot-long, 6-foot-high diversion structure; (2) an 11,000-foot-long, 30-inch-diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 5000 kW; and (4) a 14-mile-long, 12.5-kV transmission line from the powerhouse to an existing Puget Sound Power & Light Company transmission line. The Applicant estimates that the average annual energy production would be 24.3 GWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the State of Washington Department of Fisheries and State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and repsonsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission on or before November 8, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commisson Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hyrdopower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25460 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6590–000]

Hy-Tech Co.; Notice of Application for Preliminary Permit

September 10, 1982.

Take notice that Hy-Tech Company (Applicant) filed on August 13, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6590 to be known as the Hazard Creek Project located on Hazard Creek within Payette National Forest in Idaho County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501, and Mr. David J. Milan, James M. Montgomery, Consulting Engineers, Inc., 1301 Vista Ave., Boise, Idaho 83705.

Project Description—The proposed project would consist of: (1) A 5-foot-high, 45-foot-long diversion structure; (2) a 42-inch-diameter, 7,500-foot-long penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 2,470 kW, operating under a head of 480 feet; (4) a 20-foot-long trailrace; and (5) a 13-mile-long, 13.5-kV transmission line to connect to an existing Idaho Power line. The estimated average annual energy output is 8.5 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which the applicant would conduct engineering, environmental and economic feasibility studies and prepare an application for an FERC license. No new roads will be constructed. The estimated cost for conducting these studies and preparing an application for an FERC license is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before November 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 18, 1983.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25437 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–559–001]

Indiana & Michigan Electric Co.; Compliance Filing

September 9, 1982.

The filing company submits the following:

Take notice that on August 23, 1982, Indiana & Michigan Electric Company (I&M) filed First Revised Original Sheet No. 4 to I&M's FERC Electric Tariff REC–1 pursuant to the Commission's order issued on July 23, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or

before September 24, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25428 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-426-003 and ER82-764-000]

Jersey Central Power and Light Co.; Notice of Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on August 25, 1982, Jersey Central Power & Light Company (Jersey Central) tendered for filing revised Phase B tariff sheets pursuant to the Commision's order of July 23, 1982. Such compliance filing has been assigned Docket No. ER82-426-003.

Second, Jersey Central, on August 25, 1982, also tendered for filing a revised fuel cost adjustment clause which allows the recovery through the fuel cost adjustment clause of the demand related charges associated with power purchases made for energy purposes only in order to substitute for higher cost economic dispatch energy. This new filing has been assigned Docket No. ER82-764-000.

Jersey Central requests an effective date of October 31, 1982, for the revised fuel cost adjustment clause.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25461 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-496-000]

Kentucky West Virginia Gas Co.; Notice of Application

September 10, 1982.

Take notice that on August 17, 1982, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Ashland, Kentucky 41101, filed in Docket No. CP82-496-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25438 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6288-000]

City of Lander, Wyoming; Application for Exemption of Small Conduit Hydroelectric Facility

September 10, 1982.

Take notice that on May 3, 1982, the City of Lander, Wyoming (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) [16 U.S.C. 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Lander Water Treatment Plant Project (FERC Project No. 6288) would utilize flow from the Middle Pogo Agie River and would be located at the Lander Water Treatment Plant in Lander, Wyoming. Correspondence with the Applicant should be directed to: Mr. Alan O'Hashi, City of Lander, 183 South 4th Street, Lander, Wyoming 82520.

Purpose of Project.—Energy generated would be used by the City and would, in part, displace the purchase of electrical power from the local utility.

Project Description.—The proposed project would consist of: (1) An existing intake structure; (2) an existing 8,500-foot-long, 20-inch-diameter raw water conduit; (3) a proposed powerhouse containing a turbine/generator unit, with a capacity of 150 kW; and (4) appurtenant facilities. The powerplant would operate under an effective head of 250 feet and would produce 1,300 MWh of energy annually.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Wyoming Game and Fish Department are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their

duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Motions To Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November, 1, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25433 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5410-001]

Richard K. Linville; Notice of Surrender of Preliminary Permit

September 13, 1982.

Take notice that Richard K. Linville, Permittee for the proposed Salmon Falls Dam Project No. 5410, has requested that its preliminary permit be terminated. The permit was issued on January 29, 1982, and would have expired July 1, 1983. The project would have been located on the Salmon Falls Creek, in Twin Falls County, Idaho.

The Permittee filed its request on August 24, 1982, and the surrender of the preliminary permit for Project No. 5410 is deemed accepted as of the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25462 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6615-000]

Mascoma Hydro Associates; Application for Preliminary Permit

September 10, 1982.

Take notice that Mascoma Hydro Associates (Applicant) filed on August 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6615 to be known as the Lower Mascoma Project located on the Mascoma River in Grafton County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Steenbeke, Jr., c/o J&S Leasing, RFD 5, Penacook, New Hampshire 03303 and Mr. Richard A. Currier, 6 Pine Wood Drive, Contoocook, New Hampshire 03229.

Project Description—The proposed project would utilize three existing dam sites owned by the City of Lebanon, New Hampshire, and would consist of:

Site A—(1) Replacement of the 175-foot-long and 20-foot-high rock-filled timber crib Glenn Road Dam with a gravity-type concrete dam; (2) a reservoir with negligible storage capacity and water surface elevation of 415 feet m.s.l.; (3) a new 400-foot-long penstock; (4) a new powerhouse with an installed capacity of 370 kW.

Site B—(5) Replacement of the breached 120-foot-long and 11-foot-high rock-filled timber crib dam with a gravity-type concrete dam; (6) a reservoir with negligible storage capacity and water surface elevation of 459 feet m.s.l.; (7) reconstruction of the existing powerhouse at the dam, to have an installed capacity of 200 kW.

Site C—(8) Reconstruction of the 130-foot-long and 16-foot-high concrete and timber Scytheville Dam by replacing timber decking with pre-stressed, pre-cast concrete decking; (9) a reservoir with negligible storage capacity and water surface elevation of 488 feet m.s.l.; (10) a new 300-foot-long penstock; (11) a new powerhouse with an installed capacity of 360 kW; and (12) other appurtenances.

Applicant estimates a total average annual generation of 3,400,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 12 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 20, 1982, the competing application itself [see: 18 CFR § 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceding. Any comments,

protests, or motions to intervene must be filed on or before November 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25429 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-766-000]

New England Power Co.; Notice of Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on September 1, 1982, New England Power Company (NEP) tendered for filing an Amendment to a contract for system power-unreserved with the Town of Hudson. NEP states that the Amendment changes the capacity entitlements and the availability and dispatch provisions. On the same date, NEP also filed a power contract under which Hudson will purchase, beginning November 1, 1982, capacity and energy from NEP's Brayton Point Unit #4.

NEP requests an effective date of November 1, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25463 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC82-40-000]

MacMillan Bloedel Inc.; Petition for Extraordinary Relief

September 10, 1982.

Take notice that on July 23, 1982, MacMillan Bloedel Inc. (Petitioner), Pine Hill, Alabama 36769, filed in Docket No. TC82-40-000 a petition for extraordinary relief pursuant to Section 1.7(b) of the Commission's Rules for waiver of certain provisions of Southern Natural Gas Company's (Southern Natural) curtailment plan, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner needs a firm peak day amount of 8,928 Mcf of gas between August 15, 1982, and May 15, 1983, in addition to the firm 550 Mcf per day Petitioner presently receives from Southern Natural. Petitioner has planned a $275 million expansion program for its linerboard mill, plywood mill, lumber mill and particle-board mill in Pine Hill, Alabama in response to increased market demand for linerboard and corrugating medium. Petitioner claims that the additional gas is necessary to operate temporary boiler facilities, to prevent plant shutdown, while its chemical recovery boiler is shut down for modifications.

Petitioner asserts that its planned expansion would represent an approximate 60 percent increase in production capability, and to support this, Petitioner's linerboard, plywood, and lumber mill would require a corresponding increase in steam production capacity. Petitioner claims it would have the necessary steam for the expansion project because the modifications would increase the capacity to burn black liquor waste in a modified recovery boiler and introduce the capability to burn woodwaste and pulverized coal in a new power boiler. For this reason, Petitioner proposes the use of temporary package boilers firing natural gas for a period of nine months.

Petitioner states that the present steam requirements are provided primarily by the existing No. 1 power boiler and the existing No. 1 recovery boiler. The expansion plan would include retaining the No. 1 power boiler, converting the No. 1 recovery boiler into a new power boiler, to be called the No. 2 power boiler, and installing a new No. 2 recovery boiler. However, it is maintained that the existing No. 1 recovery boiler cannot be shut down for conversion into the No. 2 power boiler until the new No. 2 recovery boiler is on line and has been proven reliable. In order to maintain mill operations and prevent a delay of up to nine months in accomplishing the expansion, Petitioner proposes to rent and install temporary package boilers fueled by natural gas to supply the shortfall in steam capacity.

Petitioner states that natural gas is the only alternative for the package boilers. No. 6 fuel oil could serve as an alternate fuel for the lumber kiln, but the wood products plant, without a sufficient supply of uninterruptible gas, would operate on a reduced production schedule using steam only. Petitioner asserts No. 6 fuel oil could not be used for the temporary package boilers because of sulfur dioxide emissions. It is said that in the past these caused health hazards requiring temporary plant shutdown, employee layoffs, and disruption of the construction schedule for modifications to the existing recovery boiler. It is further asserted that Petitioner does not have fuel storage facilities for propane gas and that other protential alternate fuels such as coal or fuel mixtures including coal cannot be used in temporary package boilers that are currently available.

It is stated that the waiver of Southern Natural's curtailment plan for the August 15, 1982, to May 15, 1983, period so that Petitioner can purchase, on a firm basis without curtailment, the additional 8,928 Mcf of gas per day would enable Petitioner to maintain the *status quo* at its mill facilities. Petitioner states that such waiver would support a workforce during a recessionary economic period while conducting an expansion program that would satisfy market demand for linerboard and corrugated medium. It is further stated that, as a result of the planned expansion, Petitioner would generate new employment opportunities at Pine Hill and other employment sectors because of the increased demand for raw materials, transportation, and other goods and services.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington,

D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25411 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-516-000]

Mountain Fuel Supply Co.; Application

September 10, 1982.

Take notice that on August 27, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-516-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the use of an existing interconnection between the facilities of Applicant and Overthrust Pipeline Company (Overthrust) for transportation and delivery of line pack gas to Overthrust, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has agreed to sell to Overthrust 250,000 Mcf of natural gas on a best efforts, temporary basis, for initial line pack under Applicant's Wyoming T-1 Tariff. Applicant states that Overthrust is committed to test, purge and pack the Overthrust segment of the Trailblazer Pipeline System and begin operating its transmission system in time to provide transportation service for its customers for the 1982-1983 winter season. Applicant indicates that it is able to assist Overthrust by delivering the required gas volumes so that Overthrust's line pack is in place prior to the scheduled commencement of services.

In order to effectuate the purchase agreement between Applicant and Overthrust, Applicant proposes to use an existing interconnection between Applicant's and Overthrust's facilities located at Applicant's Kanda Compressor Station in Sweetwater County, Wyoming. Applicant states that this interconnection would also be used for the delivery of test and purge gas which would be delivered pursuant to the provisions of Section 157.53 of the Commission's Regulations and the above mentioned purchase agreement. Applicant avers that no new facilities would be required for the delivery of either the test and purge gas or the line pack gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25412 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-767-000]

New England Power Co.; Notice of Filing

September 10, 1982.

The filing Company submits the following:

Take notice that on September 1, 1982, New England Power Company (NEP) tendered for filing a full cost of service rate for the purchase by Public Service Company of New Hampshire (PSNH) of capacity from NEP's Brayton Point #4 Unit. Under a contract dated as of November 1, 1979, PSNH agreed, beginning November 1, 1982, to pay NEP's full cost of service for capacity purchased from this unit.

NEP requests that the Commission allow the full cost of service rate into effect on November 1, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 27, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25464 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6613-000]

NortHydro, Inc.; Application for Preliminary Permit

September 14, 1982.

Take notice that NortHydro, Inc. (Applicant) filed on August 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6613 to be known as the Graves Creek Water Power Project located on Graves Creek near Thompson Falls in Sanders County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard W. Kochansky, NortHydro, Inc., 2005 Ironwood Parkway #141, Coeur d'Alene, Idaho 83814.

Project Description—The proposed project would consist of: (1) A proposed 6-foot high, 40-foot long concrete diversion structure; (2) a proposed 30-inch diameter pressurized steel penstock 11,000 feet long; (3) a proposed powerhouse having a total installed capacity of 1,820 kW and producing an estimated average annual energy output

of 9.80 GWh; (4) a proposed concrete or riprapped tailrace; (5) three miles of proposed 115 kV primary transmission line to connect to a Montana Power Company line; and, (6) appurtenant facilities. The project would be operated in a run-of-river mode and would be located entirely within the Lolo National Forest. Energy generated by the proposed project would be sold to Montana Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be between $65,000 and $105,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25465 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–514–000]

Overthrust Pipeline Co.; Notice of Application

September 10, 1982.

Take notice that on August 27, 1982, Overthrust Pipeline Company (Applicant), 79 South State Street, Salt Lake City, Utah 84147, filed in Docket No. CP82–514–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to include the cost in its rate base of natural gas to be purchased as line pack from Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has agreed to provide the line pack for the Overthrust segment of the Trailblazer Pipeline System. Applicant avers that the Overthrust segment must be tested, purged and packed to be fully operational and available for service by October 1, 1982, which is prior to the initial start-up of the Whitney Canyon gas sweetening plant. Since start-up of the Whitney Canyon plant would be a complex procedure, Applicant states that line pack could not be provided from that facility at consistent quality or on a certain date; therefore, Applicant proposes to purchase the line pack gas from Mountain Fuel.

Pursuant to a gas service agreement between Applicant and Mountain Fuel dated August 23, 1982, Applicant proposes to purchase approximately 255,000 Mcf of natural gas under Mountain Fuel's existing Wyoming Rate Schedule T–1 for use as initial line pack for the Overthrust segment. Applicant proposes to receive the gas at an existing interconnection between Applicant's and Mountain Fuel's facilities at Mountain Fuel's Kanda Compressor Station located in Sweetwater County, Wyoming.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25439 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-507-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

September 10, 1982.

Take notice that on August 24, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-507-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a measuring and regulating station and for permission and approval to abandon a measuring and regulating station and related pipeline in order to relocate a delivery point in Jacksonville, Illinois, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Illinois Power Company (Illinois Power) has requested that Applicant relocate a delivery point in Jacksonville, Illinois.

The stated purpose of the proposed relocation is to improve safety conditions and operating flexibility. No changes are proposed in the currently effective gas sales contract.

Specifically, Applicant proposes to abandon measuring and regulating station No. 2006F and 464 feet of 8-inch pipeline at an approximate net cost of $5,900. Applicant would construct and operate a new measuring and regulating station on a site in Jacksonville, Illinois owned by Illinois Power. The estimated cost of the proposed facilities is $50,150, which would be financed by available funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25440 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-506-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

September 10, 1982.

Take notice that on August 24, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-506-000 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 a compressor station to be located in Carson County, Texas, all as more fully set forth in the appication which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a compressor station with four 730 horsepower compressors and 1.3 miles of 8-inch pipeline and related facilities in Carson County, Texas. The cost of the proposed facilities is estimated to be $5,275,000. Applicant proposes to finance this project with internally generated funds and short-term bank borrowings as necessary.

Applicant asserts that production from its traditional natural gas supply areas over many years has depleted some fields and resulted in a reduction of field pressure. It is stated that the facilities proposed would allow Applicant to transport additional and existing supplies of natural gas to its pipeline system supplementing its existing supply sources. Applicant estimates that the average daily volumes of gas available from 20 new wells in the Rock Creek area would be 5,500 Mcf per day by 1983.

Applicant submits that the proposed facilities would augment its gas reserve position in the area so that existing markets can be continually served.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25441 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-763-000]

Safe Harbor Water Power Corp.; Filing

September 10, 1982.

The filing Company submits the following:

Take notice that Safe Harbor Water Power Corporation (Safe Harbor) on August 31, 1982, tendered for filing proposed changes in its Rate Schedule FPC No. 6 under which it sells its output to its two customers, Baltimore Gas and Electric Company and Pennsylvania Power & Light Company. Safe Harbor states that the proposed changes would increase base rate revenues from jurisdictional sales and service by $855,348 based upon the twelve-month period ending December 31, 1981.

Safe Harbor further states that an increase in its rate of return from its hydroelectric operations is necessitated by increased capital costs.

Safe Harbor proposes an effective date of November 1, 1982.

Copies of the filing were served upon the public utility's jurisdictional customers named above, and upon the Maryland and Pennsylvania State Public Utility Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before September 28, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25430 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6498-000]

J. T. Slocomb Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 10, 1982.

Take notice that on July 9, 1982, J. T. Slocomb Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6498 would be located on the Roaring Brook Stream in Hartford County, Connecticut. Correspondence with the Applicant should be directed to: Peter Schneider, President, New England Energy Development Systems, Inc., 19 Main Street, Amherst, Massachusetts 01002.

Project Description—The proposed run-of-river project would consist of: (1) An existing dam 130 feet long and 13 feet high owned by the Applicant; (2) an existing reservoir with negligible storage capacity and water surface elevation of 170 feet m.s.l.; (3) new intake structures; (4) a new 5-foot-diameter penstock, 10 feet long; (5) a new 22.2 kW turbine-generator unit; and (6) other appurtenances. Applicant estimates an average annual generation of 97,236 kWh. Applicant would use the project energy for manufacturing purposes at the site.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exempiton from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Fish and Waterlife unit of the Connecticut Department of Environmental Protection are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to other wise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before October 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25442 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-177-000, Phase III]

Southern California Edison Co.; Notice of Technical Conference

September 10, 1982.

Take notice that on September 21, 1982 there will be an informal technical conference regarding the above-captioned proceeding. The conference will take place at 9:00 a.m., Room 5001, 825 North Capitol Street, N.E., Washington, D.C.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25466 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6262-000]

Southern Pacific Land Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 13, 1982.

Take notice that on April 26, 1982, Southern Pacific Land Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6262 would be located on East Fork Trinity River, within the Shasta-Trinity National Forest, near Trinity Center, in Trinity County, California. Correspondence with the Applicant should be directed to: Mr. Eric A. Stenstedt, Southern Pacific Land Company, One Market Plaza, San Francisco, California 94105.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 60-foot-long concrete diversion structure; (2) a 300-foot-long, 72-inch-diameter conduit; (3) an existing rock tunnel; (4) an 800-foot-long, 72-inch-diameter conduit; (5) a 10,000-foot-long, 72-inch-diamter conduit; (6) a 700-foot-long, 60-inch-diamter penstock; (7) a powerhouse containing two generating units with a total installed capacity of 3.85 MW and (8) a 10.6-mile-long, 69-kV transmission line. The Applicant estimates that the average annual energy production would be 14.2 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 8, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. 4.33(a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", as "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25448 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-296-002]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Amendment to Application

September 13, 1982.

Take notice that on August 9, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-296-002 an amendment to its application filed in Docket No. CP81-296-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect an alternative proposal with respect to the construction of facilities to receive imported natural gas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its pending application filed April 22, 1981, in Docket No. CP81-296-000 and presently consolidated with the applications of Boundary Gas, Inc. (Boundary) in Docket Nos. CP81-107-000 and CP81-108-000 and with Applicant's application in Docket No. CP81-298-000 seeks authorization to construct and operate 261.4 miles of pipeline loop facilities, together with compression, measurement and other related facilities in the New England area and in New York and New Jersey for the purpose of enabling Applicant to render a transportation service for customers of

Applicant of up to 185,000 Mcf of gas per day to be purchased by Boundary from TransCanada PipeLines Limited (TransCanada) and imported at a point near Niagara Falls, New York (Niagara). Applicant would also receive into its pipeline system up to 300,000 Mcf of gas per day for its own system supplies purchased from TransCanada and imported at Niagara. Concurrently with the subject amendment, Applicant states that it has filed in Docket No. CP81-296-001 an amendment to its pending application herein seeking authorization to construct and operate additional facilities necessary to import additional volumes of gas from Canada at Niagara.

Applicant states that included among the facilities which it could construct are approximately 48.6 miles of 42-inch diameter pipeline loop paralleling its existing 20-inch pipeline on the Niagara Spur extending from its Valve No. 230B-107 near the Niagara River in Niagara County, New York to its Valve No. 230B-101 near East Aurora, Erie County, New York. Also included is a 6,000 horsepower compressor facility near Applicant's Valve No. 230B-107 at Niagara.

In addition, Applicant states that Trans-Niagara Pipeline (Trans-Niagara) filed an application on June 11, 1982, in Docket No. CP82-125-003 for authorization to construct and operate approximately 160 miles of 42-inch pipeline extending from Niagara to an interconnection with the existing facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Texas Eastern Transmission Corporation (Texas Eastern) near Transco's Leidy Storage Field near Tamarack, Pennsylvania. Trans-Niagara propose to transport up to 1,418,882 Mcf of natural gas per day through its facilities for Transco, Texas Eastern and Algonquin Gas Transmission Company (Algonquin).

In order to avoid or reduce the environmental impact of the two separate 42-inch diameter pipelines proposed by Applicant and Trans-Niagara, Applicant states that the Commission's Staff (Staff) has proposed that a 48-inch diameter pipeline extending from Niagara to East Aurora, New York, be constructed in lieu of the two 42-inch pipelines. It is further stated that Staff's alternative includes, as do Applicant's and Trans-Niagara's proposals, additional horsepower on the Niagara Spur; however, in order to reduce NO_2 emissions, Staff proposed a single 27,000 horsepower addition at Applicant's Station 230B, in lieu of the 6,000 horsepower proposed by Applicant at that site and/or the 38,000 horsepower proposed by Transco at Lewiston, New York. It is stated that the Commission submitted interrogatories to Applicant on the feasibility of a joint pipeline to transport Applicant's and Trans-Niagara's imports. In answer to these interrogatories, Applicant asserts that if the total volumes presently waiting export approval from Canada are authorized, greater pipeline capacity than currently proposed by either Applicant of Trans-Niagara would be required to import and deliver the gas through a single line on the Niagara Spur. Therefore, Applicant states it could construct and operate 48.6 miles of 48-inch pipeline loop on the Niagara Spur from Applicant's Valve 230B-107 at Niagara to Valve 230B-101 near East Aurora, New York, dual 36-inch pipeline Niagara River Crossings, and a 52,000 horsepower turbine compressor station near Valve 230B-106 in Niagara County, New York. Applicant would construct and operate these facilities as an alternative to both its own project now pending in this docket and the proposed Trans-Niagara project which has been filed in Docket No. CP82-125-000.

Applicant states that the facilities proposed in Docket No. CP81-296-002 would have a maximum daily design capacity of 2,461,000 Mcf, which Applicant indicates is sufficient to handle the total peak daily volumes presently pending Canadian export approval at Niagara. Applicant indicates that it would use up to 1,000,000 Mcf per day of the total capacity to handle its own volumes as well as the volumes Applicant proposes to transport on behalf of Boundary's customers. The remaining capacity would be utilized by Applicant to transport gas proposed to be imported at Niagara by Transco, Texas Eastern, and Algonquin.

Applicant estimates the direct cost of the facilities to be approximately $162,000,000 in 1982 dollars. Applicant maintains that the combined cost of the two separate projects by Applicant and Trans-Niagara would cost approximately $222,000,000; thus, the facilities proposed in Docket No. CP81-296-002 would result in a total cost saving of about $60,000,000, it is asserted.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25449 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-1922-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Petition To Amend

September 10, 1982.

Take notice that on August 8, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. G-1922-000 a petition to amend the permit issued in Docket No. G-1922 pursuant to and in accordance with Executive Order No. 10485 and with requirements of §§ 153.10 and 153.11 of the Commission's Regulations (18 CFR 153.10, 153.11) so as to authorize Petitioner to construct, operate, and maintain facilities at the international boundary between the United States and Canada near Niagara Falls, New York, for the importation of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the permit in the instant docket authorizes Petitioner to construct, operate, and maintain facilities at the international boundary near Niagara Falls for the importation of natural gas. It is stated that Petitioner is now concurrently filing an application under Section 3 of the Natural Gas Act with the Commission and the Economic Regulatory Administration requesting authorization to import Canadian natural gas at the Canada-United States boundary near Niagara Falls. Petitioner is also concurrently filing an amendment to its application in Docket No. CP81-296-000 requesting authorization to construct additional facilities to handle the above-described import volumes. It is stated that these facilities would include a 36-inch pipeline crossing the Niagara River, the addition of 6,000 hp of compression to the turbine compressor station near valve 230B-106

in Niagara County, New York, and a pipeline alteration to permit reverse flow at station 224 in Clymer, New York. Hence Petitioner requests amendment of the permit so as to authorize it to construct, operate, and maintain facilities at the international boundary near Niagara Falls for the importation of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25443 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-296-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Amendment to Application

September 10, 1982.

Take notice that on August 9, 1982,[1] Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-296-001 an amendment to its application in Docket No. CP81-296-000 filed pursuant to Section 7(c) of the Natural Gas Act to reflect the proposed construction and operation of additional facilities near Niagara Falls, New York, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it has filed an application with the Commission for authorization to import natural gas at a point near Niagara Falls, New York, in accordance with three gas purchase contracts between Applicant and Canadian-Montana Pipeline Company, KannGaz Producers Ltd., and Ocelot Industries Ltd. To facilitate this import, Applicant states that its application in Docket No. CP81-296-000 sought authorization to construct and operate approximately 261.4 miles of pipeline loop and compression facilities in New England and in New York and New Jersey to enable Applicant to provide transportation service for customers of Boundary Gas, Inc. (Boundary). applicant avers that application has been consolidated with applications of Boundary in Docket No. CP81-107-000 and Applicant in Docket No. CP81-298-000.

Applicant avers that among the facilities for which it requested authorization in Docket No. CP81-296-000 are approximately 48.6 miles of 42-inch diameter pipeline loop paralleling Applicant's existing 20-inch pipeline on the Niagara Spur extending from applicant's Valve No. 230B-107 near the Niagara River in Niagara County, New York, to Applicant's Valve No. 230B-101 near East Aurora, Erie County, New York. Also included is a 6,000 horsepower compressor facility near Applicant's Valve No. 230B-106 near Niagara Falls, New York.

By the subject amendment, Applicant proposes to construct and operate additional facilities consisting of 0.25 mile of 36-inch pipeline Niagara River crossing, a turbine/compressor station addition of 6,000 horsepower near Valve 230B-106, Niagara County, New York, and piping alterations to permit reverse flow at Station 224, in Clymer, New York.

Applicant estimates the cost of the additional facilities to be $11, 391,000 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25446 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-488-000]

Texas Eastern Transmission Corp.; Application

September 10, 1982.

Take notice that on August 16, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for The Brooklyn Union Gas Company (Brooklyn Union), 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 Brooklyn Union and Columbia Gas Transmission Corporation (Columbia Gas) have entered into a limited-term gas sales agreement providing for the sale, on a best-efforts basis, of up to 30,000 dt per day of natural gas to Brooklyn Union for a period of 5 years from November 1, 1981, through October 31, 1986, and for the delivery of such quantities by Columbia Gas to Applicant by displacement. Applicant proposes to receive the natural gas at the existing point of interconnection between Applicant and Columbia Gas located at Applicant's meter station 013 in Greene County, Pennsylvania, or at other mutually agreeable existing delivery points in Applicant's Zone C, and to transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to Brooklyn Union at the existing point of interconnection between Applicant and Brooklyn Union located at Applicant's meter station 058 in Richmond County, New York, and other mutually agreeable delivery points. Applicant further proposes that the transportation authorization be limited to a 6-month term commencing on the date of initial delivery.

Applicant would charge Brooklyn Union the presently applicable effective Rate Schedule TS-1 basic rate of 18.72 cents per dt equivalent for delivery by Applicant to or for the account of Brooklyn Union; however, for quantities transported and delivered by Applicant which, when added to the quantities delivered to Brooklyn Union under Applicant's Rate Schedule TS-1, non-

[1] The amendment was initially tendered for filing on August 9, 1982; however, the fee required by Section 159.2(c) of the Regulations under the Natural Gas Act (18 CFR 159.2) was not paid until August 13, 1982; thus, filing was not completed until the latter date.

firm SS–II and other transportation agreements, exceed the combined total curtailment of natural gas sales to Brooklyn Union under all of Applicant's firm sales rate schedules, Applicant would charge Brooklyn Union the presently applicable effective Rate Schedule TS–1 excess rate of 21.58 cents per dt, such rate being subject to change from time to time. In addition, Applicant would retain applicable shrinkage which presently is 5 percent of all gas received for transportation from April 16 through November 15 of each year and 11 percent of all gas received for transportation from November 16 through April 15 of each year; however, in the event the Commission should establish, by a final nonappealable order, shrinkage under Rate Schedule TS–1 for transportation from April 16 through November 15 and from November 16 through April 15 which is less than or greater than specified in the foregoing clause then applicable shrinkage hereunder would be equivalent to the shrinkage established by said order, it is asserted.

Applicant proposes that the retention of revenues derived from the transportation service would be subject to Applicant's pending rate proceeding in Docket No. RP81–109–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary,

[FR Doc. 82-25413 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-486-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

September 10, 1982.

Take notice that on August 16, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82–486–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the uprating of certain gas turbine compressor units so that such units may operate at greater horsepower and to provide standby ability, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to uprate compressor units 6, 7, and 8 at Station 70 near Tylertown, Mississippi, and units 6, 7, and 8 at Station 100 near Billingsley, Alabama. It is stated that all such units are currently rated at 6,800 horsepower each. It is proposed that all these units, except for Unit 8 at Station 100, would be uprated to 7,210 horsepower, and Unit 8 at Station 100 would be uprated to 8,460 horsepower. It is further stated that these units are General Electric (G.E.) Frame 3 compressors, and the uprating would be accomplished by G.E. adjusting the temperature controls on such units and providing new nameplates showing the above-stated levels of horsepower. It is indicated that G.E. would charge $43 per horsepower of uprated capacity, for a total of $159,530.

Applicant states that the uprating of the compressor units as proposed would allow 3,710 horsepower to be added at Stations 70 and 100 in a quick and relatively inexpensive manner, as comparted to the installation of new compressor units. It is stated that such additional horsepower would enable Applicant to have standby ability in the event of outages of other compressor units at Stations 70 and 100 or at other stations in the vicinity.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25447 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-426-005]

Transcontinental Gas Pipe Line Corp.; Notice of Petition To Amend

September 10, 1982.

Take notice that on August 11, 1982, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP77–426–005 a petition to amend the order of August 29, 1977, as amended, issuing a certificate of public convenience and necessity in Docket No. CP77–426 pursuant to Section 7(c) of the Natural Gas Act so as to authorize

Petitioner to extend the transportation service for Owens-Corning Fiberglas Corporation (Owens-Corning) for an additional one-year period ending August 28, 1983, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that the order issued August 29, 1977, as amended, authorized Petitioner to transport for Owens-Corning's account up to 1,000 Mcf of natural gas per day from Jefferson Davis Parish, Louisiana, for ultimate delivery to Owens-Corning's Anderson, South Carolina, plant for a period ending August 28, 1982.

It is stated that Petitioner proposes to continue transportation service for Owens-Corning pursuant to a service agreement under Petitioner's effective Rate Schedule T. Under Rate Schedule T, Transco would charge an initial rate of 24.2 cents per dekatherm equivalent of gas delivered hereunder, including 0.70 cent per dekatherm for GRI General R&D Funding Unit, and would initially retain 4.6 percent of the quantities received for transportation as make-up for compressor fuel and line loss, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intevene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25444 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-495-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

September 10, 1982.

Take notice that on August 17, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-495-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 22,000 dekatherms (dt) of natural gas per day on an interruptible basis for UGI Corporation (UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for UGI natural gas which is available to UGI pursuant to a storage arrangement between Penn-York Energy Corporation (Penn-York), and UGI. Penn-York would make up to 22,000 dt per day available to its affiliate, National Fuel Gas Supply Corporation (National Fuel) which would then deliver equivalent quantities to Applicant at existing interconnections between Applicant and National Fuel. Applicant would then redeliver thermally equivalent quantities of gas, less quantities retained for compressor fuel and line loss make-up, to Columbia Gas Transmission Corporation for the account of UGI at existing delivery points at Downingtown, Pennsylvania and Rockville, Maryland. Applicant states that the transportation service would be provided from November 1, 1982, through March 31, 1983, and would be interruptible at Applicant's sole discretion.

For such transportation service, Applicant would charge UGI an initial rate of 7.0 cents per dt delivered and would initially retain 0.7 percent of the quantities received for compressor fuel and line loss make-up.

Applicant indicates that UGI would need the subject gas to meet the daily needs of its system customers should colder than normal weather occur during the winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25445 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-125-004]

Trans-Niagara Pipeline; Amendment to Application

September 10, 1982.

Take notice that on August 10, 1982, Trans-Niagara Pipeline (Applicant), 2700 Post Oak Boulevard, Houston, Texas 77251, filed in Docket No. CP82-125-004 an amendment to its application filed in Docket No. CP82-125-000 pursuant to Section 7(c) of the Natural Gas Act for authorization to increase the compression and design capacity of its proposed facilities and to transport an additional 100,000 Mcf of natural gas per day which Texas Eastern Transmission Corporation (Texas Eastern) proposes to purchase from TransCanada Pipelines Limited (TransCanada) and import into the United States, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that Texas Eastern has entered into an agreement with TransCanada, dated June 9, 1982, which provides for the purchase at Niagara Falls, Ontario, of up to 100,000 Mcf of gas per day, as well as the purchase of daily quantities in excess of 100,000 Mcf (but not to exceed 10 percent) on a best efforts basis. Applicant states that Texas Eastern has filed with the Commission in Docket No. CP82-423-000 and with the Economic Regulatory

Administration in ERA Docket No. 82-07-NG for authorization, pursuant to Section 3 of the Natural Gas Act, to import such quantities into the United States.

Applicant states that Texas Eastern has requested it to provide transportation service for the additional import quantities under the same terms and conditions applicable to its other transportation services, including the quantities of natural gas which Texas Eastern intends to purchase and import from PanAlberta Gas Ltd. and ProGas Limited. Applicant states that it has agreed to Texas Eastern's request.

Applicant states that in order to accommodate Texas Eastern's request, the amount of compression which Applicant proposes for its Lewiston and Leidy compressor stations must be increased from 49,000 horsepower to 53,000 horsepower and from 36,000 horsepower to 49,000 horsepower respectively. Applicant states that the operating capacity of its pipeline with this additional capacity will be 1,518,882 Mcf per day, with a maximum throughput capability of 1,532,428 Mcf per day. Applicant states that it anticipates transporting any quantities purchased by Texas Eastern from TransCanada on a best efforts basis under the interruptible transportation service which it has proposed to offer its shippers.

It is stated that the revised estimated total cost of the facilities would be $440,926,000, which cost would be financed by project financing with equity contributions from Applicant's partners equal to 25 percent of the costs and bank financing equal to 75 percent of such costs.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25414 Filed 9-15-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CP82-469-000]

Trans-Niagara Pipeline; Notice of Application

September 13, 1982.

Take notice that on August 6, 1982, Trans-Niagara Pipeline (Applicant), 2700 Post Oak Boulevard, Houston, Texas 77056, filed in Docket No. CP82-469-000 an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204-55 for a permit authorizing the construction, operation, maintenance, and connection of pipeline facilities on the international boundary near Niagara Falls, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate an interconnection with TransCanada PipeLine Niagara Ltd. (TransCanada), involving two 36-inch pipeline crossings of the Niagara River which would connect with a single 42-inch pipeline on the United States' side of the river, a metering and regulating station in the vicinity of the United States' shore of the Niagara River, and a compressor station of up to 53,000 horsepower near Lewiston, New York, approximately 5 miles from the international boundary. It is understood by Applicant that TransCanada proposes to construct the appropriate equivalent facilities near the Canadian shore.

It is further stated that Applicant has applied in Docket No. CP82-125-003 for authorization to construct and operate approximately 160 miles of large diameter pipeline and appurtenant facilities which would interconnect with facilities of TransCanada at the international boundary approximately 5 miles north of Niagara Falls, New York, and then follow a southerly route through New York and Pennsylvania to points of interconnection near Tamarack, Pennsylvania. It is stated that Applicant also sought authorization in Docket No. CP82-125-003 to render transportation services for certain shippers which have entered into contracts to purchase and import Canadian natural gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commissions' Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25450 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6601-000]

Turnagain Hydro Co.; Notice of Application for Preliminary Permit

September 14, 1982.

Take notice that Turnagain Hydro Company (Applicant) filed on August 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6601 to be known as the California Creek Project located on California Creek within Chugach National Forest, near Girdwood, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John MacGregor, P.O. Box 1776, Lummi Island, Washington 98262.

Project Description—The proposed project would consist of: (1) A 27-foot-high, 83-foot-long rock-filled dam having a surface area of less than one acre; (2) a spillway; (3) a forebay; (4) a 20-inch-diameter, 10,000-foot-long penstock; (5) a powerhouse to contain a single generating unit with a rated capacity of 1500 kW, operating under a head of 830 feet; (6) a 300-foot-long talrace; (7) a 15-kV transmission line to extend 2.25 miles to an existing Chugach Electric Association line. The estimated average annual energy output is 6.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which the Applicant would conduct engineering, environmental and economic feasibility studies and prepare an application for an FERC license. No new roads will be constructed during the term of the

permit. The estimated cost for conducting these studies and preparing an application for an FERC license is $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before November 26, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 25, 1982.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25451 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-118-013]

U-T Offshore System; Petition To Amend

September 10, 1982.

Take notice that on August 13, 1982, U-T Offshore System (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No, CR76-118-013 a petition to amend the order issued December 22, 1978, in Docket No. CP76-118 pursuant to Section 7(c) of the Natural Gas Act as so to authorize the deletion of conditions which require Petitioner to record supplemental charges for depreciation for revenues related to interruptible overrun services, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on December 1, 1980, it filed revised rates in Docket No. RP81-20, proposing an effective date of Janurary 1, 1981. Applicant indicates that the Commission permitted these rates to become effective, subject to refund, and conducted numerous settlement conferences with Petitioner. In Docket No. RP81-20, Petitioner proposed, *inter alia,* to change its method of computing depreciation from a straight-line method to a unit-of-production method. It is stated that staff opposed the proposed change and also maintained that recording supplemental depreciation charges for overrun service was no longer appropriate. Petitioner states that it has filed a stipulation which provides for increased straight-line depreciation rates, and a transportation refund obligation for revenues related to interruptible overrun service, and the filing of the instant petition to amend further the amended order to delete revenue crediting conditions related to overrun service.

Petitioner avers that the refund provisions relating to overrun revenues in the proposed stipulation make continuation of the certificate condition requiring crediting of such revenues to the depreciation reserve inappropriate. Petitioner requests deletion of the aforementioned certificate conditions as they pertain to Petitioner effective as of the effective date of the stipulation in Docket No. RP81-20.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25415 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6221-000]

Weyerhaeuser Co.; Notice of Application for License (5 MW or Less)

September 14, 1982.

Take notice that Weyerhaeuser Company (Applicant) filed on April 19, 1982, an appication for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as Black Creek Hydroelectic Project No. 6221. The project would be located on Black Creek, a tributary of the North Fork Snoqualmie River, near North Bend, in King County, Washington. Correspondence with the Applicant should be directed to: Mr. Alan T. Smith, Vice-President, Energy Management Group, Wyerhaeuser Company, Tacoma, Washington 98477.

Project Description—The proposed project would consist of: (1) A proposed 6-foot high, 50-foot long rockfill diversion structure on Black Creek with a concrete box intake at one end; (2) a proposed 36-inch diameter buried concrete pipe, 2,600-foot long, originating at the intake and terminating

at the surge tank; (3) a proposed concrete surge tank 10-foot in diameter and 30-foot high; (4) a proposed 30-inch diameter steel penstock 3,740-foot long; (5) a proposed powerhouse containing a single turbine/generator unit having an installed capacity of 3,700 kW and producing an estimated average anual energy output of 14.1 GWh; (6) a proposed 48-inch diameter buried corrugated metal pipe tailrace 215-foot long; (7) two miles of proposed 115 kV primary transmission line to connect to an existing Puguet Sound Power and Light line; (8) 1,800 feet of a proposed new access road; and, (9) appurtenant facilities. The project would be operated in a run-of-river mode.

Purpose of Project—The output of the project would be used by the Applicant or sold to an electric utility.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Application—Anyone desiring to file a competing application must file to the Commission, on or before November 26, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or notice of intent [See 18 CFR 4.33(b) and (c)] to file competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 26, 1982.

Filing and Service of Responsive Documents—Any Filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regualtory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25452 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 730]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 13, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED:		08/16/82 JA: PA			
8250002	13808	3706324887		108		MARY LOUISE BROWN #1	COMMODORE	20.0	COLUMBIA GAS TRAN
8250003	13809	3706324888		108		MARY LOUISE BROWN #1-A	COMMODORE	9.0	COLUMBIA GAS TRAN
8250001	13807	3706325054		108		MARY LOUISE BROWN #2-A	COMMODORE	7.0	COLUMBIA GAS TRAN
8250000	13806	3706325055		108		MARY LOUISE BROWN #3-A	COMMODORE	8.0	COLUMBIA GAS TRAN
-ARROWHEAD GAS PRODUCERS INC				RECEIVED:		08/16/82 JA: PA			
8250004	7110	3712329042		102-2		C PETTIT #1	FREEHOLD	60.0	COLUMBIA GAS TRAN
8250005	8944	3712329042		107-TF		C PETTIT #1	SUGAR GROVE	60.0	COLUMBIA GAS TRAN
-C GLENN MERCHANDISING				RECEIVED:		08/16/82 JA: PA			
8250046	13128	3706500000		108		FRAZIER #15	FRAZIER	3.9	NATIONAL FUEL GAS
8250045	13127	3706500000		108		WINLACK #10	WINLACK	3.9	NATIONAL FUEL GAS
8250047	13129	3706500000		108		WINLACK #22	WINLACK	3.9	NATIONAL FUEL GAS
8250048	13130	3706500000		108		WINLACK #27	WINLACK	3.9	NATIONAL FUEL GAS
8250042	13124	3706500000		108		WINLACK #3	WINLACK	3.9	NATIONAL FUEL GAS
8250049	13131	3706500000		108		WINLACK #31	WINLACK	3.9	NATIONAL FUEL GAS
8250052	13134	3706500000		108		WINLACK #42	WINLACK	3.9	NATIONAL FUEL GAS
8250050	13132	3706500000		108		WINLACK #43	WINLACK	3.9	NATIONAL FUEL GAS
8250051	13133	3706500000		108		WINLACK #43	WINLACK	3.9	NATIONAL FUEL GAS
8250043	13125	3706500000		108		WINLACK #6	WINLACK	3.9	NATIONAL FUEL GAS
8250044	13126	3706500000		108		WINLACK #8	WINLACK	3.9	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED:		08/16/82 JA: PA			
8250009	13121	3703921394		102-2		CLARENCE KITER #1	WAYNE	50.0	TENNESSEE GAS PIP
8250014	13120	3703921394		107-TF		CLARENCE KITER #1	WAYNE	50.0	TENNESSEE GAS PIP
8250007	13117	3703921527		102-2		DALE RISLEY #1	EAST MEAD	50.0	TENNESSEE GAS PIP
8250012	13116	3703921527		107-TF		DALE RISLEY #1	EAST MEAD	50.0	TENNESSEE GAS PIP
8250008	13119	3703921520		102-2		DALE RISLEY #2	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8250013	13118	3703921520		107-TF		DALE RISLEY #2	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8250010	13123	3703921526		102-2		JOHN KALINOWSKI #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8250015	13122	3703921526		107-TF		JOHN KALINOWSKI #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8250006	13115	3703921461		102-2		ROBERT WRIGHT #1	WAYNE	50.0	TENNESSEE GAS PIP
8250011	13114	3703921461		107-TF		ROBERT WRIGHT #1	WAYNE	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		08/16/82 JA: PA			
8250017	13382	3710520117		108		PENN TRACT #81 WN 1593	STEWARDSON	1.0	GENERAL SYSTEM PU
8250018	13383	3710520129		108		PENN TRACT NO 81 WN 1591	STEWARDSON TWP	1.0	GENERAL SYSTEM PU
8250019	13386	3710520128		108		PENN TRACT NO 81 WN 1592	STEWARDSON	1.0	GENERAL SYSTEM PU
8250016	13143	3702120140		102-4		ROY D LEAMER WN 1869	SUSQUEHANNA	29.0	GENERAL SYSTEM PU
-EDWARD G KRIEBEL GAS CO				RECEIVED:		08/16/82 JA: PA			
8250066	13329	3706322676		108		PARK #1	PARKWOOD	15.0	PEOPLES NATURAL G
-ENVIROGAS INC				RECEIVED:		08/16/82 JA: PA			
8250020	13135	3704921666		107-TF		W HEATON #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-FLANIGAN BROTHERS				RECEIVED:		08/16/82 JA: PA			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250023	13360	3703920361		108		CHARLES FIELD #1	CONNEAUTVILLE	6.5	NATIONAL FUEL GAS
8250021	13358	3703920515		108		DUNTON #1	CRAWFORD	6.5	NATIONAL FUEL GAS
8250022	13359	3703920513		108		EELLS #1	CONNEAUTVILLE	10.0	NATIONAL FUEL GAS
8250024	13361	3703920357		108		FRANK FIELD #1	CONNEAUTVILLE	1.5	NATIONAL FUEL GAS
8250025	13362	3703920392		108		FRANK FIELD #2	CONNEAUTVILLE	1.5	NATIONAL FUEL GAS
8250026	13363	3703920419		108		JOHN GREENE #1	CONNEAUTVILLE	3.0	NATIONAL FUEL GAS
8250027	13364	3703920366		108		JOHNSTON #1	WILDCAT	1.0	NATIONAL FUEL GAS
8250032	13369	3703920414		108		JOSEPH & HAROLD SCHMIDT #1	CONNEAUTVILLE	6.0	NATIONAL FUEL GAS
8250033	13370	3703920415		108		JOSEPH & HAROLD SCHMIDT #2	CONNEAUTVILLE	6.0	NATIONAL FUEL GAS
8250035	13372	3703920516		108		JOSEPH & HAROLD SCHMIDT #4	CRAWFORD	6.0	NATIONAL FUEL GAS
8250034	13371	3703920431		108		JOSEPH AND HAROLD SCHMIDT #3	CONNEAUTVILLE	6.0	NATIONAL FUEL GAS
8250030	13367	3703920407		108		MILTON PAYNE #1	CONNEAUTVILLE	2.5	NATIONAL FUEL GAS
8250028	13365	3703920394		108		NELSON #2	CONNEAUTVILLE	10.0	NATIONAL FUEL GAS
8250029	13366	3703920407		108		NELSON #3	CONNEAUTVILLE	10.0	NATIONAL FUEL GAS
8250031	13368	3703920514		108		NEVIN SCHLOSSER #1	CONNEAUTVILLE	6.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	08/16/82	JA: PA			
8250039	13141	3706326138		103		BARNETTE #3	CHERRYHILL TWP	25.5	COLUMBIA GAS TRAN
8250038	13140	3706326736		103		G SIMMONS #4	CHERRYHILL TWP	25.5	COLUMBIA GAS TRAN
8250036	13142	3706326140		102-2		G VASBINDER #1	GREEN TWP	0.0	COLUMBIA GAS TRAN
8250037	13139	3706326140		103		G VASBINDER #1	GREEN TWP	25.5	COLUMBIA GAS TRAN
8250041	13805	3700300000		108		SAMUEL BROWN #14	WILKINS TWP	14.4	PEOPLES NATURAL G
8250040	13387	3706326764		103		SCHROTH #5	CHERRYHILL TWP	25.5	COLUMBIA GAS TRAN
-GREAT LAKES HYDROGAS INC				RECEIVED:	08/16/82	JA: PA			
8250053	13113	3704921038		107-TF		GLH/R S SEIDEL WELL #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	08/16/82	JA: PA			
8250054	13330	3703321231		103		R & P COAL CO #17 (54A)	BRADY	0.0	COLUMBIA GAS TRAN
8250055	13331	3703321208		103		THOMAS DUKE #2 (70A)	BURNSIDE	0.0	CONSOLIDATED GAS
8250056	13333	3703321209		103		THOMAS DUKE #3 (70A)	BURNSIDE	0.0	CONSOLIDATED GAS
-JAY BEE OIL & GAS				RECEIVED:	08/16/82	JA: PA			
8250057	13379	3703500000		102-1		BRODA #1	WINNER "BIG W"	3.0	TEXAS EASTERN TRA
8250059	13381	3703500000		102-1		BRODA #5	WINNER "BIG W" MILLER	3.0	TEXAS EASTERN TRA
8250058	13380	3703500000		102-1		BRODA #9		3.0	TEXAS TRANSMISSIO
-KALTSAS OIL CO				RECEIVED:	08/16/82	JA: PA			
8250062	13601	3704900000		103		DOUGLAS GIBBONS #2	NORTH EAST FIELD HORN	20.0	COLUMBIA GAS TRAN
8250063	13392	3704900000		107-TF		DOUGLAS GIBBONS #2	NORTH EAST FIELD HORN	20.0	COLUMBIA GAS TRAN
8250060	13599	3704900000		103		JAMES G HOPKINS #1	NORTH EAST FIELD HORN	19.0	COLUMBIA GAS TRAN
8250065	13394	3704900000		107-TF		JAMES G HOPKINS #1	NORTH EAST FIELD HORN	19.0	COLUMBIA GAS TRAN
8250061	13600	3704900000		103		RALPH M ROGERS #1	NORTH EAST FIELD	10.0	COLUMBIA GAS TRAN
8250064	13393	3704900000		107-TF		RALPH M ROGERS #1	NORTH EAST FIELD HORN	10.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	08/16/82	JA: PA			
8250327	13282	3706500000		108		A G ALLSHOUSE #2624	KNOX TOWNSHIP	1.7	GENERAL SYSTEM PU
8250099	13016	3704700000		108		A J GREENAWALT FARM #3236	ELDRED TWP	1.3	GENERAL SYSTEM PU
8250264	13219	3712100000		108		A M ZEIGLER #351	CRANBERRY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250272	13227	3706500000		108		A N STAHLMAN FARM #860	ELDRED TOWNSHIP	1.1	GENERAL SYSTEM PU
8250265	13220	3712100000		108		A P DALE FARM #3080	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250117	13036	3708300000		108		A S HALSEY #1058	SERGEANT TOWNSHIP	0.2	GENERAL SYSTEM PU
8250207	13162	3705300000		108		A WOLF #3610	TIONESTA TOWNSHIP	0.6	GENERAL SYSTEM PU
8250208	13163	3705300000		108		A WOLF #3629	TIONESTA TOWNSHIP	1.0	GENERAL SYSTEM PU
8250199	13154	3703100000		108		ABBEY FARM #2640	ASHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250173	13094	3706500000		108		ADALAIDE COON FARM #792	ELDRED TOWNSHIP	0.6	GENERAL SYSTEM PU
8250420	13450	3712100000		108		ADAM KROPP #4504	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250390	13418	3706500000		108		ALBERT CROSBY #5902	WARSAW TOWNSHIP	5.0	GENERAL SYSTEM PU
8250225	13180	3712100000		108		ALLEG NAT BANK #3103	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250156	13076	3704700000		108		ALLEG NAT FOR #4362	JONES	1.0	GENERAL SYSTEM PU
8250423	13453	3704700000		108		ALLEG NAT FOREST #1233-P	HIGHLAND TOWNSHIP	2.0	GENERAL SYSTEM PU
8250422	13452	3704700000		108		ALLEG NAT FOREST #1240-P	HIGHLAND TOWNSHIP	2.0	GENERAL SYSTEM PU
8250326	13281	3706500000		108		ALLEG RIVER MINING #5963	BEAVER TOWNSHIP	2.0	GENERAL SYSTEM PU
8250278	13233	3706500000		108		ALPHEIRS CALLEN #2212	HEATH TOWNSHIP	0.6	GENERAL SYSTEM PU
8250104	13023	3706500000		108		ANDREW SLACK FARM #3458	ELDRED TOWNSHIP	0.6	GENERAL SYSTEM PU
8250190	13145	3703100000		108		ANNA HOFFMEISTER FARM #513	ASHLAND TOWNSHIP	0.2	GENERAL SYSTEM PU
8250191	13146	3703100000		108		ANNA HOFFMEISTER FARM #527	ASHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250123	13042	3708300000		108		ASSO PRODUCERS CO #4219	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250122	13041	3708300000		108		ASSO PRODUCERS CO #4242	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250121	13040	3708300000		108		ASSO PRODUCERS CO #4255	WETMORE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250119	13038	3708300000		108		ASSOC PRODUCERS #4316	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250120	13039	3708300000		108		ASSOC PRODUCERS CO #4298	WETMORE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250169	13090	3708300000		108		ASSOC PRODUCERS CO #4357	WETMORE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250170	13091	3708300000		108		ASSOCIATED PROD CO FARM #4377	WETMORE TOWNSHIP	0.9	GENERAL SYSTEM PU
8250260	13215	3708300000		108		ASSOCIATED PROD CO FARM #4398	WETMORE TOWNSHIP	1.0	GENERAL SYSTEM PU
8250447	13819	3704700000		108		B T CHAPIN #1107-P	HIGHLAND TOWNSHIP	4.7	GENERAL SYSTEM PU
8250438	13810	3704700000		108		B T CHAPIN #1117-P	HIGHLAND TOWNSHIP	2.8	GENERAL SYSTEM PU
8250312	13267	3712100000		108		B W BREDIN #659	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250314	13269	3712100000		108		B W BREDIN #740	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250197	13152	3712100000		108		B W BREDIN FARM #549	ROCKLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8250323	13278	3712100000		108		B W BREDIN FARM #706	ROCKLAND TOWNSHIP	0.3	GENERAL SYSTEM PU
8250313	13268	3712100000		108		B W BREDIN FARM #734	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250219	13174	3712100000		108		BENJ BLAUSER #337	PINEGROVE TOWNSHIP	2.2	GENERAL SYSTEM PU
8250360	13315	3712100000		108		BEULAH M POWELL #135	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250186	13109	3704700000		108		BINGHAM ESTATE #1557	JONES TOWNSHIP	1.9	GENERAL SYSTEM PU
8250227	13182	3712100000		108		BISSELL TRACT FARM #590	RICHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250226	13181	3712100000		108		BISSELL TRACT FARM #599	RICHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8250322	13277	3712100000		108		BISSELL TRACT FARM #697	ROCKLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250291	13246	3712100000		108		BREDIN TRACT #101	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250351	13306	3712100000		108		BREDIN TRACT FARM #211	ROCKLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250408	13436	3708300000		108		BUFFALO COA CO #4280	SERGEANT TOWNSHIP	0.8	GENERAL SYSTEM PU
8250402	13430	3708300000		108		BUFFALO COAL CO #1164	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8250403	13431	3708300000		108		BUFFALO COAL CO #1166	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8250451	13823	3708300000		108		BUFFALO COAL CO #1211	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8250406	13434	3708300000		108		BUFFALO COAL CO #4227	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8250407	13435	3708300000		108		BUFFALO COAL CO #4273	SERGEANT TOWNSHIP	0.4	GENERAL SYSTEM PU
8250409	13437	3708300000		108		BUFFALO COAL CO #4367	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8250411	13439	3708300000		108		BUFFALO COAL CO #4411	SERGEANT TOWNSHIP	1.1	GENERAL SYSTEM PU
8250412	13440	3708300000		108		BUFFALO COAL CO #4419	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8250428	13462	3708300000		108		BUTTERFIELD LANDS #1280	NORWICH TOWNSHIP	0.7	GENERAL SYSTEM PU
8250429	13463	3708300000		108		BUTTERFIELD LANDS #1346	NORWICH TOWNSHIP	1.0	GENERAL SYSTEM PU
8250433	13467	3708300000		108		BUTTERFIELD LANDS #1401	SERGEANT TOWNSHIP	1.7	GENERAL SYSTEM PU
8250430	13464	3708300000		108		BUTTERFIELD LANDS #2518	NORWICH TOWNSHIP	0.5	GENERAL SYSTEM PU
8250431	13465	3708300000		108		BUTTERFIELD LANDS #2616	NORWICH TOWNSHIP	0.7	GENERAL SYSTEM PU
8250105	13024	3706500000		108		C & P MOHR #3606	ELDRED TOWNSHIP	0.8	GENERAL SYSTEM PU
8250112	13031	3704700000		108		C H MCCAULEY #5066	RIDGWAY TOWNSHIP	1.2	GENERAL SYSTEM PU
8250113	13032	3704700000		108		C H MCCAULEY #5068	RIDGWAY TOWNSHIP	1.3	GENERAL SYSTEM PU
8250148	13068	3704700000		108		C H MCCAULEY #5075	RIDGWAY TOWNSHIP	1.0	GENERAL SYSTEM PU
8250149	13069	3704700000		108		C H MCCAULEY #5079	RIDGWAY TOWNSHIP	0.9	GENERAL SYSTEM PU
8250110	13029	3704700000		108		C H MCCAULEY JR #5062	RIDGWAY TOWNSHIP	2.6	GENERAL SYSTEM PU
8250111	13030	3704700000		108		C H MCCAULEY JR #5064	RIDGWAY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250114	13033	3704700000		108		C H MCCAULEY JR #5069	RIDGWAY TOWNSHIP	3.3	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250115	13034	3704700000		108		C H MCCAULEY JR #5070	RIDGWAY TOWNSHIP	1.1	GENERAL SYSTEM PU
8250145	13065	3704700000		108		C H MCCAULEY JR #5071	RIDGWAY TOWNSHIP	1.0	GENERAL SYSTEM PU
8250146	13066	3704700000		108		C H MCCAULEY JR #5072	RIDGWAY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250147	13067	3704700000		108		C H MCCAULEY JR #5074	RIDGWAY TOWNSHIP	1.0	GENERAL SYSTEM PU
8250150	13070	3704700000		108		C H MCCAULEY JR #5080	RIDGWAY TOWNSHIP	0.9	GENERAL SYSTEM PU
8250361	13316	3712100000		108		C SPORERR #3902	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250211	13166	3705300000		108		C W MACY TRUSTEE #3675	TIONESTA TOWNSHIP	1.1	GENERAL SYSTEM PU
8250439	13811	3705300000		108		CARSON TYNDALE #2315	HICKORY TOWNSHIP	1.1	GENERAL SYSTEM PU
8250209	13164	3705300000		108		CHARLES W MACY #3647	TIONESTA TOWNSHIP	0.7	GENERAL SYSTEM PU
8250210	13165	3705300000		108		CHAS W MACY #3665	TIONESTA TOWNSHIP	0.8	GENERAL SYSTEM PU
8250341	13296	3704700000		108		CLAY-HECKER TRACT #1324	JONES TOWNSHIP	1.2	GENERAL SYSTEM PU
8250380	13408	3703100000		108		COOPER HEIRS #4745	CLARION TOWNSHIP	1.1	GENERAL SYSTEM PU
8250101	13020	3706500000		108		COPENHAVER & KAHLE FARM #3342	ELDRED TOWNSHIP	0.3	GENERAL SYSTEM PU
8250413	13441	3712100000		108		CRAWFORD & GREGORY #3495	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250377	13405	3712100000		108		CULBERTSON HRS #842	PINEGROVE TOWNSHIP	1.1	GENERAL SYSTEM PU
8250359	13314	3712100000		108		DALE & SHAFFER #140	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250134	13054	3704700000		108		DAVID EASON #1076-P	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250135	13055	3704700000		108		DAVID EASON #1148 P	HIGHLAND TOWNSHIP	5.7	GENERAL SYSTEM PU
8250136	13056	3704700000		108		DAVID EASON #1157 P	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250280	13235	3704700000		108		DAVID EASON #202 P	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250300	13255	3704700000		108		DAVID EASON #271-P	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250304	13259	3704700000		108		DAVID EASON #456-P	HIGHLAND	0.5	GENERAL SYSTEM PU
8250075	12949	3704700000		108		DAVID EASON #786 P	HIGHLAND TWP	0.5	GENERAL SYSTEM PU
8250126	13045	3704700000		108		DAVID EASON #924-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250336	13291	3708500000		108		DUNCAN CARMICHAEL #2547	WORTH TOWNSHIP	0.5	GENERAL SYSTEM PU
8250367	13322	3712100000		108		E A DAVIS #4347	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250237	13192	3712100000		108		E E CLAPP #630	PINEGROVE TOWNSHIP	0.1	GENERAL SYSTEM PU
8250223	13178	3712100000		108		E E CLAPP FARM #400	PINEGROVE TOWNSHIP	0.1	GENERAL SYSTEM PU
8250318	13273	3712100000		108		E L OWENS #712	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250231	13186	3712100000		108		E M WOLFE #577	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250432	13466	3708300000		108		EDWARD A PRICE #3191	NORWICH TOWNSHIP	1.1	GENERAL SYSTEM PU
8250270	13225	3703100000		108		ELISABETH SHERMAN #2179	CLARION TOWNSHIP	1.0	GENERAL SYSTEM PU
8250441	13813	3700500000		108		ELMER & CHAS DAVIS #5200	SUGAR CREEK TOWNSHIP	0.7	GENERAL SYSTEM PU
8250212	13167	3712100000		108		EVA GLASS #2605	CRANBERRY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250078	12981	3704700000		108		F & J DETSCH #SC 77	BENZINGER TWP	0.8	GENERAL SYSTEM PU
8250206	13161	3703100000		108		F & M ALLABAUGH FARM #4556	ASHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250288	13243	3706500000		108		F C DEEMER #4191	ELDRED TOWNSHIP	0.5	GENERAL SYSTEM PU
8250249	13204	3706500000		108		F C DEEMER #4266	ELDRED TOWNSHIP	0.6	GENERAL SYSTEM PU
8250250	13205	3706500000		108		F C DEEMER #4432	ELDRED TOWNSHIP	0.9	GENERAL SYSTEM PU
8250100	13017	3704700000		108		F E KAHLE FARM #3242	ELDRED TWP	0.2	GENERAL SYSTEM PU
8250181	13104	3704700000		108		F E WINDSOR #1580	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250179	13102	3704700000		108		F E WINDSOR #1581	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8250221	13176	3712100000		108		F S TARBELL #359	PINEGROVE TOWNSHIP	1.4	GENERAL SYSTEM PU
8250298	13253	3712100000		108		FINLETTER & BAUM #181	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250297	13252	3712100000		108		FINLETTER & BAUM FARM #182	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250421	13451	3704700000		108		FRED E WINDSOR #1498	HIGHLAND TOWNSHIP	1.2	GENERAL SYSTEM PU
8250398	13426	3704700000		108		FRED E WINDSOR #4031	HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8250222	13177	3712100000		108		FRIES TRACT FARM #384	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250092	12995	3704700000		108		G E GAHN ET AL #SC 211	BENZINGER TWP	6.3	GENERAL SYSTEM PU
8250242	13197	3712100000		108		G PLUMMER #431	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250244	13199	3712100000		108		G PLUMMER #437	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250355	13310	3712100000		108		G POWELL #202	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250287	13242	3706500000		108		GEO BURKETT #3979	ELDRED TOWNSHIP	0.8	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250277	13232	3706500000		108		GEO H BUSH #2180	ELDRED TOWNSHIP	0.5	GENERAL SYSTEM PU
8250299	13254	3712100000		108		GEO H TORREY FARM #221	CRANBERRY TOWNSHIP	0.5	GENERAL SYSTEM PU
8250419	13449	3712100000		108		GEO W PLUMMER #4401	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250374	13402	3712100000		108		GEORGE SMITH #580	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250320	13275	3712100000		108		GEORGE SMITH #738	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250376	13404	3712100000		108		GIBBS & CO #746	PINEGROVE TOWNSHIP	1.1	GENERAL SYSTEM PU
8250213	13168	3712100000		108		GIBBS OR J J CARTER #2234	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250091	12994	3704700000		108		GRANT & HORTON #488-P	RIDGWAY TWP	0.9	GENERAL SYSTEM PU
8250079	12982	3704700000		108		GRANT & POWELL #SC88	RIDGWAY TWP	1.1	GENERAL SYSTEM PU
8250381	13409	3703100000		108		H C MCLAINE #3951	MONROE TOWNSHIP	1.1	GENERAL SYSTEM PU
8250443	13815	3700500000		108		H C WELTON #4483	SUGAR CREEK TOWNSHIP	1.0	GENERAL SYSTEM PU
8250385	13413	3706500000		108		H H BROSIUS #3894	KNOX TOWNSHIP	0.6	GENERAL SYSTEM PU
8250200	13155	3703100000		108		H H HASILTINE FARM #2662	ASHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250400	13428	3704700000		108		H J JAMES #1571	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250399	13427	3704700000		108		H O ELLITHORPE #4027	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8250177	13099	3706500000		108		H R WILSON #2700	BARNETT TOWNSHIP	0.6	GENERAL SYSTEM PU
8250176	13098	3706500000		108		H R WILSON EXCR #2586	BARNETT TOWNSHIP	1.4	GENERAL SYSTEM PU
8250081	12984	3704700000		108		HALL & KAUL #SC 126	BENZINGER TWP	2.5	GENERAL SYSTEM PU
8250404	13432	3708300000		108		HALSEY LANDS #1215	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8250344	13299	3708300000		108		HALSEY LANDS #1242	SERGEANT TOWNSHIP	1.1	GENERAL SYSTEM PU
8250192	13147	3705300000		108		HAMMOND ESTATE #533	TIONESTA TOWNSHIP	1.3	GENERAL SYSTEM PU
8250193	13148	3705300000		108		HAMMOND ESTATE #534	TIONESTA TOWNSHIP	1.4	GENERAL SYSTEM PU
8250338	13293	3704700000		108		HARRY G CLAY #1219	JONES TOWNSHIP	1.7	GENERAL SYSTEM PU
8250202	13157	3703100000		108		HARRY M BERRY #2893	ASHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8250157	13078	3708300000		108		HEEBNER TRACT FARM #1374	SERGEANT TOWNSHIP	0.8	GENERAL SYSTEM PU
8250158	13079	3708300000		108		HEEBNER TRACT FARM #1376	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8250417	13447	3712100000		108		HENRY KAPP #4204	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250446	13818	3700500000		108		HENRY RICKLE #2802	WASHINGTON TOWNSHIP	1.2	GENERAL SYSTEM PU
8250238	13193	3712100000		108		HENRY SMITH HEIRS #636	PINEGROVE TOWNSHIP	0.2	GENERAL SYSTEM PU
8250175	13097	3706500000		108		HENRY W WILSON #2249	BARNETT TOWNSHIP	0.7	GENERAL SYSTEM PU
8250271	13226	3706500000		108		HENRY W WILSON FARM #2247	BARNETT TOWNSHIP	0.5	GENERAL SYSTEM PU
8250174	13102	3706500000		108		HENRY W WILSON FARM #2248	BARNETT TOWNSHIP	0.5	GENERAL SYSTEM PU
8250331	13286	3706500000		108		HETRICK #5967	PINECREEK TOWNSHIP	3.3	GENERAL SYSTEM PU
8250295	13250	3712100000		108		HETTIE J BENNINGER #162	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250325	13280	3706500000		108		HOWARD L BROSIUS #5952	BEAVER TOWNSHIP	0.5	GENERAL SYSTEM PU
8250415	13444	3712100000		108		HOWARD SCHWAB #4041	PINEGROVE TOWNSHIP	1.0	GENERAL SYSTEM PU
8250379	13407	3703100000		108		HUGH & W H COOPER #3422	CLARION TOWNSHIP	1.1	GENERAL SYSTEM PU
8250391	13419	3706500000		108		HUMPHREY #5966	WASHINGTON TOWNSHIP	3.2	GENERAL SYSTEM PU
8250151	13071	3704700000		108		HYDE LAND COMPANY #5091	RIDGWAY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250160	13081	3708300000		108		I & L M SCHULTZ FARM #1077	WETMORE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250161	13082	3708300000		108		I & L M SCHULTZ FARM #1079	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250163	13084	3708300000		108		I & L M SCHULTZ FARM #1084	WETMORE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250164	13085	3708300000		108		I & L M SCHULTZ FARM #1085	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250345	13300	3708300000		108		I & L M SCHULTZ FARM #1133	WETMORE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250346	13301	3708300000		108		I & L M SCHULTZ FARM #1134	WETMORE TOWNSHIP	1.5	GENERAL SYSTEM PU
8250162	13083	3708300000		108		I & L M SHULTZ #1083	WETMORE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250347	13302	3708300000		108		I & L SCHULTZ FARM #1141	WETMORE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250240	13195	3703100000		108		I A WEETER FARM #483	ASHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250167	13088	3708300000		108		I SCHULTZ FARM #2603	WETMORE TOWNSHIP	2.9	GENERAL SYSTEM PU
8250168	13089	3708300000		108		I SCHULTZ FARM #2647	WETMORE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250080	12983	3704700000		108		I TALMADGE #SC90	RIDGWAY TWP	1.7	GENERAL SYSTEM PU
8250348	13303	3708300000		108		IRVING & L M SCHULTZ #1308	WETMORE TOWNSHIP	1.0	GENERAL SYSTEM PU
8250125	13044	3708300000		108		IRVING SCHULTZ #4188	WETMORE TOWNSHIP	0.9	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250124	13043	3708300000		108		IRVING SCHULTZ #4208	WETMORE TOWNSHIP	0.9	GENERAL SYSTEM PU
8250166	13087	3708300000		108		IRVING SHULTZ #2489	WETMORE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250330	13285	3706500000		108		ISAAC CABLE #5793	PINECREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8250305	13260	3704700000		108		J & H DAVIS #1113	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250306	13261	3704700000		108		J & H DAVIS #1115	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250393	13421	3704700000		108		J A CARLSON #1464	HIGHLAND TOWNSHIP	2.3	GENERAL SYSTEM PU
8250236	13191	3712100000		108		J A FORD #625	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250204	13159	3703100000		108		J B & L R KEEFER FARM #3127	ASHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250201	13156	3703100000		108		J B KEIFER ET AL FARM #2825	ASHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250308	13263	3704700000		108		J BROS #1210	HIGHLAND TOWNSHIP	1.4	GENERAL SYSTEM PU
8250309	13264	3704700000		108		J BROS #1212	HIGHLAND TOWNSHIP	1.2	GENERAL SYSTEM PU
8250315	13270	3712100000		108		J D SPANGLER #480	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250097	13014	3704700000		108		J DAVIS #1490	HIGHLAND TWP	0.9	GENERAL SYSTEM PU
8250183	13106	3704700000		108		J DAVIS #4133	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250224	13179	3712100000		108		J G REED #414	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250268	13223	3712100000		108		J G REED HEIRS #322	PINEGROVE TOWNSHIP	0.2	GENERAL SYSTEM PU
8250218	13173	3712100000		108		J H OSMER #3079	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250214	13169	3712100000		108		J H OSMER EST #2698	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250448	13820	3708300000		108		J H RALPH #1066	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8250410	13438	3708300000		108		J H RALPH #4810	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8250257	13212	3708300000		108		J H RALPH FARM #1064	SERGEANT TOWNSHIP	1.1	GENERAL SYSTEM PU
8250363	13318	3712100000		108		J J SILZLE #4030	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250311	13266	3704700000		108		J L BROWN #1207	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8250337	13292	3704700000		108		J L BROWN #1208	JONES TOWNSHIP	0.0	GENERAL SYSTEM PU
8250228	13183	3712100000		108		J P ROBINSON CO FARM #397	ROCKLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250449	13821	3708300000		108		J S GREVES #1072	SERGEANT TOWNSHIP	0.5	GENERAL SYSTEM PU
8250243	13198	3712100000		108		J V STOVER #433	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250357	13312	3712100000		108		J VERNER #169	PINEGROVE TOWNSHIP	1.4	GENERAL SYSTEM PU
8250178	13101	3706500000		108		J W FOWLER FARM #3235	ELDRED TOWNSHIP	0.7	GENERAL SYSTEM PU
8250276	13231	3706500000		108		J W SONGER FARM #2128	ELDRED TOWNSHIP	0.7	GENERAL SYSTEM PU
8250310	13265	3704700000		108		JAMES BROS #1328	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250395	13423	3704700000		108		JAMES BROTHERS #1223	HIGHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250286	13241	3706500000		108		JAMES M FROST #3682	ELDRED TOWNSHIP	1.4	GENERAL SYSTEM PU
8250354	13309	3712100000		108		JAMES MCKISSICK #215	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250372	13400	3712100000		108		JAMES MCKISSICK #266	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250267	13222	3712100000		108		JAMES MCKISSICK #267	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250292	13247	3712100000		108		JAMES SHAFFER #95	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250396	13424	3704700000		108		JAMES TRACT #1568	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250096	13013	3704700000		108		JAMES TRACT FARM #1486	HIGHLAND TWP	1.5	GENERAL SYSTEM PU
8250256	13211	3708300000		108		JAS H RALPH FARM #1056	SERGEANT TOWNSHIP	0.4	GENERAL SYSTEM PU
8250258	13213	3708300000		108		JAS H RALPH FARM #1070	SERGEANT TOWNSHIP	1.3	GENERAL SYSTEM PU
8250418	13448	3712100000		108		JEREMIAH KNIGHT #4274	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250435	13802	3704700000		108		JERRY CRARY #239-P	SPRING CREEK TOWNSHIP	6.6	GENERAL SYSTEM PU
8250436	13803	3704700000		108		JERRY CRARY #240-P	SPRING CREEK TOWNSHIP	0.6	GENERAL SYSTEM PU
8250437	13804	3704700000		108		JERRY CRARY #260-P	SPRING CREEK TOWNSHIP	1.5	GENERAL SYSTEM PU
8250434	13801	3704700000		108		JERRY CRARY ET AL #231-P	SPRING CREEK TOWNSHIP	2.4	GENERAL SYSTEM PU
8250245	13200	3712100000		108		JNO J FISHER FARM #445	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250246	13201	3712100000		108		JNO J FISHER FARM #446	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250247	13202	3712100000		108		JNO J FISHER FARM #449	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250324	13279	3706500000		108		JOHN BYERLY #5916	BEAVER TOWNSHIP	1.8	GENERAL SYSTEM PU
8250232	13187	3712100000		108		JOHN KRABE #585	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250194	13149	3712100000		108		JOHN KROPP #485	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250196	13151	3712100000		108		JOHN MCFEETERS FARM #522	ROCKLAND TOWNSHIP	1.2	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250241	13196	3712100000		108		JOHN SHAFFER #459	CRANBERRY TOWNSHIP	0.3	GENERAL SYSTEM PU
8250362	13317	3712100000		108		JOS KEVERLINE #3928	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250140	13060	3704700000		108		JOSEPH S HYDE #5121	RIDGWAY TOWNSHIP	0.7	GENERAL SYSTEM PU
8250138	13058	3704700000		108		JOSEPH W COCHRAN #5095	RIDGWAY TOWNSHIP	1.2	GENERAL SYSTEM PU
8250139	13059	3704700000		108		JOSEPH W COCHRAN #5098	RIDGWAY TOWNSHIP	2.0	GENERAL SYSTEM PU
8250394	13422	3704700000		108		JOSHUA DAVIS #1477	HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
8250182	13105	3704700000		108		JOSHUA DAVIS #4036	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8250261	13216	3712100000		108		K KUGLER #271	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250103	13022	3706500000		108		KAHLE & COPENHAVER FARM #3457	ELDRED TOWNSHIP	0.4	GENERAL SYSTEM PU
8250093	12996	3704700000		108		KAUL & HALL #SC 220	BENZINGER TWP	1.5	GENERAL SYSTEM PU
8250397	13425	3704700000		108		KNUTE ELIASON #1472	HIGHLAND TOWNSHIP	1.9	GENERAL SYSTEM PU
8250392	13420	3704700000		108		KNUTE ELIASON #1491	HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8250253	13208	3706500000		108		L C WYNKOOP #4728	HEATH TOWNSHIP	0.8	GENERAL SYSTEM PU
8250353	13308	3712100000		108		L F WATSON #225	PINEGROVE TOWNSHIP	0.9	GENERAL SYSTEM PU
8250386	13414	3706500000		108		LADD M & HARRY W REITZ #2986	ROSE TOWNSHIP	1.1	GENERAL SYSTEM PU
8250321	13276	3712100000		108		LLOYD OIL CO #675	ROCKLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250229	13184	3712100000		108		LLOYD OIL CO FARM #637	CRANBERRY TOWNSHIP	1.3	GENERAL SYSTEM PU
8250296	13251	3712100000		108		M B ROTE #190	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250269	13224	3703100000		108		M RULOFSON CO #2718	CLARION TOWNSHIP	1.3	GENERAL SYSTEM PU
8250358	13313	3712100000		108		M SPEECHLEY #157	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250352	13307	3712100000		108		M WHITTERIN #248	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250102	13021	3706500000		108		MARG*T J CASTNER FARM #3346	ELDRED TOWNSHIP	0.3	GENERAL SYSTEM PU
8250152	13072	3704700000		108		MARS CO #4384	HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
8250251	13206	3706500000		108		MARVIN RULOFSON CO #4437	ELDRED TOWNSHIP	0.5	GENERAL SYSTEM PU
8250335	13290	3706500000		108		MCFADDEN #5730	POLK TOWNSHIP	1.6	GENERAL SYSTEM PU
8250116	13035	3704700000		108		MCKEAN CHEMICAL CO #1520	JONES TOWNSHIP	1.2	GENERAL SYSTEM PU
8250356	13311	3712100000		108		MCKEEVER & MCPHERSON #172	PINEGROVE TOWNSHIP	1.4	GENERAL SYSTEM PU
8250282	13237	3704700000		108		MCKNIGHT & TEMPLETON #211 P	HIGHLAND TOWNSHIP	1.2	GENERAL SYSTEM PU
8250195	13150	3712100000		108		MILLER LANDS #505	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250189	13144	3703100000		108		N C & J F BOYER #494	ASHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8250262	13217	3712100000		108		NORTH PENN OIL CO FARM #275	CRANBERRY TOWNSHIP	0.2	GENERAL SYSTEM PU
8250263	13218	3712100000		108		NORTH PENN OIL CO FARM #285	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8250281	13236	3704700000		108		O B GRANT #207-P	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8250141	13061	3704700000		108		O B GRANT #5156	RIDGWAY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250082	12985	3704700000		108		O B GRANT #757-P	HIGHLAND TWP	0.6	GENERAL SYSTEM PU
8250095	13012	3704700000		108		O O & C B ELIASON #1481	HIGHLAND TWP	1.7	GENERAL SYSTEM PU
8250137	13057	3704700000		108		O W PROPER #1187-P	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250279	13234	3704700000		108		O W PROPER #180-P	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8250303	13258	3704700000		108		O W PROPER #419-P	HIGHLAND TOWNSHIP	1.7	GENERAL SYSTEM PU
8250088	12991	3704700000		108		O W PROPER #555-P	HIGHLAND TWP	1.5	GENERAL SYSTEM PU
8250130	13049	3704700000		108		O W PROPER #993-P	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8250131	13051	3704700000		108		OLIVER W PROPER #1010 P	HIGHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250132	13052	3704700000		108		OLIVER W PROPER #1017 P	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8250301	13256	3704700000		108		OLIVER W PROPER #312 P	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8250302	13257	3704700000		108		OLIVER W PROPER #394 P	HIGHLAND TOWNSHIP	0.0	GENERAL SYSTEM PU
8250083	12986	3704700000		108		OLIVER W PROPER #716 P	HIGHLAND TWP	0.4	GENERAL SYSTEM PU
8250127	13046	3704700000		108		OLIVER W PROPER #925-P	HIGHLAND TOWNSHIP	5.6	GENERAL SYSTEM PU
8250129	13048	3704700000		108		OLIVER W PROPER FARM #965-P	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8250185	13108	3704700000		108		OSCAR GLADD #1562	JONES TOWNSHIP	0.5	GENERAL SYSTEM PU
8250118	13037	3708300000		108		OSGOOD & BACKER #1034	KEATING TOWNSHIP	0.6	GENERAL SYSTEM PU
8250378	13406	3712100000		108		P P POWELL #2153	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250307	13262	3704700000		108		P SALTER #1145	HIGHLAND TOWNSHIP	1.4	GENERAL SYSTEM PU
8250205	13160	3712100000		108		PA GAME LANDS #4505	ASHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250333	13288	3706500000		108		PA STATE FOREST #4318	POLK TOWNSHIP	0.1	GENERAL SYSTEM PU
8250442	13814	3704700000		108		PA STATE GAME LANDS #SC237	SPRING CREEK TOWNSHIP	1.2	GENERAL SYSTEM PU
8250106	13025	3704700000		108		PA STATE GAME LANDS #SC296	SPRING CREEK TOWNSHIP	5.2	GENERAL SYSTEM PU
8250107	13026	3704700000		108		PA STATE GAME LANDS #SC297	SPRING CREEK TOWNSHIP	1.1	GENERAL SYSTEM PU
8250108	13027	3704700000		108		PA STATE GAME LANDS #SC301	SPRING CREEK TOWNSHIP	0.6	GENERAL SYSTEM PU
8250142	13062	3704700000		108		PA STATE GAME LANDS #5167	RIDGWAY TOWNSHIP	0.9	GENERAL SYSTEM PU
8250143	13063	3704700000		108		PA STATE GAME LANDS #5178	RIDGWAY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250144	13064	3704700000		108		PA STATE GAME LANDS #5180	RIDGWAY TOWNSHIP	0.8	GENERAL SYSTEM PU
8250254	13209	3706500000		108		PAINE & WALTERS #4207	POLK TOWNSHIP	0.7	GENERAL SYSTEM PU
8250255	13210	3706500000		108		PAINE & WALTERS #4214	POLK TOWNSHIP	0.4	GENERAL SYSTEM PU
8250332	13287	3706500000		108		PAINE & WALTERS #4238	POLK TOWNSHIP	1.4	GENERAL SYSTEM PU
8250365	13320	3712100000		108		PAUL A SCHWAB #4288	PINEGROVE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250368	13323	3712100000		108		PAUL A SCHWAB #4478	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250375	13403	3712100000		108		PAUL A SWAB #595	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250319	13274	3712100000		108		PAUL A SWAB #726	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250440	13812	3700500000		108		PFAFF & CRISSMAN #5463	SUGAR CREEK TOWNSHIP	1.7	GENERAL SYSTEM PU
8250109	13028	3704700000		108		PORTLAND OIL & GAS #SC319	SPRING CREEK TOWNSHIP	7.2	GENERAL SYSTEM PU
8250076	12979	3704700000		108		PORTLAND OIL & GAS CO #SC 39	RIDGWAY TWP	1.8	GENERAL SYSTEM PU
8250077	12980	3704700000		108		PORTLAND OIL & GAS CO #SC 43	RIDGWAY TWP	0.7	GENERAL SYSTEM PU
8250259	13214	3704700000		108		POTTS FARM #1380	JONES TOWNSHIP	1.6	GENERAL SYSTEM PU
8250188	13111	3704700000		108		POTTS TRACT #1526	JONES TOWNSHIP	2.1	GENERAL SYSTEM PU
8250187	13110	3704700000		108		POTTS TRACT #1539	JONES TOWNSHIP	1.1	GENERAL SYSTEM PU
8250293	13248	3712100000		108		POWELL STOVER #73	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250339	13294	3704700000		108		RALPH TRACT #1313	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8250340	13295	3704700000		108		RALPH TRACT #1314	JONES TOWNSHIP	4.6	GENERAL SYSTEM PU
8250342	13297	3704700000		108		RALPH TRACT FARM #1335	JONES TOWNSHIP	0.5	GENERAL SYSTEM PU
8250153	13073	3704700000		108		RALPH TRACT FARM #1555	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8250405	13433	3708300000		108		ROBT HALSEY #2478	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8250364	13319	3712100000		108		S & C SPANGLER #4197	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250383	13411	3706500000		108		S A HUNTER #3147	KNOX TOWNSHIP	1.5	GENERAL SYSTEM PU
8250384	13412	3706500000		108		S A HUNTER #3746	KNOX TOWNSHIP	0.9	GENERAL SYSTEM PU
8250203	13158	3703100000		108		S B BROOKS #3126	ASHLAND TOWNSHIP	0.2	GENERAL SYSTEM PU
8250445	13817	3700500000		108		S F BOOHER #2973	WASHINGTON TOWNSHIP	0.6	GENERAL SYSTEM PU
8250159	13080	3708300000		108		S HEEBNER FARM #1396	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8250329	13284	3706500000		108		S J BOWSER #5843	PINECREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8250094	13011	3704700000		108		S O & G CO #1478	HIGHLAND TWP	0.8	GENERAL SYSTEM PU
8250370	13398	3712100000		108		S P MCCALMONT #31	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250373	13401	3712100000		108		S P MCCALMONT #315	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8250290	13245	3712100000		108		S P MCCALMONT #59	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8250230	13185	3712100000		108		S P MCCALMONT #652	CRANBERRY TOWNSHIP	1.4	GENERAL SYSTEM PU
8250317	13272	3712100000		108		S P MCCALMONT #685	PINEGROVE TOWNSHIP	1.7	GENERAL SYSTEM PU
8250316	13271	3712100000		108		S P MCCALMONT #695	PINEGROVE TOWNSHIP	0.2	GENERAL SYSTEM PU
8250171	13092	3712100000		108		S P MCCALMONT #801	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250235	13190	3712100000		108		S POWELL EST #621	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8250416	13446	3712100000		108		SAMUEL POWELL #4193	PINEGROVE TOWNSHIP	0.9	GENERAL SYSTEM PU
8250414	13442	3712100000		108		SAMUEL SPANGLER #3944	PINEGROVE TOWNSHIP	0.8	GENERAL SYSTEM PU
8250401	13429	3708300000		108		SAMUEL Y HEEBNER #1395	SERGEANT TOWNSHIP	1.5	GENERAL SYSTEM PU
8250450	13822	3708300000		108		SHELANDER & SWANSON #1158	SERGEANT TOWNSHIP	1.5	GENERAL SYSTEM PU
8250252	13207	3706500000		108		SIMPSON LAND CO #4533	ELDRED TOWNSHIP	0.8	GENERAL SYSTEM PU
8250266	13221	3712100000		108		SOUTH PENN OIL #250	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250133	13053	3704700000		108		STH PENN OIL CO #1075-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250128	13047	3704700000		108		STH PENN OIL CO #984-P	HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8250388	13416	3706500000		108		SULGER #5860	WARSAW TOWNSHIP	4.6	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250389	13417	3706500000		108		SULGER #5863	WARSAW TOWNSHIP	1.9	GENERAL SYSTEM PU
8250387	13415	3706500000		108		SWINEFORD #5811	WARSAW TOWNSHIP	1.3	GENERAL SYSTEM PU
8250165	13086	3708300000		108		T & L M SCHULTZ FARM #1998	WETMORE TOWNSHIP	1.2	GENERAL SYSTEM PU
8250180	13103	3704700000		108		T B SIMPSON #2457	JONES TOWNSHIP	2.8	GENERAL SYSTEM PU
8250198	13153	3712100000		108		T C ANDERSON HEIRS FARM #550	ROCKLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8250424	13454	3704700000		108		T E TACK ET UX #1082-P	HIGHLAND TOWNSHIP	2.5	GENERAL SYSTEM PU
8250382	13410	3703100000		108		T I FOX #3970	MONROE TOWNSHIP	2.1	GENERAL SYSTEM PU
8250366	13321	3712100000		108		T STOVER #4326	PINEGROVE TOWNSHIP	1.3	GENERAL SYSTEM PU
8250350	13305	3712100000		108		THE MARS CO #241	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250294	13249	3712100000		108		THOMAS LAWLEY #61	CRANBERRY TOWNSHIP	1.5	GENERAL SYSTEM PU
8250369	13397	3712100000		108		THOS ANDERSON #813	CRANBERRY TOWNSHIP	0.5	GENERAL SYSTEM PU
8250172	13093	3712100000		108		THOS ANDERSON #820	ROCKLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250239	13194	3703100000		108		TIDAL OIL CO FARM #423	ASHLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8250289	13244	3712100000		108		TURNER & GATES #103	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8250426	13456	3704700000		108		UNITED NAT GAS CO #1006-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250425	13455	3704700000		108		UNITED NAT GAS CO #1028-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250427	13457	3704700000		108		UNITED NAT GAS CO #987-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250233	13188	3712100000		108		VAN AUSDALL HEIRS #588	PINEGROVE TOWNSHIP	1.0	GENERAL SYSTEM PU
8250275	13230	3706500000		108		VERSTINE & KLINE #2125	ELDRED TOWNSHIP	1.1	GENERAL SYSTEM PU
8250285	13240	3706500000		108		VERSTINE & KLINE #3483	ELDRED TOWNSHIP	0.8	GENERAL SYSTEM PU
8250274	13229	3706500000		108		VERSTINE KLINE #2054	ELDRED TOWNSHIP	0.7	GENERAL SYSTEM PU
8250216	13171	3712100000		108		W C DODD #2831	RICHLAND TOWNSHIP	0.2	GENERAL SYSTEM PU
8250444	13816	3700500000		108		W F CRAIG #4410	WASHINGTON TOWNSHIP	1.2	GENERAL SYSTEM PU
8250328	13283	3706500000		108		W G BISHOP #3969	KNOX TOWNSHIP	0.9	GENERAL SYSTEM PU
8250334	13289	3706500000		108		W N CONRAD #4692	POLK TOWNSHIP	0.5	GENERAL SYSTEM PU
8250217	13172	3712100000		108		W O HARRINGTON #4025	CRANBERRY TOWNSHIP	0.6	GENERAL SYSTEM PU
8250184	13107	3704700000		108		W P WESTON #1565	HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8250234	13189	3712100000		108		W W POWELL #600	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8250154	13074	3704700000		108		WILLIAM M POTTS FARM #2091	JONES TOWNSHIP	1.5	GENERAL SYSTEM PU
8250220	13175	3712100000		108		WM GROVE #357	PINEGROVE TOWNSHIP	1.3	GENERAL SYSTEM PU
8250371	13399	3712100000		108		WM HOGUE #43	PINEGROVE TOWNSHIP	1.4	GENERAL SYSTEM PU
8250155	13075	3704700000		108		WM M POTTS FARM #2168	JONES TOWNSHIP	2.7	GENERAL SYSTEM PU
8250215	13170	3712100000		108		WM N DODD #1971	RICHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8250248	13203	3712100000		108		WM N DODD FARM #458	RICHLAND TOWNSHIP	0.3	GENERAL SYSTEM PU
8250273	13228	3706500000		108		WM TRUMAN #2021	ELDRED TOWNSHIP	1.1	GENERAL SYSTEM PU
8250283	13238	3704700000		108		WRIGHT & CRARY #254-P	SPRING CREEK TOWNSHIP	1.3	GENERAL SYSTEM PU
8250284	13239	3704700000		108		WRIGHT & CRARY #259-P	SPRING CREEK TOWNSHIP	1.9	GENERAL SYSTEM PU
8250343	13298	3704700000		108		WRIGHT & CRARY #270-P	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8250090	12993	3704700000		108		WRIGHT & CRARY #500-P	SPRING CREEK TWP	0.5	GENERAL SYSTEM PU
8250089	12992	3704700000		108		WRIGHT & CRARY #509-P	SPRING CREEK TWP	1.7	GENERAL SYSTEM PU
8250087	12990	3704700000		108		WRIGHT & CRARY #634 P	HIGHLAND TWP	2.0	GENERAL SYSTEM PU
8250086	12989	3704700000		108		WRIGHT & CRARY #673-P	SPRING CREEK TWP	1.4	GENERAL SYSTEM PU
8250085	12988	3704700000		108		WRIGHT & CRARY #691-P	SPRING CREEK TWP	1.0	GENERAL SYSTEM PU
8250084	12987	3704700000		108		WRIGHT & CRARY #710-P	SPRING CREEK TWP	0.9	GENERAL SYSTEM PU
8250098	13015	3704700000		108		WYNKOOP & FISHER FARM #844	ELDRED TWP	0.2	GENERAL SYSTEM PU
8250349	13304	3708300000		108		ZANE LEASE #1345	WETMORE TOWNSHIP	0.2	GENERAL SYSTEM PU
-NEA CROSS CO				RECEIVED:		08/16/82 JA: PA			
8250069	11946	3704921703		102-2		E L DICOLA #1	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8250073	11947	3704921703		107-TF		E L DICOLA #1	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8250067	11940	3704921706		102-2		E L DICOLA #2	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8250072	11941	3704921706		107-TF		E L DICOLA #2	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8250070	11948	3704921825		102-2		RICHARD P HARRINGTON #1	WATERFORD TWP	15.0	NATIONAL FUEL GAS
8250071	11950	3704921764		102-2		ROBERT C & IMOGENE HARRISON #1	LEBOEUF TWP	15.0	NATIONAL FUEL GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250074	11951	3704921764		107-TF		ROBERT C & IMOGENE HARRISON #1	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8250068	11944	3704921700		102-2		ROSCOE MITCHELL #1	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
-P & G EXPLORATION INC				RECEIVED:	08/16/82	JA: PA			
8250452	12194	3706324398		108		THOMAS BUDNER IND-24398	BRUSHVALLEY	5.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	08/16/82	JA: PA			
8250453	10397	3706325655		108		IDABEL DICK CAMPBELL #1	CENTER	13.0	COLUMBIA GAS TRAN
8250454	10401	3706325016		108		PAUL LOWMAN #1	WHITE	16.0	COLUMBIA GAS TRAN
-S T JOINT VENTURE - 81-B				RECEIVED:	08/16/82	JA: PA			
8250457	13390	3706522441		103		KNESS #1	WINSLOW	25.0	NATIONAL FUEL GAS
8250456	13138	3706522442		103		KNESS #2	WINSLOW	25.0	NATIONAL FUEL GAS
-S T JOINT VENTURE 81A				RECEIVED:	08/16/82	JA: PA			
8250455	13137	3703321173		103		BEARD #1	LUTHERSBURG	25.0	NATIONAL FUEL GAS
-VICTORY DEVELOPMENT CO				RECEIVED:	08/16/82	JA: PA			
8250458	13340	3703321131		102-2		BOYCE #1 CLE-21131	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250459	13341	3703321132		102-2		BOYCE #2 CLE-21132	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250460	13342	3703321133		102-2		BOYCE #3 CLE-21133	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250461	13343	3703321098		102-2		KREVEL #1 CLE-21098	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250462	13344	3703321097		102-2		KREVEL #4 CLE-21097	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250463	13345	3703321101		102-2		KREVEL #5 CLE-21101	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250464	13346	3703321124		102-2		MILCHAK #2 (L) CLE-21124	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250465	13352	3702120100		102-2		NAGLE #1 (L) CBA-20100	ELDER	36.0	COLUMBIA GAS TRAN
8250466	13353	3702120101		102-2		NAGLE #2 (L) CBA-20101	ELDER	36.0	COLUMBIA GAS TRAN
8250467	13354	3703321112		102-2		ROBERT BROTHERS #1 CLE-21112	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250468	13355	3703321113		102-2		ROBERT BROTHERS #2 CLE-21113	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250469	13356	3703321121		102-2		ROBERT BROTHERS #3 CLE-21121	BURNSIDE	36.0	COLUMBIA GAS TRAN
8250470	13357	3703321122		102-2		ROBERT BROTHERS #4 CLE-21122	BURNSIDE	36.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.3 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DF: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25545 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 733]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 13, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-AMERADA HESS CORPORATION			RECEIVED: 08/26/82			JA: CA			
8251268	82-6-0044	0409520010	108			E MAYHOOD #3	RIO VISTA DEEP	15.6	PACIFIC GAS & ELE
8251267	82-6-0045	0409520341	108			J MAYHOOD #9 (DUAL)	RIO VISTA DEEP	17.8	PACIFIC GAS & ELE
8251265	82-6-0047	0409500257	108			RIO VISTA GAS UNIT #139-1	RIO VISTA GAS	21.5	PACIFIC GAS & ELE
8251266	82-6-0046	0401300153	108			RIO VISTA GAS UNIT #36	RIO VISTA GAS	21.1	PACIFIC GAS & ELE
-CHANNEL EXPLORATION CO			RECEIVED: 08/26/82			JA: CA			
8251271	82-6-0034	0409520491	102-4			CHANNEL/BARNES #1-3	DENVERTON CREEK GAS F	365.0	PACIFIC GAS & ELE
-HAMILTON BROTHERS OIL CO			RECEIVED: 08/26/82			JA: CA			
8251269	82-6-0021	0409520497	102-4			BELLEAIRE #2-9	MILLAR GAS (WEST AREA	275.0	PACIFIC GAS & ELE
8251270	82-6-0041	0409520498	102-4			BELLEAIRE #3-9	MILLAR GAS	770.0	PACIFIC GAS & ELE
-PETRO-LEWIS CORPORATION			RECEIVED: 08/26/82			JA: CA			
8251260	82-4-0101	0402960156	103			KING 77C-19	SOUTH BELRIDGE	5.7	MOBIL OIL CORP
8251254	82-4-0107	0402962051	103			KING 78E-19	SOUTH BELRIDGE	8.6	MOBIL OIL CORP
8251259	82-4-102	0402964709	103			KING 78F-19	SOUTH BELRIDGE	9.1	MOBIL OIL CORP
8251262	82-4-0099	0402960159	103			KING 87E-19	SOUTH BELRIDGE	10.1	MOBIL OIL CORP
8251257	82-4-0104	0402960158	103			KING 88D-19	SOUTH BELRIDGE	7.3	MOBIL OIL CORP
8251256	82-4-0105	0402960160	103			KING 88E-19	SOUTH BELRIDGE	9.5	MOBIL OIL CORP
8251253	82-4-0108	0402960358	103			KING 88F-19	SOUTH BELRIDGE	7.4	MOBIL OIL CORP
8251255	82-4-0106	0402962052	103			KING 88G-19	SOUTH BELRIDGE	13.2	MOBIL OIL CORP
8251258	82-4-0103	0402962774	103			KING 88H-19	SOUTH BELRIDGE	14.0	MOBIL OIL CORP
8251261	82-4-0100	0402964710	103			KING 88I-19	SOUTH BELRIDGE	11.8	MOBIL OIL CORP
-SEAWARD RESOURCES INC			RECEIVED: 08/26/82			JA: CA			
8251264	81-6-0012	0411320619	102-2			HARLAN 2-13	HARLAN RANCH	365.0	SHELL OIL CO
-TENNECO OIL COMPANY			RECEIVED: 08/26/82			JA: CA			
8251263	82-4-0098	0402966144	103			PLEITO RANCH 10-25	PLEITO RANCH	3.0	ARCO OIL & GAS
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC			RECEIVED: 08/23/82			JA: OH			
8251045		3412725542	107-TF			ALTHEIRS/ZELLAR #1	SALT LICK TOWNSHIP	3.0	
-ATLAS ENERGY GROUP INC			RECEIVED: 08/23/82			JA: OH			
8251058		3415521972	102-2	107-TF		BANCROFT UNIT #1	KINSMAN	7.0	COLUMBIA GAS TRAN
8251050		3415521941	102-2	107-TF		CRATSLEY #1	BROOKFIELD	18.0	COLUMBIA GAS TRAN
8251060		3415522120	102-2	107-TF		DRAA-WOLFORD #1	KINSMAN	21.0	COLUMBIA GAS TRAN
8251051		3415521955	102-2	107-TF		DUERDEN #1	KINSMAN	7.0	COLUMBIA GAS TRAN
8251052		3415521958	102-2	107-TF		GATES #2	KINSMAN	0.0	COLUMBIA GAS TRAN
8251053		3415521959	102-2	107-TF		GATES #3	KINSMAN	0.0	COLUMBIA GAS TRAN
8251054		3415521961	102-2	107-TF		GLOWE #1	KINSMAN	14.0	COLUMBIA GAS TRAN
8251059		3415521993	102-2	107-TF		H ALLEN #1	VERNON	0.0	COLUMBIA GAS TRAN
8251049		3415521860	102-2	107-TF		J LOGAN #5	GUSTAVUS	23.0	COLUMBIA GAS TRAN
8251046		3415521690	102-2	107-TF		K LOGAN #1	GUSTAVUS	19.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251055		3415521962		102-2	107-TF	KELLER #1	KINSMAN	15.0	COLUMBIA GAS TRAN
8251047		3415521829		102-2	107-TF	LILLIE #1	KINSMAN	13.0	COLUMBIA GAS TRAN
8251048		3415521835		102-2	107-TF	LILLIE #2	KINSMAN	10.0	COLUMBIA GAS TRAN
8251056		3415521965		102-2	107-TF	MORFORD #1	KINSMAN	8.0	COLUMBIA GAS TRAN
8251063		3415522160		102-2	107-TF	P K MILLER #1	KINSMAN	0.0	COLUMBIA GAS TRAN
8251057		3415521969		102-2	107-TF	SCOTT UNIT #1	KINSMAN	0.0	COLUMBIA GAS TRAN
8251062		3415522141		102-2	107-TF	SOMMERVILLE #1A	KINSMAN	9.0	COLUMBIA GAS TRAN
8251064		3415523025		102-2	107-TF	WELCH #1	GUSTAVUS	12.0	COLUMBIA GAS TRAN
8251061		3415522126		102-2	107-TF	ZIMMET EVANS #2	VERNON	19.0	COLUMBIA GAS TRAN
-BASIN DRILLING				RECEIVED:	08/23/82	JA: OH			
8251095		3411521607		103		BOWMAN #2	MARION	14.0	COLUMBIA GAS TRAN
8251096		3411521608		103		MACPHERSON #1	MARION	14.0	COLUMBIA GAS TRAN
-BASIN PRODUCING CO				RECEIVED:	08/23/82	JA: OH			
8251068		3407322580		103		LOUDERMILK #1	GREEN	20.0	
-BELDEN & BLAKE AND CO L P NO 68				RECEIVED:	08/23/82	JA: OH			
8251069		3401921243		103		B & N LEWIS 1-851	BROWN	36.5	
-BKB DEVELOPMENT CO				RECEIVED:	08/23/82	JA: OH			
8251065		3412121928		107-DV		W EMERSON SMITH #1	WAYNE	0.0	COLUMBIA-GAS TRAN
-BKK PROSPECTING LTD				RECEIVED:	08/23/82	JA: OH			
8251066		3412122508		107-DV		RALPH & RUTH BETTINGER #3	ELK	30.0	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP				RECEIVED:	08/23/82	JA: OH			
8251087		3407522832		107-TF		GILLMAN #2	MECHANIC	10.0	COLUMBIA GAS TRAN
-CALLANDER & KIMBREL INC				RECEIVED:	08/23/82	JA: OH			
8251088		3403124543		103		J & S WRIGHT #2	TRINWAY	0.0	
-CLARENCE SHERMAN				RECEIVED:	08/23/82	JA: OH			
8251237		3407523744		103	107-TF	R & K SCARR #1	BALTIC	15.5	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED:	08/23/82	JA: OH			
8251089		3411925905		103	107-TF	CHARLES HANES #1-634	OTSEGO	10.0	
8251090		3411926191		103	107-TF	K MONLUX #1-718	OTSEGO	10.0	
-COASTAL CORP				RECEIVED:	08/23/82	JA: OH			
8251091		3411226880		107-DV		BROCK #2	NEW MATAMORAS	60.0	
8251092		3411122689		107-DV		BROCK #3	NEW MATAMORAS	30.0	
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	08/23/82	JA: OH			
8251093		3416727114		107-DV		ALLOWAY-GRIMES #2	GRANDVIEW	7.3	COLUMBIA GAS TRAN
-CONPETRO VENTURES LTD				RECEIVED:	08/23/82	JA: OH			
8251094		3416922560		103	107-TF	MAIBACH-TERRANOVA #1	MILTON	5.0	COLUMBIA GAS TRAN
-DART OIL COMPANY				RECEIVED:	08/23/82	JA: OH			
8251101		3415721528		108		MAY #1		6.7	BUCKEYE-FRANKLIN
8251100		3415721097		108		SHELL #1		3.7	VESCORP INDUSTRIE
-DORAN & ASSOCIATES INC				RECEIVED:	08/23/82	JA: OH			
8251102		3408720288		103	107-TF	JOHN V HOLTON #1	LAWRENCE	12.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED:	08/23/82	JA: OH			
8251103		3410322758		103	107-TF	ALLOWAY #1	LODI	15.0	
8251105		3416923022		103	107-TF	BURGE #2	CRESTON	25.0	
8251104		3410322877		103	107-TF	FARNSWORTH #1	SEVILLE	20.0	
-ELIAS M POSTON				RECEIVED:	08/23/82	JA: OH			
8251210		3400921864		108		DYE #1		2.9	COLUMBIA GAS OF O
-ENERGY DEVELOPMENT CORP				RECEIVED:	08/23/82	JA: OH			
8251107		3400721946		103	107-TF	DOVALOSKY WELL #1	ORWELL	0.0	
8251106		3400721945		103	107-TF	VERHOLTZ WELL #1	ORWELL	0.0	
-ENERGY DISTRIBUTORS INC				RECEIVED:	08/23/82	JA: OH			
8251109		3412725581		103	107-TF	GUILLIAMS #6	GRATIOT	10.8	COLUMBIA GAS TRAN
8251110		3412725583		103	107-TF	GUILLIAMS #8	GRATIOT	7.9	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251111		3412725598		103	107-TF	THOMAS THURN #3	GRATIOT	9.9	COLUMBIA GAS TRAN
8251108		3412725470		103	107-TF	THOMAS THURN #4	GRATIOT	11.9	COLUMBIA GAS TRAN
-ENERGY PRODUCTION INC				RECEIVED:	08/23/82	JA: OH			
8251115		3409921263		103		BURKEY B-11	SALEM	1.0	
8251114		3409921258		103		BURKEY B-13	SALEM	1.0	
8251116		3409921265		103		BURKEY B-14	SALEM	1.0	
8251117		3409921266		103		BURKEY B-15	SALEM	1.0	
8251112		3409921247		103		BURKEY B-5	SALEM	1.0	
8251113		3409921256		103		BURKEY B-9	SALEM	1.0	
-ENTERPRISE ENERGY CORP				RECEIVED:	08/23/82	JA: OH			
8251119		3415123728		103		DUTTON #1	BOLIVAR	27.3	EAST OHIO GAS CO
8251118		3415123674		103		DUTTON #8	NAVARRE	27.3	EAST OHIO GAS CO
-EVERFLOW EASTERN INC				RECEIVED:	08/23/82	JA: OH			
8251121		3415520383		108		TURON #1	WEST FARMINGTON	4.0	
8251120		3415520378		108		TURON #2	TRUMBULL	4.0	
-FLOYD E KIMBLE DBA RED HILL DEV				RECEIVED:	08/23/82	JA: OH			
8251149		3415723549		103	107-TF	A MALCUIT #1	FRANKLIN	41.0	
8251146		3415723314		107-RT		C SCHOTZINGER #1	JEFFERSON	21.0	
8251145		3415723313		107-RT		F LANZ #1	JEFFERSON	20.0	
8251147		3415723315		107-RT		FINZER-MUTTI UNIT #1	JEFFERSON	18.0	
8251148		3415723329		107-RT		MERVIN LAHMERS UNIT #1	DOVER	23.0	
-FORAKER PRODUCING COMPANY INC				RECEIVED:	08/23/82	JA: OH			
8251124		3411924783		107-RT		CANNON #1	NEWTON	0.0	TEXAS EASTERN TRA
-GEN MOTORS CORP				RECEIVED:	08/23/82	JA: OH			
8251125		3415521491		107-TF		REGIS LUTZ #2	WARREN	11.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED:	08/23/82	JA: OH			
8251126		3405923311		107-TF		RICHARD STRAUSS #15-2	BLOOMFIELD	16.0	COLUMBIA GAS TRAN
-GUARDIAN MANAGEMENT INC				RECEIVED:	08/23/82	JA: OH			
8251128		3403124654		103		MARTIN WC-#1	SPRING MOUNTAIN	18.0	
8251127		3403124344		103		WALSH WC-#1	HICKMAN	18.0	
8251129		3403124660		103		WC-#1 DUNCAN WC-#1	WARSAW	18.0	
8251132		3403124670		103		WC-#3 WRIGHT WC-#3		16.0	
8251131		3403124669		103		WRIGHT WC-#1	WARSAW	18.0	
8251130		3403124658		103		WRIGHT WC-#2	WARSAW	18.0	
-HORN RESOURCES CORP				RECEIVED:	08/23/82	JA: OH			
8251134		3408924073		103		DARNES #1 PERMIT #4073	MADISON	15.0	NATIONAL GAS & OI
8251136		3408924260		103		ROBERT BENNETT #1 PERMIT #4260	FRANKLIN	15.0	NEWZANE GAS CO
8251137		3408942620		103		TUCKER #1 PERMIT 4262	MARY ANN	6.0	NATIONAL GAS & OI
8251135		3408924097		103		WILSON #2 PERMIT #4097	PERRY	6.0	NATIONAL GAS & OI
-INTEGRATED PETROLEUM COMPANY INC				RECEIVED:	08/23/82	JA: OH			
8251138		3409921112		108		DILISIO #1		3.0	AMERICAN ENERGY S
8251139		3409921142		108		DOGWOOD/STECK #1		3.0	AMERICAN ENERGY S
8251140		3409921143		108		ST JOHN/KOBYLANSKI UNIT #1		5.0	AMERICAN ENERGY S
-J D DRILLING CO				RECEIVED:	08/23/82	JA: OH			
8251141		3405320508		107-TF		JOHN COUGHENOUR #1	CHESHIRE	3.0	COLUMBIA GAS TRAN
8251142		3405320523		107-TF		LEXIE EASTON #1	CHESHIRE	3.0	COLUMBIA GAS TRAN
8251143		3410522039		107-TF		MARIE STEINER #2	RUTLAND	4.0	COLUMBIA GAS TRAN
-JAMES R SMAIL				RECEIVED:	08/23/82	JA: OH			
8251238		3407523639		103		HANNA-MCCLURE UNIT #1	RIPLEY	13.5	COLUMBIA GAS TRAN
-JEFFERSON OIL & GAS CO				RECEIVED:	08/23/82	JA: OH			
8251144		3403124475		103		RODGERS #3	TIVERTON CENTER	17.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	08/23/82	JA: OH			
8251150		3411923977		103		WOLFE #1	MONROE	12.0	

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JD NO	JA DKT	API NO	U	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LOMAK PETROLEUM INC				RECEIVED:	08/23/82	JA: OH			
8251152		3411926258		103		A HIVNOR #1-B	HARRISON	8.0	COLUMBIA GAS TRAN
8251155		3415520356		108		GATES/SILVERNAIL #1		6.0	AMERICAN ENERGY S
8251154		3415520354		108		GATES/SILVERNAIL #2		5.1	AMERICAN ENERGY S
8251153		3411926266		103		NEWELL - LAMBERT #1	HARRISON	8.0	COLUMBIA GAS TRAN
8251151		3411926182		103		TERRACE FARMS #2	HARRISON	12.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	08/23/82	JA: OH			
8251171		3415122709		108		A & N HELMUTH #1		18.3	REPUBLIC STEEL CO
8251163		3401921122		108		ASTEN-BULLOCK #2		5.5	REPUBLIC STEEL CO
8251174		3415122719		108		C & E STEINER U #1-A		27.4	REPUBLIC STEEL CO
8251175		3415721605		108		E WINDSOR #1		11.0	REPUBLIC STEEL CO
8251157		3401920579		108		F&C MAURER #1		18.3	REPUBLIC STEEL CO
8251161		3401921107		108		HEILVATH #1		5.5	REPUBLIC STEEL CO
8251172		3415122715		108		HOL-WIT INC #1		27.4	REPUBLIC STEEL CO
8251168		3415122519		108		HOPPLE #1		8.2	REPUBLIC STEEL CO
8251162		3401921108		108		J & M SYLER #1		36.5	REPUBLIC STEEL CO
8251160		3401921045		108		K THOMPSON U #1		18.3	REPUBLIC STEEL CO
8251166		3401921279		108		L TOOLE U #1		9.1	REPUBLIC STEEL CO
8251164		3401921237		108		R & N STONE U #1		5.5	REPUBLIC STEEL CO
8251170		3415122659		108		R & P KIKO #3		9.1	REPUBLIC STEEL CO
8251169		3415122602		108		R FOLTZ #1		9.1	REPUBLIC STEEL CO
8251158		3401920705		108		ROHR - KINDLEBERGER #1		5.5	REPUBLIC STEEL CO
8251165		3401921249		108		ROHR-KINDLEBERGER U #2		11.0	REPUBLIC STEEL CO
8251156		3401920593		108		S & M GREATHOUSE #1	CARROLL	12.4	REPUBLIC STEEL CO
8251167		3415122506		108		SCHANDEL #1		9.0	REPUBLIC STEEL CO
8251159		3401920791		108		SMITH-GASSER U-2		11.0	REPUBLIC STEEL CO
8251173		3415122718		108		T THOMAS U #1		25.2	REPUBLIC STEEL CO
8251176		3415721890		108		W & P BANKS #1		20.1	REPUBLIC STEEL CO
-MAGNUM RESOURCES INC				RECEIVED:	08/23/82	JA: OH			
8251177		3416727154		107-TF		WILLIAM BURKHART #3	MUSKINGUM TWP	40.0	COLUMBIA GAS TRAN
-MONROE-NOBLE INVESTORS LTD				RECEIVED:	08/23/82	JA: OH			
8251179		3412121250		107-DV		CHESTER FELDNER #1	JEFFERSON	30.0	COLUMBIA GAS TRAN
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	08/23/82	JA: OH			
8251180		3412725643		103		KING #1	THORN	8.0	NATIONAL GAS & OI
-NEW FRONTIER EXPLORATION INC				RECEIVED:	08/23/82	JA: OH			
8251182		3402920833		103	107-TF	BLACKBURN UNIT #1	WEST	0.0	
8251192		3406720549		103	107-TF	D HOST #1	MONROE	18.0	TENNECO
8251190		3406720453		103	107-TF	DAVID BEEM #1	MONROE	0.0	
8251183		3403124370		103	107-TF	F SIEGRIST #1	WASHINGTON	0.0	
8251184		3403124371		103	107-TF	F SIEGRIST #2	WASHINGTON	0.0	
8251181		3402920827		103	107-TF	GEISELMAN #2	WEST	0.0	
8251187		3406720435		103	107-TF	JAMES BARBIERI #1	MONROE	0.0	
8251188		3406720436		103	107-TF	JAMES BARBIERI #2	MONROE	0.0	
8251189		3406720439		103	107-TF	JAMES BARBIERI #3	MONROE	0.0	
8251193		3415123526		103	107-TF	KIKO-GULLING UNIT #1	NIMISHILLEN	0.0	
8251186		3405922944		103	107-TF	LAM UNIT #1	CENTER	0.0	
8251185		3403124374		103	107-TF	MARGARET MARTIN #1	WASHINGTON	0.0	
8251191		3406720456		103	107-TF	ROY ROYER #1	MONROE	0.0	
-NUCORP ENERGY COMPANY				RECEIVED:	08/23/82	JA: OH			
8251194		3400721509		103	107-TF	WHELPLEY #1	SHEFFIELD	6.0	OHIO GAS CO
-OHIO PRODUCERS SERVICES INC				RECEIVED:	08/23/82	JA: OH			
8251195		3412724912		108		GLENFORD LIONS CLUB #1	HOPEWELL TWP	3.0	COLUMBIA GAS TRAN
-OMEGA OIL CORP				RECEIVED:	08/23/82	JA: OH			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251196		3412122577	D	107-DV		ANDREW ZALENAK #1	ELK	0.0	
-ONEAL PETROLEUM INC				RECEIVED:		08/23/82 JA: OH			
8251197		3411521937		107-TF		C E POTTS #1	PENN	120.0	COLUMBIA GAS TRAN
8251198		3411522256		107-TF		C JANES #2	PENN	60.0	COLUMBIA GAS TRAN
8251199		3411522596		107-TF		O RIDER #2	PENN	7.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED:		08/23/82 JA: OH			
8251200		3413322753		103		SCHULTZ LAKE UNIT #2	ATWATER	20.0	EAST OHIO GAS CO
-OXFORD OIL CO				RECEIVED:		08/23/82 JA: OH			
8251201		3412725042		103		FRED WESTALL #2	JACKSON	10.0	
-PAUL S FLEEMAN				RECEIVED:		08/23/82 JA: OH			
8251122		3416702358		108		HANNAH POOL #1		2.9	RIVER GAS CO
8251123		3416720814		108		HANNAH POOL #1		2.9	RIVER GAS CO
-PEPPER OIL CO				RECEIVED:		08/23/82 JA: OH			
8251204		3408924408		103		DARNES #3	HANOVER	5.0	NATIONAL GAS & OI
-PETRO OIL CO				RECEIVED:		08/23/82 JA: OH			
8251205		3411924342	D	107-RT		DORSEY WELL #1	LICKING	0.0	COLUMBIA GAS TRAN
-PETROLEUM CORP OF AMERICA				RECEIVED:		08/23/82 JA: OH			
8251206		3407523635		103		BARNER #1	GLENMONT	3.7	COLUMBIA GAS TRAN
8251207		3407523636		103		CAHILL #1	GLENMONT	3.7	COLUMBIA GAS TRAN
-PETROLEUM ENERGY PRODUCING CORP				RECEIVED:		08/23/82 JA: OH			
8251209		3400721222		107-TF		E & E ZGRABIK #2	HARTSGROVE	30.0	
8251208		3400720361		107-RT		E & J BLUHM #1	HARTSGROVE	20.0	
-POI ENERGY INC				RECEIVED:		08/23/82 JA: OH			
8251202		3413322785		103	107-TF	SALEMI #1	STREETSBORO	20.0	
8251203		3413322859		103	107-TF	SALZANDETAL #1	STREETSBORO	30.0	
-PREMIER ENERGY CORP				RECEIVED:		08/23/82 JA: OH			
8251211		3416725505		107-DV		ROBERT F LANG #2	WATERTOWN	7.3	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP				RECEIVED:		08/23/82 JA: OH			
8251212		3400922566		107-DV		SUGAR CREEK COAL & MINING CO #3	JACKSONVILLE	438.0	TENNESSEE GAS PIP
-QUESTA PETROLEUM CO				RECEIVED:		08/23/82 JA: OH			
8251213		3404520770		103		RUSSELL & JOAN HUGUS #1	RUSHVILLE	10.0	
8251214		3404520771		103		WM & NANCY BAKER #1	RUSHVILLE	10.0	
-QUINTIN LITTLE CO				RECEIVED:		08/23/82 JA: OH			
8251215		3400721576		103		KENYON-LATUK #1	JEFFERSON	7.0	
-R D CURRY PRODUCTION COMPANY				RECEIVED:		08/23/82 JA: OH			
8251098		3407523516	D	102-3		ANDREWS #1	MILLERSBURG	36.0	COLUMBIA GAS TRAN
8251097		3403124744		103		SAMPLES #2	KILLBUCK	36.0	COLUMBIA GAS TRAN
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:		08/23/82 JA: OH			
8251086		3410521666		108		A RIFE #2		2.5	COLUMBIA GAS TRAN
8251078		3405320579		107-TF		CHARLES W SHAVER #2	ADDISON	1.5	COLUMBIA GAS TRAN
8251070		3405320231		108		H RUSSELL #1		2.0	COLUMBIA GAS TRAN
8251075		3405320413		107-RT		HARLAN ATHEY #1	CHESHIRE	5.0	COLUMBIA GAS TRAN
8251080		3405320699		107-TF		HARLAN ATHEY #3	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251081		3405320700		107-TF		HARLAN ATHEY #4	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251082		3405320701		107-TF		HARLIN ATHEY #5	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251076		3405320542		107-TF		J P WILLS #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251072		3405320257		107-RT		MARLIN A RIFE #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251074		3405320401		108		R JIVIDEN #1		2.0	COLUMBIA GAS TRAN
8251077		3405320543		107-TF		R JIVIDEN #2	CHESHIRE	2.0	COLUMBIA GAS TRAN
8251083		3405320712		107-TF		R O J #1-C	ADDISON	2.0	COLUMBIA GAS TRAN
8251084		3405320713		107-TF		R O J #2-C	ADDISON	2.0	COLUMBIA GAS TRAN
8251085		3405320714		107-TF		R O J #3-C	ADDISON	2.0	COLUMBIA GAS TRAN
8251071		3405320240		108		R O J CORPORATION #1-B		1.5	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251073		3405320333		108		R O J CORPORATION #2-B		1.5	COLUMBIA GAS TRAN
8251079		3405320639		107-TF		STELLA BURNETT #2	ADDISON	2.0	COLUMBIA GAS TRAN
-REPUBLIC OIL CO				RECEIVED:		08/23/82 JA: OH			
8251216		3403124721		103		F P & P J JONES #1	BRINKHAVEN	12.0	COLUMBIA GAS TRAN
-RIVERLAND OIL INC				RECEIVED:		08/23/82 JA: OH			
8251218		3416921954		108		RIVERLAND - KRABILL #3	CANAAN	11.2	COLUMBIA GAS TRAN
8251220		3416921996		108		RIVERLAND - KRABILL #5	CANAAN	1.5	COLUMBIA GAS TRAN
8251217		3407522300		108		RIVERLAND - MAST #1	HOLMESVILLE	0.1	COLUMBIA GAS TRAN
8251219		3416921955		108		RIVERLAND-KRABILL #2	CANAAN	1.2	COLUMBIA GAS TRAN
-ROBERT BARR				RECEIVED:		08/23/82 JA: OH			
8251067		3411922374	D	108		BARR #1		1.5	COLUMBIA GAS TRAN
-ROBERT D CHARLEBOIS				RECEIVED:		08/23/82 JA: OH			
8251099		3415522124		103	107-TF	HUSMAN WELL #1	SOUTHINGTON	15.0	COLUMBIA GAS TRAN
-ROGER E SCHUMACHER				RECEIVED:		08/23/82 JA: OH			
8251236		3411122658		103		HERBERT SCHUMACHER #1	HERBERT SCHUMACHER	20.0	RIVER GAS CO
-ROVI RESOURCES CORP				RECEIVED:		08/23/82 JA: OH			
8251221		3411521808		107-TF		ALLEN #3	MORGAN	11.0	TENNESSEE GAS PIP
8251229		3411924990		107-TF		HERRON #1	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251234		3411925013		107-TF		HERRON #2	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251233		3411924995		107-TF		HERRON #3	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251232		3411924994		107-TF		HERRON #4	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251231		3411924993		107-TF		HERRON #5	SALT CREEK	11.0	
8251235		3411925040		107-TF		HERRON #7-A	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251230		3411924992		107-TF		HERRON 6	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251228		3411924943		107-TF		HUELSMAN #7	RICH HILL	11.0	COLUMBIA GAS TRAN
8251227		3411924937		107-TF		MILLER #4	SALT CREEK	11.0	COLUMBIA GAS TRAN
8251225		3411522640		107-TF		MOORE #2	RURALDALE	11.0	COLUMBIA GAS TRAN
8251226		3411522791		107-TF		REX 1	RURALDALE	11.0	COLUMBIA GAS TRAN
8251222		3411522477		107-TF		WEBER #4	BLOOM	11.0	COLUMBIA GAS TRAN
8251223		3411522638		107-TF		WILLIAMS #2	RURALDALE	11.0	COLUMBIA GAS TRAN
8251224		3411522639		107-TF		WILLIAMS #3	RURALDALE	11.0	COLUMBIA GAS TRAN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		08/23/82 JA: OH			
8251239		3416726940		103		B PICKERING #1	FAIRFIELD	180.0	
-TEMPLETON ENERGY CORP				RECEIVED:		08/23/82 JA: OH			
8251240		3404520735		103		RALPH & HENRIETTA FETHEROLF #2	RICHLAND	10.0	
-THUNDERBIRD PETROLEUM CORP				RECEIVED:		08/23/82 JA: OH			
8251242		3411122336	D	107-DV		LARRY WILLIAMS #1		50.0	
-THUNDERBIRD PETROLEUM DEVELOP CO				RECEIVED:		08/23/82 JA: OH			
8251241		3411122213	D	107-DV		HARRY ARMSTRONG #4	WASHINGTON	50.0	
-TIGER OIL INC				RECEIVED:		08/23/82 JA: OH			
8251245		3412724750		103		ABRAMS-BAILEY #1	PIKE	0.0	COLUMBIA GAS TRAN
8251244		3411122634		107-DV		MARTHA SHEETS #1	WASHINGTON	0.0	RIVER GAS CO
8251243		3407322696		107-TF		STALTER-OLIVER #2	STARR	0.0	COLUMBIA GAS TRAN
-VICTOR MCKENZIE				RECEIVED:		08/23/82 JA: OH			
8251178		3404520782		103		LLOYD MCCANDLISH #1	BREMEN	15.0	
-WILLIAM F HILL				RECEIVED:		08/23/82 JA: OH			
8251133		3407523711		103		YODER LUMBER CO #2-A	GLENMONT	8.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:		08/23/82 JA: OH			
8251252		3415723602		103	107-TF	CIHON-KOLLAR #1	FAIRFIELD	30.0	
8251248		3410322717		103	107-TF	FRUITS #1	HINCKLEY	30.0	COLUMBIA GAS TRAN
8251247		3410322684		103	107-TF	OLCZAK #1	HINCKLEY	20.0	COLUMBIA GAS TRAN
8251250		3415723607		103	107-TF	OVERHOLT #1	SALEM	0.0	COLUMBIA GAS TRAN
8251251		3416923044		103	107-TF	PROVEHY #1	CHIPPEWA	30.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251246		3405923056		103	107-TF	ROMAN MILLER #2	WASHINGTON	36.0	LIBBEY-OWENS-FORD
8251249		3415723606		103	107-TF	WAYNE HARSTINE #1	SALEM	36.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25546 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 732]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 13, 1982.

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JD NO   JA DKT        API NO      D SEC(1) SEC(2) WELL NAME                          FIELD NAME            PROD   PURCHASER
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*************************************************************************************
 . TEXAS RAILROAD COMMISSION
*************************************************************************************
-A L SAUDER JR                     RECEIVED:  08/25/82    JA: TX
 8250779  F-09-048472  4249700000  103          FORMAN-BROWN #1                      GREENWOOD ATOKA        31.0 NATURAL GAS PIPEL
-AARDOLIE OIL CO                   RECEIVED:  08/25/82    JA: TX
 8250984  F-09-055420  4223700000  103          AANNA #1                             DEWEBER (CONGLOMERATE  20.0 TEXAS UTILITIES F
-ADA OIL EXPLORATION CORP          RECEIVED:  08/25/82    JA: TX
 8250780  F-03-048673  4228700000  102-2        JOHN NEWMAN #12                      GIDDINGS (AUSTIN CHAL  18.5 PHILLIPS PETROLEU
-AKERS AND FULTZ INC               RECEIVED:  08/25/82    JA: TX
 8250891  F-09-054943  4223732042  108          ROY CHERRYHOMES F-2 #74680           MARINA-MAG (CONGLOMER  18.3 CITIES SERVICE GA
-AMOCO PRODUCTION CO               RECEIVED:  08/25/82    JA: TX
 8250962  F-8A-055351  4230330800  103          ANTON-IRISH CLEARFORK UNIT #458      ANTON-IRISH             0.3 PIONEER CORP
 8250766  F-06-044820  4234730509  102-4        D H NEWMAN GAS UNIT #1               APPLEBY N/TRAVIS PEAK 204.0 UNITED GAS PIPELI
 8250963  F-02-055354  4239101042  102-4        GAS PRODUCING AREA F #B-2            GRETA (550)            20.0 TRANSCONTINENTAL
-ANDERSON PETROLEUM INC            RECEIVED:  08/25/82    JA: TX
 8250823  F-7C-052522  4210533802  103    107-TF DOROTHY MILLSPAUGH "B" 4-36         OZONA (CANYON SAND)     0.0 ANDERSON PIPELINE
 8250792  F-7C-049798  4243532443  103    107-TF IDA CAUTHORN 4-131                  SAWYER (CANYON)        50.0 SUTTON COUNTY PIP
 8250769  F-7C-046374  4210533706  103    107-TF J K THOMAS "A" 1-5                  OZONA (CANYON SAND)    60.0 ANDERSON PIPELINE
 8250794  F-7C-050126  4210533466  103    107-TF LAURA HOOVER ESTATE "H" 2-18A       OZONA (CANYON SAND)    75.0 ANDERSON PIPELINE
 8250805  F-7C-051357  4241331103  103    107-TF VIOLA FINNIGAN UNIT 1-29            ELDORADO N (CANYON B) 100.0 INTRATEX GAS CO
-ANDOVER OIL COMPANY               RECEIVED:  08/25/82    JA: TX
 8250821  F-06-052439  4220330794  103    107-TF ROSS M PARKER GAS UNIT #2 WELL #1   HALLSVILLE N (HOSSTON 200.0 SOUTHWEST GATHERI
-ANDRESS PETROLEUM INC             RECEIVED:  08/25/82    JA: TX
 8250885  F-02-054793  4239131561  102-4        J F WELDER HEIRS #10                 DEVILS RUN (5250)       0.0 TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY          RECEIVED:  08/25/82    JA: TX
 8250902  F-04-055217  4213100136  108          J R FOSTER #22                       HAGIST RANCH (1420)    16.0 NATURAL GAS PIPEL
 8250903  F-04-055218  4213134969  108          J R FOSTER #64                       HAGIST RANCH (750)      6.0 NATURAL GAS PIPEL
*8250923  F-8A-055276  4250132010  103          WILLARD UNIT #42-C                   WASSON                  6.0 SHELL OIL CO
-ATAPCO                            RECEIVED:  08/25/82    JA: TX
 8250808  F-09-051724  4249732089  103          EAST UNIT #19-3 #16204               ALVORD SOUTH (CADDO C   6.0 MITCHELL ENERGY C
 8250809  F-09-051725  4249732136  103          EAST UNIT #19-7                      ALVORD SOUTH (CADDO C   9.3 MITCHELL ENERGY C
 8250807  F-09-051719  4249732086  103          EAST UNIT #4-5 #16204                ALVORD SOUTH (CADDO C   7.3 MITCHELL ENERGY C
-B F AKERS                         RECEIVED:  08/25/82    JA: TX
 8250933  F-09-055296  4250300000  108          E N MCCLUSKY #11433                  YOUNG COUNTY REGULAR    1.8 PETROLEUM CORP OF
 8250932  F-7B-055295  4244700000  108          L A MOWSLEY #06708                   THROCKMORTON COUNTY R  15.0 GREAT WESTERN GAS
-BRAZOS PETROLEUM CO               RECEIVED:  08/25/82    JA: TX
 8250954  F-08-055336  4232930996  103          BAUMANN A #2                         SPRABERRY (TREND AREA  22.0 PHILLIPS PETROLEU
-BRIDWELL OIL CO                   RECEIVED:  08/25/82    JA: TX
 8250999  F-7C-055470  4239900000  103          MRS H S BRIGHT "A" #2                CREE-SYKES (GARDNER U  36.0 UNION TEXAS PETRO
 8251000  F-7C-055471  4239932380  103          MRS H S BRIGHT "A" #5                CREE-SYKES (GARDNER U  10.0 UNION TEXAS PETRO
 8250989  F-09-055446  4207732011  103          SCALING RANCH "P" #13                LAZY B (STRAWN)         5.0 FAGADAU ENERGY CO
 8250990  F-09-055447  4207732493  103          SCALING RANCH "P" #17                LAZY B (STRAWN)         5.0 FAGADAU ENERGY CO
-BROCK PETROLEUM CORP              RECEIVED:  08/25/82    JA: TX
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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250899	F-01-055112	4217731293		102-2		PLOEGER-GONZALES UNIT #3	PEACH CREEK (AUSTIN C	90.0	VALERO TRANSMISSI
-BTA OIL PRODUCERS				RECEIVED:		08/25/82 JA: TX			
8251003	F-08-055478	4247532414		103		7513 JV-S SUN #2	WARD-ESTES NORTH	7.3	CABOT PIPELINE CO
8251002	F-08-055477	4247532527		103		7513 JV-S SUN #3	WARD-ESTES NORTH	7.3	CABOT PIPELINE CO
8251001	F-08-055476	4247532526		103		7513 JV-S SUN #4	WARD-ESTES NORTH	7.3	CABOT PIPELINE CO
-C F LAWRENCE & ASSOC INC				RECEIVED:		08/25/82 JA: TX			
8250939	F-7C-055307	4210500000		108		HALFF 62 #3	FERGUS (GRAYBURG UPPE	4.5	APACHE GAS CORP
8250951	F-7C-055319	4210500000		108		HALFF 63-E #1 81627	FERGUS (GRAYBURG)	14.9	APACHE GAS CORP
8250940	F-08-055308	4210500000		108		HALFF 64-W #1 87511	ONLAW (QUEEN)	4.7	APACHE GAS CORP
8250949	F-7C-055317	4210500000		108		HALFF 64-W #2 74218	FERGUS (GRAYBURG UPPE	2.6	APACHE GAS CORP
8250941	F-08-055309	4210500000		108		HALFF 64-W #3 87887	ONLAW (GRAYBURG)	12.2	APACHE GAS CORP
8250943	F-7C-055311	4210500000		108		HALFF 65-E #1 74754	FERGUS (GRAYBURG UPPE	6.1	APACHE GAS CORP
8250945	F-7C-055313	4210500000		108		HALFF 65-W #1 73899	FERGUS (GRAYBURG UPPE	8.3	APACHE GAS CORP
8250948	F-08-055316	4210500000		108		HALFF 65-W #3 75756	ONLAW (QUEEN)	6.1	APACHE GAS CORP
8250950	F-08-055318	4210500000		108		HALFF 66-E #1 72596	ONLAW (QUEEN)	7.7	APACHE GAS CORP
8250944	F-08-055312	4210500000		108		HALFF 66-W #1 74062	ONLAW (QUEEN)	5.3	APACHE GAS CORP
8250947	F-08-055315	4210500000		108		HALFF 66-W #2	ONLAW (GRAYBURG)	6.0	APACHE GAS CORP
8250942	F-7C-055310	4210500000		108		HALFF 67 #3 87502	NOELKE 1400	5.6	APACHE GAS CORP
8250946	F-7C-055314	4210500000		108		HALFF 67-W #1 70148	FERGUS (GRAYBURG UPPE	9.4	APACHE GAS CORP
-C. J. WOFFORD				RECEIVED:		08/25/82 JA: TX			
8250801	F-02-051050	4212331206		102-4		CLAUDE ARNOLD #1	UPPER MEYERSVILLE (34	147.0	LONE STAR GAS CO
8250827	F-02-052862	4202531845		102-4		PAGE GLADYS #1	COSDEN (Z-12)	236.0	TEXAS EASTERN TRA
-CASHCO OIL CO				RECEIVED:		08/25/82 JA: TX			
8250767	F-01-045550	4217731157		102-4		LOUIS GOSCHEIDLE #1	CHRISTIAN (6800)	0.0	VALERO TRANSMISSI
-CASKEY OIL PROPERTIES INC				RECEIVED:		08/25/82 JA: TX			
8250751	F-02-038866	4246931657		103		G L WIGINGTON #1 06055 (094598)	VICTORIA	108.0	DELHI GAS PIPELIN
-CHAMPLIN EXPLORATION INC				RECEIVED:		08/25/82 JA: TX			
8250921	F-03-055265	4214930331		102-2		A NOACK #1 (RRC ID# 12274)	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250934	F-03-055302	4217700000		102-2		BARNICK #1 (RRC ID #14435)	GIDDINGS (BUDA)	17.0	VALERO TRANSMISSI
8250936	F-03-055304	4214930383		102-2		BESS HART #1 (RRC ID #12761)	GIDDINGS (AUSTIN CHAL	10.8	PHILLIPS PETROLEU
8250915	F-03-055258	4214930907		102-2		BESS HART #2 (RRC ID# 12761)	GIDDINGS (AUSTIN CHAL	10.8	PHILLIPS PETROLEU
8250935	F-03-055303	4214930844		102-2		ELIJAH HOLSTEIN #1 (RRC ID #14295)	GIDDINGS (AUSTIN CHAL	18.0	PHILLIPS PETROLEU
8250970	F-03-055391	4238730905		102-2		GERDES DEVELOPMENT CO #1 (15625)	GIDDINGS (AUSTIN CHAL	150.0	PHILLIPS PETROLEU
8250971	F-03-055392	4214930675		102-2		GILBERT RICHARDS (RRC ID# 14227)	GIDDINGS (BUDA)	0.5	PHILLIPS PETROLEU
8250913	F-03-055256	4214930374		102-2		GUSSIE HART #1 (RRC ID# 12860)	GIDDINGS (AUSTIN CHAL	15.6	PHILLIPS PETROLEU
8250972	F-03-055393	4214930322		102-2		HULDA EPHRAIM #1 (RRC ID #12238)	GIDDINGS (AUSTIN CHAL	4.8	PHILLIPS PETROLEU
8250974	F-03-055395	4214930940		102-2		KELLY BARTLETT #1 (RRC ID #15163)	GIDDINGS (AUSTIN CHAL	1.0	PHILLIPS PETROLEU
8250917	F-03-055260	4228730552		102-2		MCCOY #1 (RRC ID #12627)	GIDDINGS (AUSTIN CHAL	36.0	CLAJON GAS CO
8250919	F-03-055262	4214931148		102-2		RAYMOND SCHULZ #1 (RRC ID# 12839)	GIDDINGS (AUSTIN CHAL	0.9	PHILLIPS PETROLEU
8250920	F-03-055264	4214930879		102-2		RICHARDS-MIKULENKA #1 (14110)	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8250918	F-03-055261	4214930509		102-2		RIGHTMER #1 (RRC ID# 13466)	GIDDINGS (AUSTIN CHAL	2.9	PHILLIPS PETROLEU
8250922	F-03-055266	4214930667		102-2		ROY KARISCH (RRC ID #14023)	GIDDINGS (BUDA)	8.4	PHILLIPS PETROLEU
8250973	F-03-055394	4228730349		102-2		SCHACHERL #1 (RRC ID #12066)	GIDDINGS (AUSTIN CHAL	12.0	PERRY PIPELINE CO
8250914	F-03-055257	4214930908		102-2		SIERRA MADRE #5 (RRC ID# 13836)	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8250961	F-03-055350	4228730513		102-2		SPITZENBERGER #1 (RRC ID #12497)	GIDDINGS (AUSTIN CHAL	24.0	PHILLIPS PETROLEU
8250916	F-03-055259	4214930489		102-2		WILLIE LEHMAN #1 (RRC ID# 12881)	GIDDINGS (BUDA)	0.0	PHILLIPS PETROLEU
-CHEVRON U S A INC				RECEIVED:		08/25/82 JA: TX			
8250797	F-08-050217	4200332983		103		COLUMBUS GRAY 19-24	FUHRMAN - MASCHO	104.0	PHILLIPS PETROLEU
8251029	F-8A-055544	4241532185		103		SACROC UNIT #85-8	KELLY - SNYDER	266.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:		08/25/82 JA: TX			
8250958	F-08-055347	4200333061		103		NORTH DOLLARHIDE UNIT #323	DOLLARHIDE (DEVONIAN)	10.0	UNION OIL CO OF C
8250959	F-8A-055348	4216531979		103		WEST SEMINOLE SAN ANDRES UNIT #407	SEMINOLE WEST	55.0	CITIES SERVICE CO
8250960	F-8A-055349	4216532299		103		WEST SEMINOLE SAN ANDRES UNIT #714	SEMINOLE WEST	47.0	CITIES SERVICE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COATES ENERGY TRUST				RECEIVED:	08/25/82	JA: TX			
8250858	F-04-054145	4250531407		103		ANGELINA GARCIA TREVINO #2	SAN RAFAEL (MARTINEZ)	82.0	VALERO INTERSTATE
-COCKRELL CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250804	F-02-051195	4225530843		102-4		J M WINFREY #1	WEST CHOATE (L-SAND)	400.0	VALERO TRANSMISSI
8250778	F-02-048382	4212331004		102-4		MARGARET MALINA #1	GARRETT	730.0	VALERO TRANSMISSI
8250803	F-02-051194	4225530885		102-4		ROY L GATES ET UX #1	MCKASKILL	150.0	VALERO TRANSMISSI
-CONOCO INC				RECEIVED:	08/25/82	JA: TX			
8250822	F-04-052498	4242731627		102-4		T B SLICK EST H-536 #167	RINCON (VICKSBURG 706	0.0	TENNESSEE GAS PIP
-COQUINA OIL CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250837	F-7C-053452	4244330276		102-4		BARBEE "A" #1	SHEFFIELD SE (DEVONIA	365.0	INTRATEX GAS CO
-CPC EXPLORATION INC				RECEIVED:	08/25/82	JA: TX			
8250864	F-03-054226	4205132201		102-4		A G MCNEESE #4	CALDWELL (GEORGETOWN)	100.0	FERGUSON CROSSING
-CRYSTAL OIL COMPANY				RECEIVED:	08/25/82	JA: TX			
8250912	F-06-055249	4249930721		103		HORNBUCKLE "A" #1	WINNSBORO (TRAVIS PEA	237.5	DELHI GAS PIPELIN
-DANIEL OIL COMPANY				RECEIVED:	08/25/82	JA: TX			
8250812	F-03-051822	4215700000		102-2		MOORE #1	MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
8250811	F-03-051821	4215700000		102-4		MOORE #2	MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
8250810	F-03-051820	4215732178		102-4		MOORE #3-C	WILDCAT FIELD	0.0	
8250813	F-03-051823	4215731278		102-4		MOORE #3-T	MOORES ORCHARD (YEGUA	0.0	
-DANNY MAY INC				RECEIVED:	08/25/82	JA: TX			
8250860	F-7B-054166	4204933047		102-4		FELIX ANDERSON #1 (099908)	LUKER (BRENEKE)	42.0	EL PASO HYDROCARB
-DAWSON EXPLORATION INC				RECEIVED:	08/25/82	JA: TX			
8250789	F-03-049488	4224500000		102-4 103		ROSALIE SANFORD #1	HILDEBRANDT BAYOU S E	0.0	UNITED TEXAS TRAN
-DEETER IMPROVEMENT INC				RECEIVED:	08/25/82	JA: TX			
8250775	F-047715	4235531721		102-4		HARLAN #2	BALZER (1600)	100.0	HOUSTON PIPELINE
-EGAN-WILSON PETROLEUM INC				RECEIVED:	08/25/82	JA: TX			
8250747	F-02-037071	4239100000		103		WELDER #2 091358	TELARANA (FRIO 4400)	36.0	HOUSTON PIPE LINE
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250871	F-02-054369	4205731120		102-4		POWDERHORN RANCH #5	POWDERHORN SW (FRIO 1	657.0	PUBLIC SERVICE EL
-ENSERCH EXPLORATION INC				RECEIVED:	08/25/82	JA: TX			
8250795	F-7C-050148	4213700000		103	107-TF	G D WALLACE 22 #2	SAWYER	0.0	LONE STAR GAS CO
8250770	F-09-046494	4223733911		103		J J LONG "B" #2	BOONSVILLE	452.0	LONE STAR GAS CO
8250768	F-01-045729	4201300000		103		J L TOM "A" UNIT 3 #2-UT	FASHING	596.0	NATURAL GAS PIPEL
8250798	F-09-050246	4223700000		103		L H YATES #4	BOONSVILLE	832.0	LONE STAR GAS CO
8250828	F-7C-052945	4213730774		103	107-TF	MIERS "C" #15	SAWYER	0.0	LONE STAR GAS CO
8250799	F-09-050247	4249700000		103		W H DAGGETT "B" #6	DECATUR (3650 SAND)	29.0	LONE STAR GAS CO
8250819	F-09-052328	4236700000		103		W J B CULWELL #3	BOONSVILLE (BCG)	120.0	LONE STAR GAS CO
-EXXON CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250952	F-08-055320	4213533870		103		AUGUSTA BARROW #24	COWDEN NORTH	2.0	
*8250892	F-04-054953	4235531871		103		FLOUR BLUFF-STATE U-2 (095754)	FLOUR BLUFF (FRIO 830	2008.0	ARMCO STEEL CORP
*8250894	F-08-054967	4200333186		103		FULLERTON CLEARFORK UNIT #1607	FULLERTON	15.0	PHILLIPS PETROLEU
8250895	F-08-054969	4200333043		103		FULLERTON CLEARFORK UNIT #2125	FULLERTON	15.0	PHILLIPS PETROLEU
*8250851	F-08-053854	4200333137		103		FULLERTON CLEARFORK UNIT 1617	FULLERTON	15.0	PHILLIPS PETROLEU
8251025	F-08-055535	4210300000		108		J B TUBB A/C 1 #93	SAND HILLS	6.0	EL PASO NATURAL G
8251026	F-08-055536	4210300000		108		J B TUBB A/C 2 #19	SAND HILLS	5.0	EL PASO NATURAL G
8251027	F-08-055537	4210300000		108		J C TUBB A/C 1 #114	SAND HILLS	7.0	EL PASO NATURAL G
*8250856	F-04-054130	4227330596		103		K R STRATTON T-37-F (09776)	STRATTON (SELLERS 4 S	26.0	ARMCO STEEL CORP
*8250829	F-03-053105	4247330353		103		KATY GAS FIELD UNIT #2 WELL 61	KATY S (FIRST WILCOX)	365.0	ARMCO STEEL CORP
8250897	F-08-054971	4200333153		103		MEANS/SAN ANDRES/UNIT #1764	MEANS	15.0	PHILLIPS PETROLEU
8250877	F-08-054650	4200333067		103		MEANS/SAN ANDRES/UNIT #1964	MEANS	15.0	PHILLIPS PETROLEU
8250817	F-08-052176	4200333068		103		MEANS/SAN ANDRES/UNIT 2072	MEANS	15.0	PHILLIPS PETROLEU
8250818	F-10-052253	4239330839		103		R A FLOWERS #3L	MENDOTA NW (GRANITE W	110.0	TRANSWESTERN PIPE
8250896	F-8A-054970	4216532356		103		ROBERTSON CLEARFORK UNIT #4303	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8250893	F-8A-054966	4216532330		103		ROBERTSON CLEARFORK UNIT #5503	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
-FAIR OIL CO				RECEIVED:	08/25/82	JA: TX			
8250985	F-06-055425	4231530548		103		RONALD J MINALDI (090862)	GREEN FOX (PETTIT 620	360.0	EAST TEXAS INDUST
-FREMONT ENERGY CORP				RECEIVED:	08/25/82	JA: TX			
8250833	F-04-053234	4247900000		103		CNR #30	LA CRUZ (OLMOS)	80.0	LONE STAR GAS CO
-GEORGE S GALBRAITH				RECEIVED:	08/25/82	JA: TX			
8251009	F-7B-055500	4220730343		102-4		L F HOOKER #1 (067487)	RED CREEK (DOTHAN)	812.0	HASKELL GATHERING
-GETTY OIL COMPANY,				RECEIVED:	08/25/82	JA: TX			
8250834	F-04-053250	4200700000		102-4		TEXAS STATE TRACT 216 #1	TALLEY ISLAND (FRIO N	0.0	VALERO TRANSMISSI
8250796	F-03-050178	4205100000		102-2		W H GIESENSCHLAG "G" #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GLENCO OIL & GAS CO				RECEIVED:	08/25/82	JA: TX			
8250879	F-01-054707	4201331431		102-4		FRED WORK (07935) #1	DULCE (ESCONDIDO A)	36.0	SOUTH TEXAS INSTR
-GULF OIL CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250906	F-03-055221	4224531332		103		C W BURRELL #49	FANNETT	14.0	TEXAS EASTERN TRA
8250904	F-03-055219	4224530411		103		E THOMAS #54	FANNETT	43.0	TEXAS EASTERN TRA
8250907	F-08-055222	4213501272		108		GOLDSMITH SAN ANDRES UNIT #1-902	GOLDSMITH SAN ANDRES	1.0	PHILLIPS PETROLEU
8250980	F-08-055408	4247532581		103		HUTCHINGS STOCK ASSN #1083	WARD-ESTES NORTH	13.0	CABOT CORP
8250956	F-08-055343	4247532607		103		HUTCHINGS STOCK ASSN #1185	WARD-ESTES NORTH	16.0	CABOT CORP
8250898	F-08-055058	4247530209		108		HUTCHINGS STOCK ASSN #873	WARD-ESTES NORTH	2.0	CABOT CORP
8250927	F-03-055283	4224531202		103		I R BORDAGES "A" #22	FANNETT	20.0	TEXAS EASTERN TRA
8250975	F-03-055396	4224531297		103		I R BORDAGES "A" #26	FANNETT	0.0	TEXAS EASTERN TRA
8250930	F-03-055286	4224531300		103		I R BORDAGES "A" #27	FANNETTE	70.0	TEXAS EASTERN TRA
8250929	F-03-055285	4224531330		103		I R BORDAGES "A" #29	FANNETT	70.0	TEXAS EASTERN TRA
8250924	F-03-055280	4224531353		103		I R BORDAGES "A" #31	FANNETT	110.0	TEXAS EASTERN TRA
8250928	F-03-055284	4224531288		103		I R BORDAGES "A" 25	FANNETT	22.0	TEXAS EASTERN TRA
8250925	F-03-055281	4224531202		103		I R BORDAGES ETAL "A" #22	FANNETT	20.0	TEXAS EASTERN TRA
8250977	F-03-055398	4224531469		103		JUNKER SPENCER "A" TR-B #64	FANNETT	63.0	TEXAS EASTERN TRA
8250926	F-03-055282	4224531265		103		MARY FITZHUGH #10	FANNETT	33.0	TEXAS EASTERN TRA
8250905	F-03-055220	4224531301		103		MARY FITZHUGH #11	FANNETT	13.0	TEXAS EASTERN TRA
8250976	F-03-055397	4224531159		103		MARY FITZHUGH #8	FANNETT	4.0	TEXAS EASTERN TRA
8250979	F-04-055408	4250531270		102-4	107-TF	R VIDAURRI #9	DYE WEST (WILCOX 7800	1400.0	TENNESSEE GAS PIP
8250955	F-08-055338	4238931251		103		RAPE J M #2	WAHA WEST (DELAWARE)	12.0	TRANSWESTERN PIPE
8250777	F-08-048231	4200333029		103		TRIPLE-N GRAYBURG CONSOLIDATED A12M	TRIPLE-N (GRAYBURG)	48.2	PHILLIPS PETROLEU
8251044	F-08-055902	4210332829		103		W N WADDELL NO 1223	SAND HILLS (JUDKINS)	5.5	EL PASO NATURAL G
-HAMILTON BROTHERS OIL CO				RECEIVED:	08/25/82	JA: TX			
8250835	F-04-053287	4221531184		102-4		J A GARCIA #1	BLOOMBERG (VICKSBURG	178.1	VALERO INTERSTATE
-HAMMAN OIL & REFINING CO				RECEIVED:	08/25/82	JA: TX			
8250791	F-03-049744	4220131327		102-4		GEORGE BAKER #2	CYPRESS (COCKFIELD A)	547.5	TENNESSEE GAS PIP
-HANSON MINERALS CO				RECEIVED:	08/25/82	JA: TX			
8250874	F-02-054576	4225530912		102-4		JANICE SMITH #1	PENA SW (7420*)	730.0	INTRASTATE GATHER
-HCW EXPLORATION INC				RECEIVED:	08/25/82	JA: TX			
8250773	F-08-047031	4210332700		103		ABELL DEVONIAN UNIT #29	ABELL (DEVONIAN)	18.3	NORTHERN GAS PROD
-HILLIARD OIL & GAS INC				RECEIVED:	08/25/82	JA: TX			
8251019	F-04-055527	4213135210		102-4		LEO J WELDER #1	SEVEN SISTERS E (REGA	720.0	UNITED TEXAS TRAN
-HNG OIL COMPANY				RECEIVED:	08/25/82	JA: TX			
8250787	F-10-049431	4248300000		103	107-DP	BRITT 3 #1 #100050	KEY (MORROW UP)	1160.0	INTRATEX GAS CO
8250857	F-7C-054140	4243500000		103	107-TF	PFLUGER "104" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8250863	F-7C-054222	4243500000		103	107-TF	PFLUGER 105 #5	SAWYER (CANYON)	104.0	INTRATEX GAS CO
8250844	F-7C-053638	4243500000		103	107-TF	VANDERSTUCKEN "50" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8250890	F-0404054873	4247900000		102-2		VAQUILLAS RANCH 1646 #1 #098496	CARR (LOBO)	305.0	HOUSTON PIPELINE
-HOME PETROLEUM CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250750	F-03-038216	4203931486		103		TRI-WALLINDER #1	CHOCOLATE BAYOU (MCKE	274.0	HOUSTON PIPE LINE
-HUFO PRODUCTION CORP				RECEIVED:	08/25/82	JA: TX			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250832	F-10-053133	4206531005		103		ELLER #5 (04562)	PANHANDLE CARSON COUN	0.0	CABOT PIPELINE CO
8250831	F-10-053132	4206531004		103		ELLER #6 (04562)	PANHANDLE CARSON COUN	0.0	CABOT PIPELINE CO
-HUGHES & HUGHES				RECEIVED:		08/25/82 JA: TX			
8250840	F-01-053531	4212732317		103		S E MCKNIGHT "B" #3	WINTER GARDEN W (OLMO	55.0	VALERO TRANSMISSI
-HUMBLE EXPLORATION CO INC				RECEIVED:		08/25/82 JA: TX			
8250753	F-03-039471	4214900000		102-2	103	AUGUSTA S MIERTSCHIN #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250760	F-03-041956	4214900000		102-2	103	BRANDY #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250756	F-03-041661	4247730408		102-2	103	CHANCE SCHMIDT #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250761	F-03-041957	4214900000		102-2	103	IRENE #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250762	F-03-041958	4214900000		102-2	103	JOSEPHINE BELL #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250755	F-03-041660	4228730996		102-2	103	MARY ELIZABETH #1 -	GIDDINGS (AUSTIN CHAL	116.8	PHILLIPS PETROLEU
8250758	F-03-041953	4228700000		102-2	103	NEVER LEE #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250757	F-03-041952	4214900000		102-2	103	SANDRA HOLUB #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8250759	F-03-041954	4214900000		102-2	103	THREE SISTERS #1 -	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INTERNORTH INC				RECEIVED:		08/25/82 JA: TX			
8250861	F-10-054179	4221131149		102-4		PRATER #1-39	BRISCOE - MORROW	420.0	INTERNORTH INC
-IOC EXPLORATION INC				RECEIVED:		08/25/82 JA: TX			
8250846	F-03-053804	4216730877		102-4	103	LOUIS TIBALDO #1	TIBALDO (UPPER WEITIN	0.0	
-J M HUBER CORPORATION				RECEIVED:		08/25/82 JA: TX			
8250908	F-10-055224	4223831377		103		BRYAN MAYFIELD UNIT #9-29	PANHANDLE	22.0	COLORADO INTERSTA
8251040	F-10-055871	4223331378		103		BRYAN MAYFIELD UNIT #9-30	PANHANDLE	11.0	COLORADO INTERSTA
8251004	F-10-055492	4223331340		103		READ #25	PANHANDLE	48.0	COLORADO INTERSTA
-JACK G JONES				RECEIVED:		08/25/82 JA: TX			
8251005	F-10-055495	4220500000		108		A C WILLIAMSON #1	TEXAS HUGOTON	1.6	PEOPLES NATURAL G
-JACKSON EXPLORATION INC				RECEIVED:		08/25/82 JA: TX			
8250878	F-7C-054686	4244330273		102-4	103	RUTH WHITE "A" #1	MESA GRANDE (DEVONIAN	100.0	LINK SYSTEMS INC
-JAMES K ANDERSON INC				RECEIVED:		08/25/82 JA: TX			
8250806	F-7C-051373	4239932277		102-4		MIKESKA #1	WINGATE NW (GRAY)	72.0	LONE STAR GAS CO
-JERRY J LOBLEY INC				RECEIVED:		08/25/82 JA: TX			
8250865	F-10-054256	4248300000		108		PRICE (01363) #2	PANHANDLE (OSBORNE AR	0.5	RAEL GAS CO
8250866	F-10-054257	4248300000		108		PRICE (01363) #4	PANHANDLE (OSBORNE AR	0.5	RAEL GAS CO
8250867	F-10-054258	4248300000		108		PRICE (01363) #5	PANHANDLE (OSBORNE AR	0.5	RAEL GAS CO
8250868	F-10-054260	4248300000		108		PRICE (01363) #7	PANHANDLE (OSBORNE AR	0.5	RAEL GAS CO
-KAISER OIL (US) LTD				RECEIVED:		08/25/82 JA: TX			
8250802	F-05-051191	4234932288		103	107-TF	HENDERSON #1	ROUND PRAIRIE	300.0	DELHI GAS PIPELIN
-KERR-MCGEE CORPORATION				RECEIVED:		08/25/82 JA: TX			
8250788	F-08-049485	4213532901		103		FOSTER "C" #3B	FOSTER	2.3	ODESSA NATURAL CO
8250820	F-10-052381	4221131436		103		SAVAGE #7	HEMPHILL (GRANITE WAS	13.1	PIONEER NATURAL G
-L R SPRADLING				RECEIVED:		08/25/82 JA: TX			
8250749	F-10-037865	4234100000		103		GULEKE #1A	PANHANDLE WEST FIELD	150.0	PHILLIPS PETROLEU
-LAYTON ENTERPRISES INC				RECEIVED:		08/25/82 JA: TX			
8250978	F-8A-055401	4207931527		103		REED WRIGHT #A-14	LEVELLAND	8.5	CITIES SERVICE CO
-MALOUF ABRAHAM CO INC.				RECEIVED:		08/25/82 JA: TX			
8250836	F-10-053451	4221131503		103		DIXIE #1	CANADIAN SW (MORROW U	0.0	
-MARATHON OIL COMPANY				RECEIVED:		08/25/82 JA: TX			
8251028	F-8A-055543	4226330868		103		I D ROGERS #2	BOOMERANG SOUTH	12.0	SUN OIL CO
-MCFARLANE OIL CO INC				RECEIVED:		08/25/82 JA: TX			
8250816	F-02-052002	4246931828		103		PICKERING & ROOS #42	PLACEDO	0.0	TENNECO CHEMICALS
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:		08/25/82 JA: TX			
8250968	F-7B-055377	4236730431		108		CYRIER #1 069176	BETHESDA (BIG SALINE)	13.0	TEXAS UTILITIES F
8250967	F-7B-055376	4236730176		108		MURRAY #1 064538	MEEKER (CONGL 4800)	20.0	TEXAS UTILITIES F
8250969	F-7B-055378	4236730418		108		SWANSON-WALDRUM #1 069108	BETHESDA (CADDO)	19.0	TEXAS UTILITIES F
8250966	F-7B-055375	4236730417		108		SWANSON-WALDRUM #2 069109	BETHESDA (BIG SALINE)	21.0	TEXAS UTILITIES F

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MEG PETROLEUM CORP				RECEIVED:		08/25/82 JA: TX			
*8250986	F-08-055432	4217331228		103		HALFMANN #1	SPRAYBERRY (TREND ARE	58.4	PHILLIPS PETROLEU
8250987	F-78-055433	4235331152		103		MCLAUGHLIN #3	JMM (CANYON)	90.0	SUN GAS CO
8250855	F-7B-054106	4235331151		103		MCLAUGHLIN #4	JMM SOUTH (COOK)	237.3	SUN GAS CO
-MEWBOURNE OIL COMPANY				RECEIVED:		08/25/82 JA: TX			
8250830	F-10-053114	4229531155		103		BURCHFIELD NO 2 RRC ID # N/A	MAMMOTH CREEK NORTH (	665.0	INTERNORTH INC
-MITCHELL ENERGY CORPORATION				RECEIVED:		08/25/82 JA: TX			
8250754	F-09-039536	4249700000		108-PB		BILBERRY-MCCLURE #1 28568	BOONSVILLE (BEND CONG	11.9	NATURAL GAS PIPEL
8250743	F-09-030146	4249700000		108-PB		C A LAWRENCE #1 28719	BOONSVILLE (BEND CONG	8.8	NATURAL GAS PIPEL
8250825	F-01-052653	4249732163		103		J E CALDWELL #3	BOONSVILLE (BEND CONG	128.0	NATURAL GAS PIPEL
8250744	F-09-032989	4249700000		108-PB		J E PARSONS #1	BOONESVILLE	0.0	NATURAL GAS PIPEL
8250764	F-09-042359	4249700000		108-PB		J S ADAMS #1 28552	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8250745	F-09-034230	4249700000		108-PB		M L WAGGONER #5	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8250763	F-09-042230	4249700000		108-PB		W M SIMPSON #1	BOONESVILLE	0.0	NATURAL GAS PIPEL
*8250742	F-09-016055	4249731181		108-PB		WAYNE COX #1	BOONESVILLE	0.0	NATURAL GAS PIPEL
8250746	F-09-036045	4249700000		108-PB		WIRT DAVIS #1 34723	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		08/25/82 JA: TX			
8251033	F-8A-055571	4207931566		103		NORTH CENTRAL LEVELLAND UNIT #359	LEVELLAND	10.6	AMOCO PRODUCTION
8251032	F-8A-055570	4221933522		103		NORTH CENTRAL LEVELLAND UNIT #368	LEVELLAND	1.8	AMOCO PRODUCTION
-MOLE OPERATING COMPANY INC				RECEIVED:		08/25/82 JA: TX			
8250900	F-8A-055144	4211531675		102-4		BAPTIST FOUNDATION OF TEXAS #2	CHRISTINE (SPRABERRY)	0.0	GETTY OIL CO
-MONSANTO COMPANY				RECEIVED:		08/25/82 JA: TX			
8250964	F-08-035366	4200333211		103		UNIVERSITY "A" 14-19 #2	SHAFTER LAKE (SAN AND	6.0	
-MORAN EXPLORATION INC				RECEIVED:		08/25/82 JA: TX			
8250909	F-7C-055230	4238300000		108		GREER ESTATE #1	SPRABERRY (TREND AREA	20.0	EL PASO NATURAL G
8250765	F-08-044345	4217331204		103		HALFMANN "A" #1	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
-MOSBACHER PRODUCTION CO				RECEIVED:		08/25/82 JA: TX			
8250886	F-02-054814	4228531618		102-4		CARTER ESTATES #1-U	SWEET HOME (YEGUA 386	161.0	VALERO TRANSMISSI
8250887	F-03-054817	4205131676		102-2		OSCAR PITTMAN UNIT #1	GIDDINGS (AUSTIN CHAL	22.0	FERGUSON CROSSING
-NATIONAL OIL COMPANY				RECEIVED:		08/25/82 JA: TX			
8250782	F-04-048887	4221531203		102-4		J R FREELAND #1	SHEPARD S (FRIO)	640.0	VALERO INTERSTATE
8250784	F-04-048949	4221531203		103		J R FREELAND #1	SHEPARD S (FIRO)	640.0	VALERO INTERSTATE
-NORMAN PAUTSKY				RECEIVED:		08/25/82 JA: TX			
8250771	F-7B-046660	4208300000		108		GREER 91755	COLEMAN COUNTY REGULA	5.5	EL PASO HYDROCARB
-OLSEN ENERGY INC				RECEIVED:		08/25/82 JA: TX			
8250889	F-08-054871	4237133679		103		WILLIAMS #1	ABELL (CLEAR FORK)	75.6	INTER NORTH INC
-OWL PETROLEUM CO				RECEIVED:		08/25/82 JA: TX			
8250783	F-03-048917	4208931006		102-4		B E DAVIS "B" #4	COLOVACA (FRIO 4100)	64.0	LONE STAR GAS CO
-PANHANDLE PRODUCING COMPANY				RECEIVED:		08/25/82 JA: TX			
8250786	F-10-049322	4206500000		103		VIDA LEWIS "B" - 9	PANHANDLE CARSON	0.0	GETTY OIL CO
-PAUL DE CLEVA				RECEIVED:		08/25/82 JA: TX			
8250800	F-09-050909	4207732459		103		SPARKMAN #1	DILLARD S W ELLENBURG	11.0	LONE STAR GAS CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:		08/25/82 JA: TX			
8250853	F-02-053987	4202500000		103		B U E INGRAM #1	BURNELL (SLICK)	292.0	UNITED GAS PIPE L
-PERRYMAN OIL & GAS INC				RECEIVED:		08/25/82 JA: TX			
8250965	F-04-055374	4213135143		102-4	103	THELMA D PARR #1	COLE (4050)	365.0	VALLEY GAS TRANSM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		08/25/82 JA: TX			
8250845	F-10-053702	4219500000		108		ALEXANDER B #1	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
8250843	F-10-053572	4217900000		108		ANNIE #5	PANHANDLE GRAY	0.0	
8250842	F-10-053569	4223300000		108		KILLOUGH B #2	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8250982	F-7C-055414	4246103645		108		N PEMBROOK SPRABERRY UNIT #3-04	SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
-PIKE OIL INC				RECEIVED:		08/25/82 JA: TX			
8251006	F-7B-055496	4214330695		103		KEITH #1 (095182)	MORGAN MILL (MARBLE F	256.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251008	F-7B-055498	4214330699		103		PEARCY-MOLDER UNIT #2 (095180)	MORGAN MILL (MARBLE F	106.0	SOUTHWESTERN GAS
8251007	F-7B-055497	4214330700		103		ROGERS #1 (095233)	MORGAN MILL (MARBLE F	114.0	SOUTHWESTERN GAS
-QUINTANA PETROLEUM CORP				RECEIVED:	08/25/82	JA: TX			
8250888	F-04-054864	4240900000		102-4		THOMAS DIX #1	THOMAS DIX (5480* SAN	60.0	VALERO INTERSTATE
-RALPH L WAY INC				RECEIVED:	08/25/82	JA: TX			
8250815	F-7C-051918	4238331889		103		UNIVERSITY "8" #10	FARMER (SAN ANDRES)	3.5	NORTHERN NATURAL
-RAVEN ENERGY INC				RECEIVED:	08/25/82	JA: TX			
8251023	F-10-055532	4217931114		103		SNAPP #1 05067	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
8251024	F-10-055533	4217931103		103		SNAPP #4	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
-RISA ENERGY CORP				RECEIVED:	08/25/82	JA: TX			
8250826	F-02-052846	4217531538		102-4		BAECKER #1	ANDER (1400* SAND)	86.0	VALERO TRANSMISSI
-ROBINSON BROS DRILLING CO INC				RECEIVED:	08/25/82	JA: TX			
8250883	F-06-054785	4240131248		103	107-TF	F G CHERRY GAS UNIT #1 RRC 096102	DIRGIN (COTTON VALLEY	228.0	EASTEX GAS TRANSM
-RUTHERFORD OIL CORP				RECEIVED:	08/25/82	JA: TX			
8250872	F-03-054546	4270430197		102-4		STATE TRACT 340-L SW/4 #2-L	MIDDLE BANK REEF (MIO	450.0	DOW CHEMICAL CO
8250873	F-03-054547	4270430193		102-4		STATE TRACT 366-L NW/4 #6	MIDDLE BANK REEF (MIO	700.0	DOW CHEMICAL CO
-SAGE ENERGY CO				RECEIVED:	08/25/82	JA: TX			
8250910	F-7C-055242	4210500000		103		UNIVERSITY "47-3" #2 RRC# 09605	FARMER (SAN ANDRES)	0.0	INTERNORTH INC
8250911	F-7C-055246	4238300000		103		UNIVERSITY 4 #5 RRC# 07706	FARMER (SAN ANDRES)	3.6	INTERNORTH INC
-SAMEDAN OIL CORPORATION				RECEIVED:	08/25/82	JA: TX			
8250876	F-8A-054629	4216532420		103		SOUTH CENTRAL ROBERTSON UNIT #61	ROBERTSON NORTH/CLEAR	0.0	PHILLIPS PETROLEU
-SAN ANTONIO RESOURCES CO				RECEIVED:	08/25/82	JA: TX			
8250937	F-01-055305	4232532139		103		R L BOENIG #8	FAIRFIELD	50.0	VALERO TRANSMISSI
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	08/25/82	JA: TX			
8250839	F-03-053499	4228731222		103		BROWN UNIT #1	GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
8250870	F-03-054306	4228731238		103		ERWIN #3	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8250869	F-03-054305	4228731224		103		LILLIE #1	GIDDINGS (BUDA)	109.5	PERRY PIPELINE CO
-SEAGULL RESOURCES INC				RECEIVED:	08/25/82	JA: TX			
8250781	F-03-048740	4215731270		102-4		G C BENTON ESTATE #1	ROSENBERG (FRIO 5340)	0.0	CHANNEL INDUSTRIE
-SEATEX ENERGY CORP				RECEIVED:	08/25/82	JA: TX			
8250772	F-7B-046668	4236332802		103		D L HART #7	GRAFORD E (STRAWN)	0.0	SOUTHWESTERN GAS
-SOHIO PETROLEUM CO				RECEIVED:	08/25/82	JA: TX			
8250981	F-7C-055413	4217331279		103		J C BRYANS "B" #8	CALVIN (DEAN)	32.9	EL PASO NATURAL G
-SOUTHERN CRUDE OIL RESOURCES INC				RECEIVED:	08/25/82	JA: TX			
8250862	F-7B-054207	4236732277		102-4		BOYD #1	TOMERLIN NW (CONGL 43	0.0	SOUTHWESTERN GAS
-SUE-ANN OPERATING COMPANY				RECEIVED:	08/25/82	JA: TX			
8250953	F-03-055331	4216730632		108		KAHLA UNIT #1	CAPLEN (FB-3 2-C)	18.0	WINNIE PIPELINE C
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/25/82	JA: TX			
8251039	F-01-055601	4212732351		103		BIG WELLS (SAN MIGUEL) UNIT #1305	BIG WELLS (SAN MIGUEL	0.3	HOUSTON PIPELINE
8251038	F-01-055600	4212732325		103		BIG WELLS (SAN MIGUEL) UNIT #1415	BIG WELLS (SAN MIGUEL	13.0	HOUSTON PIPELINE
8250859	F-04-054151	4242731622		102-4		C V DELOPEZ "A" #4	LA REFORMA	235.0	
8251034	F-8A-055576	4221900000		108		CENTRAL LEVELLAND UNIT #221	LEVELLAND	0.5	AMOCO PRODUCTION
8251037	F-08-055598	4213533151		103		EAST GOLDSMITH SAN ANDRES #24-13U	GOLDSMITH EAST (SAN A	10.0	PHILLIPS PETROLEU
8251036	F-08-055578	4213500000		108		NORTH LAWSON UNIT #13-1	LAWSON (SAN ANDRES)	1.0	PHILLIPS PETROLEU
8251035	F-08-055577	4213500000		108		NORTH LAWSON UNIT #15-3A	LAWSON (SAN ANDRES)	0.7	PHILLIPS PETROLEU
8250875	F-08-054613	4213533190		103		PAUL MOSS #186	COWDEN SOUTH (DEVONIA	69.0	ODESSA NATURAL GA
-SUPERIOR OIL CO				RECEIVED:	08/25/82	JA: TX			
8250785	F-03-049028	4216730868		103		MACO STEWART OIL UNIT #1 #2UAB	LEAGUE CITY (11,800)	0.0	
8250847	F-7C-053831	4210533751		103	107-TF	UNIVERSITY 14-31 #1	OZONA (CANYON SAND)	0.0	
8250848	F-7C-053832	4210533750		103		UNIVERSITY 15-31 #1	UNIVERSITY 31	0.0	
8250850	F-7C-053835	4210533723		103		UNIVERSITY 22-31 WELL #1	UNIVERSITY 31	0.0	
8250849	F-7C-053833	4210533714		103		UNIVERSITY 23-31 "A" #1	UNIVERSITY 31	0.0	
-TENNECO OIL COMPANY				RECEIVED:	08/25/82	JA: TX			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251041	F-08-055597	4231732392		103		NAIL A-6 #2	SPRABERRY (TREND AREA	0.0	
-TEXACO INC				RECEIVED:		08/25/82 JA: TX			
8250838	F-08-053467	4210931578		102-4		CULBERSON "AC" FEE #2	GERALDINE	11.1	EL PASO NATURAL G
8250988	F-08-055442	4210931628		102-4		CULBERSON "X" FEE #6	GERALDINE	42.0	EL PASO NATURAL G
8250998	F-10-055456	4217900000		108		G H SAUNDERS NCT-3 #25	PANHANDLE GRAY CO	0.3	COLTEXO CORP
8250992	F-10-055449	4217900000		108		G H SAUNDERS NCT-3 #26	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8250995	F-10-055453	4217900000		108		G H SAUNDERS NCT-3 #27	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8250991	F-10-055448	4217900000		108		G H SAUNDERS NCT-3 #29	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8250997	F-10-055455	4217900000		108		G H SAUNDERS NCT-3 #30	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8250996	F-10-055454	4217900000		108		G H SAUNDERS NCT-3 #35	PANHANDLE GRAY COUNTY	0.8	COLTEXO CORP
8250993	F-10-055451	4217900000		108		G H SAUNDERS NCT-3 #39	PANHANDLE GRAY COUNTY	0.5	COLTEXO CORP
8250994	F-10-055452	4217900000		108		G H SAUNDERS NCT-3 #5	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8250776	F-08-047805	4243131055		103		STERLING "T" FEE #2	CONGER SW (PENN)	195.6	
8250854	F-8A-054083	4221933477		103		W T COBLE "A" NCT-1 #36	LEVELLAND	19.4	AMOCO PRODUCTION
-TEXAS OIL & GAS CORP				RECEIVED:		08/25/82 JA: TX			
8250852	F-05-053965	4216130648		103	107-TF	BLOUNT "A" #1	REED N (BOSSIER SD)	0.0	DELHI GAS PIPELIN
-THE ANSCHUTZ CORPORATION				RECEIVED:		08/25/82 JA: TX			
8250882	F-08-054778	4249500000		102-4		WIGHT 4-1	"GPM (8200)"	180.0	TRANSWESTERN PIPE
-THROCKMORTON GAS SYSTEMS				RECEIVED:		08/25/82 JA: TX			
8250752	F-7B-038905	4244700000		102-4		E E SMITH #2	BRYLE SOUTH (BEND CON	0.0	WARREN PETROLEUM
8250884	F-7B-054790	4247733003		102-2		SULLIVAN #10	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8250880	F-7B-054755	4244733006		102-2		SULLIVAN #13	THROCKMORTON GAS SYST	0.0	WARREN PETROLEUM
8250881	F-7B-054756	4244733001		102-2		SULLIVAN #14	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8250748	F-7B-037144	4244731451		102-4		W L RICHARDS #7-B 74249	RICHARDS RANCH /1830/	0.0	WARREN PETROLEUM
-TOM F MARSH INC				RECEIVED:		08/25/82 JA: TX			
8250824	F-01-052553	4213730812		102-4	107-TF	TOM W EPPERSON #1	EPPERSON (CANYON SAND	36.0	
-UNION EXPLORATION				RECEIVED:		08/25/82 JA: TX			
8250938	F-7B-055306	4205933103		103		GREEN #S-3 (18612)	CALLAHAN COUNTY REGUL	11.0	LONE STAR GAS CO
-UNION OIL COMPANY OF CALIF				RECEIVED:		08/25/82 JA: TX			
8250790	F-03-049728	4214931224		102-2		M F SHULTZ #1	GIDDING	0.0	
8250957	F-8A-055346	4230330807		103		MCCAULEY #2	EDMISSON (CLEARFORK)	6.0	
8250931	F-8A-055290	4230330808		103		MCCAULEY #3	EDMISSON (CLEARFORK)	15.0	
-UNION TEXAS PETROLEUM				RECEIVED:		08/25/82 JA: TX			
8250774	F-08-047607	4238931196		102-4		CHAPARRAL "A" #2	ROJO CABALLOS NW (DEL	3653.7	VALERO TRANSMISSI
-UNITED CO				RECEIVED:		08/25/82 JA: TX			
8251031	F-8A-055558	4207930298		108		MARTY WRIGHT #13 061131	LEVELLAND (SAN ANDRES	20.9	EL PASO NATURAL G
8251022	F-8A-055531	4207900000		108		MARTY WRIGHT #2 020510	LEVELLAND (SAN ANDRES	5.4	EL PASO NATURAL G
8251020	F-8A-055529	4207900000		108		MARTY WRIGHT #4 055557	LEVELLAND (SAN ANDRES	6.9	EL PASO NATURAL G
8251021	F-8A-055530	4207930223		108		SEABOARD WRIGHT #5 058080	LEVELLAND (SAN ANDRES	6.5	EL PASO NATURAL G
-WAGNER & BROWN				RECEIVED:		08/25/82 JA: TX			
*8250983	F-08-055415	4243131137		103		MAHAFFEY "B" #2-10	CONGER (PENN)	89.8	TEXAS UTILITIES C
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		08/25/82 JA: TX			
8251043	F-08-055901	4210332799		103		STATE "EG" #29	DUNE	1.6	EL PASO NATURAL G
8251042	F-08-055900	4210332819		103		STATE EG #26	DUNE	13.7	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:		08/25/82 JA: TX			
8251014	F-09-055519	4209731529		103		JOE DILLARD #1	SIVELLS BEND	21.0	
8251013	F-09-055518	4209731713		103		JOE DILLARD #3	SIVELLS BEND	34.0	
8251012	F-09-055516	4209731830		103		JOE DILLARD #7	SIVELLS BEND	40.0	
8251011	F-09-055515	4209731581		103		R YATES #1	SIVELLS BEND	21.0	
8251010	F-09-055514	4209731815		103		R YATES #3	SIVELLS BEND	25.0	
8251017	F-09-055523	4209731712		103		WILLIAM HOWELL "B" #2	SIVELLS BEND	3.5	
8251015	F-09-055520	4209731895		103		WILLIAM HOWELL "B" #5	SIVELLS BEND	21.0	
8251018	F-09-055525	4209731668		103		WM HOWELL "B" #1	SIVELLS BEND	21.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251016	F-09-055522	4209731861		103		WM HOWELL "B" #3	SIVELLS BEND	29.0	
-WCS PETROLEUM INC				RECEIVED:		08/25/82 JA: TX			
8250793	F-03-049880	4205132111		102-2		CLARA HILLS UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-WHITLEY & YOCHAM OIL CO				RECEIVED:		08/25/82 JA: TX			
8251030	F-8A-055554	4238331943		103		SCOTT B-3	JOHN SCOTT (GRAYBURG)	2.2	NEW ENERGY CO
-WOOD MCSHANE & THAMS				RECEIVED:		08/25/82 JA: TX			
8250841	F-08-053543	4200333173		103		LITTMAN "A" #102 RRC #26861	LITTMAN (SAN ANDRES)	73.0	GETTY OIL CO
-WOODS PETROLEUM CORPORATION				RECEIVED:		08/25/82 JA: TX			
8250814	F-8A-051861	4207931504		102-4	103	RJR RANCH #803	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
-3-T EXPLORATION INC				RECEIVED:		08/25/82 JA: TX			
8250901	F-09-055176	4207700000		102-4		PENNARTZ #1	TALLY CONGLOMERATE	90.0	CITIES SERVICE CO

OTHER PURCHASERS VOLUME NO :732

8250742	PANHANDLE EASTERN P L CO
8250829	E I DUPONT DE*NEMOURS & CO INC
8250851	AMOCO PRODUCTION CO
8250856	E I DUPONT DE*NEMOURS & CO INC
8250892	E I DUPONT DE NEMOURS & CO INC
8250893	AMOCO PRODUCTION CO
8250894	AMOCO PRODUCTION CO
8250923	COLTEXO CORP
8250983	VALERO TRANSMISSION
8250986	INTRATEX GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PK: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25547 Filed 9–15–82, 8:45 am]

BILLING CODE 6717–01–M

[Volume 731]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 13, 1982.

JD	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ANTARES OIL CORPORATION				RECEIVED:	08/17/82	JA: KS			
8250490	K-82-0612	1502520438		103		J W WILSON #1	LANSING	180.0	PENDING
-BEREN CORPORATION				RECEIVED:	08/16/82	JA: KS			
8250540	K-81-1074	1509720698		102-4		BYRON #1	WILDCAT	171.0	KANSAS NEBRASKA N
8250539	K-81-1073	1509720790		102-4		MATTHEWS #2	BYRON	433.0	KANSAS NEBRASKA N
-BOW VALLEY PETROLEUM INC				RECEIVED:	08/17/82	JA: KS			
8250489	K-82-0611	1503320542		102-2		HACKNEY 1-17	WILDCAT	220.0	MICHIGAN-WISCONSI
-CENTENNIAL ENERGY CO				RECEIVED:	08/17/82	JA: KS			
8250488	K-82-0610	1518120103		102-2		BRINEY #2-35	GOODLANDS	15.0	KANSAS NEBRASKA N
8250487	K-82-0609	1518120075		102-2		CRESS #1-5	GOODLANDS	15.0	KANSAS NEBRASKA N
-GRAHAM-MICHAELIS CORP				RECEIVED:	08/19/82	JA: KS			
8250551	K-81-0107	1511900000		108-SA		ADAMS "D" #2		0.0	COLORADO INTERSTA
-INCA OIL CO				RECEIVED:	08/16/82	JA: KS			
8250471	K-82-0626	1517520493		102-4		BLACK A#1	ARKALON	367.2	PANHANDLE EASTERN
8250538	K-82-0625	1517520576		102-4		HAYS #1	WILDCAT	836.2	PANHANDLE EASTERN
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	08/20/82	JA: KS			
8250596	K-81-0829	1508100000		108-SA		CURREY UNIT #1	HUGOTON	7.0	NORTHERN NATURAL
-MAURICE L BROWN CO				RECEIVED:	08/13/82	JA: KS			
8250553	K-81-0876	1517120172		108-ER		RHODA CRIST A #1	HUGOTON	0.0	KANSAS-NEBRASKA N
-ROBINSON OIL CO				RECEIVED:	08/17/82	JA: KS			
8250491	K-82-0613	1500720686		103		MOLZ B #3	STRANATHAN EXTENTION	10.7	PANHANDLE EASTERN
-VILAS OIL & GAS PRODUCTION GROUP				RECEIVED:	08/20/82	JA: KS			
8250585	K-82-0314	1520502060		108		BLACK #1	VILAS	16.0	CITIES SERVICE GA
8250586	K-82-0315	1520520604		108		BLACK #2	VILAS	16.0	CITIES SERVICE GA
8250575	K-82-0316	1520520605		108		BLACK #3	VILAS	16.0	CITIES SERVICE GA
8250577	K-82-0317	1520520615		108		BLACK #4	VILAS	16.0	CITIES SERVICE GA
8250576	K-82-0318	1520520616		108		BLACK #5	VILAS	16.0	CITIES SERVICE GA
8250573	K-82-0310	1520521105		108		CAMPBELL #2	VILAS	8.4	CITIES SERVICE GA
8250582	K-82-0311	1520521635		108		CAMPBELL #3	VILAS	8.4	CITIES SERVICE GA
8250583	K-82-0312	1520521687		108		CAMPBELL #4	VILAS	0.0	CITIES SERVICE GA
8250584	K-82-0313	1520522022		108		CAMPBELL #5	VILAS	0.0	CITIES SERVICE GA
8250574	K-82-0309	1520520371		108		CAMPBELL 1-28	VILAS	8.4	CITIES SERVICE GA
8250581	K-82-0290	1520521461		108		MYERS #1	VILAS	14.0	CITIES SERVICE GA
8250578	K-82-0299	1520522023		108		MYERS #10	VILAS	14.0	CITIES SERVICE GA
8250579	K-82-0300	1520522041		108		MYERS #11	VILAS	14.0	CITIES SERVICE GA
8250580	K-82-0301	1520522779		108		MYERS #12	VILAS	14.0	CITIES SERVICE GA
8250595	K-82-0291	1520521462		108		MYERS #2	VILAS	14.0	CITIES SERVICE GA
8250592	K-82-0292	1520522114		108		MYERS #3	VILAS	14.0	CITIES SERVICE GA
8250593	K-82-0293	1520521774		108		MYERS #4	VILAS	14.0	CITIES SERVICE GA
8250594	K-82-0294	1520521775		108		MYERS #5	VILAS	14.0	CITIES SERVICE GA
8250591	K-82-0295	1520521688		108		MYERS #6	VILAS	14.0	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250590	K-82-0296	1520521776		108		MYERS #7	VILAS	14.0	CITIES SERVICE GA
8250589	K-82-0297	1520521777		108		MYERS #8	VILAS	14.0	CITIES SERVICE GA
8250588	K-82-0298	1520521778		108		MYERS #9	VILAS	14.0	CITIES SERVICE GA
8250572	K-82-0302	1520521771		108		SHEPHERD #1	VILAS	7.0	CITIES SERVICE GA
8250571	K-82-0303	1520521771		108		SHEPHERD #2	VILAS	7.0	CITIES SERVICE GA
8250568	K-82-0304	1520521772		108		SHEPHERD #3	VILAS	7.0	CITIES SERVICE GA
8250567	K-82-0305	1520521773		108		SHEPHERD #4	VILAS	7.0	CITIES SERVICE GA
8250570	K-82-0306	1520522024		108		SHEPHERD #5	VILAS	7.0	CITIES SERVICE GA
8250587	K-82-0307	1520522025		108		SHEPHERD #6	VILAS	7.0	CITIES SERVICE GA
8250569	K-82-0308	1520522026		108		SHEPHERD #7	VILAS	7.0	CITIES SERVICE GA
LOUISIANA OFFICE OF CONSERVATION									
-ARCO OIL AND GAS COMPANY				RECEIVED:		08/23/82 JA: LA			
8250550	82-2093	1710121155		102-4		VUB ST MARY "STATE" B #6	BAYOU SALE	930.0	MICHIGAN WISCONSI
-DARSEY OPERATING CORP				RECEIVED:		08/23/82 JA: LA			
8250547	82-1362	1704520679		102-4		MRS R O LASSALLE #1 9800 VUA	JEFFERSON ISLAND	292.0	TEXAS GAS TRANSMI
-HAMILTON BROTHERS OIL CO				RECEIVED:		08/23/82 JA: LA			
8250548	82-2097	1700121029		102-4		V P BREAUX #1	GUEYDAN	876.0	LOUISIANA INTRAST
-PRIMOS PRODUCTION CO				RECEIVED:		08/23/82 JA: LA			
8250554	82-0751	1711122977		103		PETRO-LEWIS FROST LUMBER #45	MONROE	10.3	PETRO-LEWIS FUNDS
-QUINTANA PETROLEUM CORP				RECEIVED:		08/23/82 JA: LA			
8250549	82-1596	1709520085		102-4		SL 8514 #1	WEST LAKE PONTCHARTRA	750.0	LOUISIANA INTRAST
8250545	82-1594	1709520082		102-4		SL 8515 #1	WEST LAKE PONTCHARTRA	750.0	LOUISIANA INTRAST
-SAWYER ENERGY INC				RECEIVED:		08/20/82 JA: LA			
8250542	82-541	1703121715		102-4		BRUMMETT #2	HOLLY	185.0	LOUISIANA INTRAST
-SHELL OIL CO				RECEIVED:		08/23/82 JA: LA			
8250555	81-2577	1709920804		103		WLV J L & S CO #90 SERIAL NO 165859	WEST LAKE VERRET	0.0	UNITED GAS PIPE L
-SUN OIL COMPANY (DELAWARE)				RECEIVED:		08/24/82 JA: LA			
8250552	81-2616	1710121077		102-4		BI N VU A #8-6	BELLE ISLE	365.0	UNITED GAS PIPE L
-WOOLF & MAGEE INC				RECEIVED:		08/23/82 JA: LA			
8250546	82-2266	1701120479		102-4		MUSSER-DAVIS C #2	ORETTA FIELD	18.0	UNITED GAS PIPELI
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:		08/16/82 JA: MT			
8250492	8-81-172	2508321467		103		STEINBEISSER #3	RIDGELAWN	22.0	MONTANA DAKOTA UT
-CONSOLIDATED OIL & GAS INC				RECEIVED:		08/16/82 JA: MT			
8250541	9-81-175	2508321434		103		SWANBY HEIRS #1	FORT GILBERT	0.0	
-D A S RESOURCE VENTURES INC				RECEIVED:		08/16/82 JA: MT			
8250495	9-81-182	2507321389		102-2		6-34 BISHOP C SE NW 34 27N 2E	WILDCAT	18.0	MONTANA POWER CO
-DOME PETROLEUM CORP				RECEIVED:		08/16/82 JA: MT			
8250494	8-81-167	2508521262		102-2		DETIENNE #1-19	RED BANK	12.4	MONTANA DAKOTA UT
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:		08/19/82 JA: MT			
8250544	9-81-179	2500522185		102-2		P-2G-24-19-N	LEROY	80.0	MONTANA POWER CO
8250543	9-81-180	2500521952		102-2		10-24-18B	LEROY	33.0	MONTANA POWER CO
-MIDLANDS GAS CORPORATION				RECEIVED:		08/16/82 JA: MT			
8250493	8-81-168	2507121490		108		REX BURWELL 1370 1-13	WILDCAT	19.0	KANSAS-NEBRASKA N
NORTH DAKOTA INDUSTRIAL COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:		08/16/82 JA: ND			
8250473	543	3300700000		102-2		KESSEL DEEP 41-6	BULLSNAKE BUTTE DEVON	201.0	NORTHERN GAS PROD

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	FROL	PURCHASER
8250474	542	3300700792		102-2		KORDONOWY TWIN 34-31	BULLSNAKE	180.0	NORTHERN GAS PROD
8250478	537	3300700007		102-2		STATE KORDONOWY #34-31	WILDCAT	73.0	NORTHERN GAS PROD
-AMOCO PRODUCTION CO				RECEIVED:	08/16/82	JA: ND			
8250476	539	3305301363		102-2		GRIFFITH AMOCO UNIT "A" #1	ELK	40.0	
8250477	538	3302500207		102-2		SEIDL "B" #1	LITTLE KNIFE	27.0	KOCH HYDROCARBON
-DOME PETROLEUM CORP				RECEIVED:	08/16/82	JA: ND			
8250472	541	3305301435		102-2		DOME SIGNALNESS #1-10	BLUE BUTTES	240.9	AMINOIL USA INC
-EXETER EXPLORATION COMPANY				RECEIVED:	08/16/82	JA: ND			
8250481	546	3305301471		102-2		STATE OF NO DAKOTA 16-36	POE	1000.0	
-JERRY CHAMBERS EXPLORATION CO				RECEIVED:	08/16/82	JA: ND			
8250482	547	3300700687		102-2		BLACKTAIL #1-27	ELKHORN RANCH	1.0	NORTHERN GAS PROD
8250483	548	3300700596		102-2		BN# 1-25-143-101	ELKHORN RANCH	1.0	NORTHERN GAS PROD
-LADD PETROLEUM CORPORATION				RECEIVED:	08/16/82	JA: ND			
8250485	550	3302500316		102-2		DUNCAN PATTEN #5-13	LITTLE KNIFE	228.6	
8250486	551	3305301410		102-2		LADD-HART PAULSON #24-43	WILDCAT	574.3	
-SUPERIOR OIL CO				RECEIVED:	08/16/82	JA: ND			
8250479	544	3305301348		102-2		W A LINK #1	ELK	0.0	
-TENNECO OIL COMPANY				RECEIVED:	08/16/82	JA: ND			
8250484	549	3310500774		102-2		JENSEN #1-5	MISSOURI RIDGE	8.8	MONTANA-DAKOTA UT
8250475	540	3302300194		102-2		WEHRMAN #1-19	UNNAMED (WILDCAT)	33.5	
-WILLIAM HERBERT HUNT TRUST ESTATE				RECEIVED:	08/16/82	JA: ND			
8250480	545	3305301437		102-2		HOLLER #1	WILDCAT	358.0	KOCH HYDROCARBON
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALAN J ANTWEIL				RECEIVED:	08/23/82	JA: NM			
8250563		3002527771		103		HUEY #2 2-F-5-20S-38E	WEST NADINE BLINEBRY	12.6	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	08/23/82	JA: NM			
8250559		3004509476		108		STATE GAS COM "BE" #1	BASIN DAKOTA	21.0	EL PASO NATURAL G
8250561		3004523661		103		STATE GAS COM "BR" #1	BASIN DAKOTA	22.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/23/82	JA: NM			
8250562		3002526873		103		W C ROACH #7	EUMONT (QUEEN)	265.0	NORTHERN NATURAL
-DUGAN PRODUCTION CORP				RECEIVED:	08/23/82	JA: NM			
8250557		3003923001		103		BOOMER #1	BALLARD PICTURED CLIF	18.0	
-FRED POOL JR				RECEIVED:	08/23/82	JA: NM			
8250565		3000560828		102-4		MCKNIGHT #1	UND WILDCAT	0.0	TRANSWESTERN PIPE
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/23/82	JA: NM			
8250566		3001500000		103		STATE "36" #1	WILDCAT	0.0	
-MTS LIMITED PARTNERSHIP				RECEIVED:	08/23/82	JA: NM			
8250558		3004507679		108		STATE COM Q #13	BLANCO MESAVERDE	17.0	EL PASO NATURAL G
-MWJ PRODUCING CO				RECEIVED:	08/23/82	JA: NM			
8250556		3000500000		103		STATE 32 #5	TOM TOM (SAN ANDRES)	50.0	TRANSWESTERN PIPE
-TENNECO OIL COMPANY				RECEIVED:	08/23/82	JA: NM			
8250564		3004524445		103		VALDEZ A-1E	BASIN DAKOTA	300.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	08/23/82	JA: NM			
8250560		3002527811		103		WOODPECKER "SY" STATE #2	SAUNDERS UPPER PERMO-	0.0	WARREN PETROLEUM
OKLAHOMA CORPORATION COMMISSION									
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	08/18/82	JA: OK			
8250496	15521	3502900000		108		WOODS "B" #1	JESSE	19.0	ARKANSAS LOUISIAN
-AMOCO PRODUCTION CO				RECEIVED:	08/18/82	JA: OK			
8250529	17825	3501521136		102-2		WARREN KING UNIT #1	WILDCAT	200.8	SOUTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ANADARKO PRODUCTION COMPANY				RECEIVED:		08/23/82 JA: OK			
8250632	16360	3513920956		108		COWHERD A #1	RICHLAND CENTER NORTH	9.5	PANHANDLE EASTERN
-ANDOVER OIL COMPANY				RECEIVED:		08/18/82 JA: OK			
8250530	17824	3501722105		102-2		ROTHER #10-3		180.0	DELHI GAS PIPELIN
8250520	15754	3501722126		102-2	103	ROTHER #3-3		180.0	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:		08/18/82 JA: OK			
8250517	17789	3504722811		102-4		NAY-QUEST #1	CARRIER	73.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:		08/23/82 JA: OK			
8250614	16592	3504900000		108		HARRY MOORE "A" #4	GOLDEN TREND	18.3	WARREN PETROLEUM
8250613	16591	3515120515		108		MERLIN R CAMP UNIT #2-9	WAYNOKA NORTHEAST	14.6	PANHANDLE EASTERN
8250623	16481	3506120295		108-ER		SNOW UNIT (ARCO) #2 N/C	KINTA	9.1	PUBLIC SERVICE CO
-BARRETT DRILLING CO				RECEIVED:		08/18/82 JA: OK			
8250521	15646	3504700000		103		MORAVEC #2		25.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:		08/23/82 JA: OK			
8250625	16485	3504721835		108		HEIMRICH A TOEWS #2	ENID (MISSISSIPPI)	15.0	CHAMPLIN PETROLEU
8250624	16484	3507320310		108		JACK R STURGEON #1	SOONER TREND	6.0	PHILLIPS PETROLEU
8250608	15382	3507300000		103		RAY F NELSON #2	SOONER TREND	9.0	PHILLIPS PETROLEU
8250626	16487	3504700000		108		STATE SCHOOL #2	ENID	16.0	CHAMPLIN PETROLEU
8250599	15587	3505320766		103		SULA ALLEN #3	EUREKA	182.5	SUN GAS CO
-CONTINENTAL RESOURCES CORP				RECEIVED:		08/18/82 JA: OK			
8250511	15619	3509300000		103		BROWN #20-1	CHEYENNE VALLEY	30.0	PHILLIPS PETROLEU
-CROUCH PETROLEUM COMPANY				RECEIVED:		08/23/82 JA: OK			
8250618	17862	3509120375		102-4		J N WILLIAMS #1	S E CHECOTAH	60.0	COLUMBIA GAS TRAN
8250621	17861	3509120329		102-4		KOCH #1-22	S E CHECOTAH	72.0	COLUMBIA GAS TRAN
-CULP & COPPLE OIL CO				RECEIVED:		08/23/82 JA: OK			
8250607	15351	3508121222		103		LUMM #1	SOUTH STROUD	90.0	KERR MCGEE CORP
-DOME PETROLEUM CORP				RECEIVED:		08/18/82 JA: OK			
8250532	17818	3508321939		102-2		HEAD #6-4	S E CRESENT	19.3	EASON OIL CO
8250531	17819	3508321940		102-2		LEEPER #9-4	SE CRESENT	11.0	EASON OIL CO
-ESTATE OF H L HUNT				RECEIVED:		08/23/82 JA: OK			
8250603	15633	3509322377		103		L E VOTH #1	DANE	270.0	DELHI GAS PIPELIN
-GREAT SOUTHWESTERN EXPLORATION INC				RECEIVED:		08/18/82 JA: OK			
8250497	15401	3511921667		102-4		STATE HAXTON #3	MARKHAM	1.0	PARKS ENERGY INVE
-GULF OIL CORPORATION				RECEIVED:		08/23/82 JA: OK			
8250615	16610	3507300000		108		HILL-UTAH #1	LACY S W	11.0	ARKANSAS-LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:		08/23/82 JA: OK			
8250627	15649	3508720672		103		CLAGG #1-8	N DIBBLE	182.0	SUN GAS CO
8250636	15648	3508720637		103		CLARK #1-8	N DIBBLE	182.0	SUN GAS CO
-HARRY H DIAMOND				RECEIVED:		08/23/82 JA: OK			
8250611		3506316543		108		DOUGLAS #1	GREASY CREEK	7.2	OKLAHOMA GAS & EL
8250610	16542	3506300000		108		TURNER #1	GREASY CREEK	9.8	OKLAHOMA GAS & EL
-JAN OIL CO				RECEIVED:		08/18/82 JA: OK			
8250534	15960	3508100000		108		NEWBERRY #1	SW MT VERNON	3.9	SUN GAS CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:		08/18/82 JA: OK			
8250515	15925	3501700000		108		HATCHER #1	E NILES	16.0	OKLAHOMA GAS & EL
8250514	15924	3504500000		108		JEROME BERRYMAN E #1	SOUTH PEEK	18.0	PANHANDLE EASTERN
8250516	15926	3509300000		108		LLOYD WIGGINS #1	CHANEY DELL	5.0	UNION TEXAS PETRO
-KIRBY EXPLORATION CO				RECEIVED:		08/18/82 JA: OK			
8250528	20297	3503120642		107-QP		STATE 1-16	FLETCHER FIELD SEC 16	345.0	TRANSWESTERN PIPE
-KLINE & PITTENGER EXPLORATION				RECEIVED:		08/23/82 JA: OK			
8250635	15644	3507323071		103		MURCHISON - MCEACHERN #1	SOONER TREND	200.0	PHILLIPS PETROLEU
-LADD PETROLEUM CORPORATION				RECEIVED:		08/18/82 JA: OK			
8250510	15605	3514721260		103		PALLETT #1 (DEWEY SAND)	DEWEY EAST	0.1	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250509	15604	3514721890		103		PALLETT #3 (DEWEY SAND)	DEWEY EAST	0.1	CITIES SERVICE GA
8250508	15603	3514722651		103		PALLETT #4 (DEWEY SAND)	DEWEY EAST	0.1	CITIES SERVICE GA
-MACKELLAR INC				RECEIVED:	08/23/82	JA: OK			
8250634	15642	3510320783		103		PATCH #1	LUCIEN	0.0	ARCO OIL & GAS CO
8250633	15641	3510321519		103		PATCH #2	LUCIEN	0.0	ARCO OIL & GAS CO
-MARLIN OIL CORPORATION				RECEIVED:	08/18/82	JA: OK			
8250527	15593	3500722045		103		CLARENCE #1	MOCANE-LAVERNE	54.0	PANHANDLE EASTERN
-MOBIL OIL CORP				RECEIVED:	08/23/82	JA: OK			
8250616	16624	3500700000		108		DAILY #2	LOGAN	1.4	PHILLIPS PETROLEU
8250617	16503	3501900000		108		WALTER NEUSTADT #11	SHO VEL TUM	0.0	LONE STAR GAS CO
8250609	16504	3501900000		108		WALTER NEUSTADT #12	SHO VEL TUM	1.0	LONE STAR GAS CO
-OKLAHOMA CONVEYANCE CORP				RECEIVED:	08/18/82	JA: OK			
8250499	13393	3507121857		108		KAHLE #2-15	PERMEAN BASIN	3.2	CITIES SERVICE GA
8250500	13392	3507121860		108		KELLE #1-23	PERMEAN BASIN	1.3	CITIES SERVICE GA
-PETRO-LEWIS CORPORATION				RECEIVED:	08/23/82	JA: OK			
8250604	17084	3505100000		108		BURRIS #1	WEST MARLOW	14.4	ARKANSAS LOUISIAN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/18/82	JA: OK			
8250535	15955	3513900000		108		ALBRECHT #1	GUYMON HUGOTON	0.0	PANHANDLE EASTERN
8250512	15767	3501722187		102-2		KUYKENDALL A #1	WEST UNION CITY	0.0	
8250536	15954	3513900000		108		RHO #1	GUYMON HUGOTON	0.0	PANHANDLE EASTERN
8250537	15953	3513900000		108		VALORA #1	GUYMON HUGOTON	0.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/23/82	JA: OK			
8250630	16324	3513900000		108		BERGNER B #1	GUYMON HUGOTON	0.0	MICHIGAN WISCONSI
8250631	16325	3513900000		108		INSURANCE #1	GUYMON HUGOTON	0.0	PANHANDLE EASTERN
-RED EAGLE OIL CO				RECEIVED:	08/23/82	JA: OK			
8250602	15632	3509322409		103		ALFRED #1	FAIRVIEW	182.0	PIONEER GAS PRODU
-RICKS EXPLORATION CO				RECEIVED:	08/23/82	JA: OK			
8250606	15279	3507323162		103		OPPEL 25A	WEST KINGFISHER	121.0	PHILLIPS PETROLEU
-ROLLAND ELLIS				RECEIVED:	08/23/82	JA: OK			
8250612	16558	3511121570		108		ELLIS #3	TIGER FLATS	10.4	PHILLIPS PETROLEU
-ROSEWOOD CORPORATION				RECEIVED:	08/23/82	JA: OK			
8250628	15896	3504520694		108		H C SMITH #1 045-56584	S E ARNETT (MORROW SA	3.0	NORTHERN NATURAL
8250629	15897	3504520716		108		SHERRILL #1 045-56586	S E ARNETT (MORROW SA	3.0	NORTHERN NATURAL
-SABINE OIL INDUSTRIES INC				RECEIVED:	08/23/82	JA: OK			
8250622	16446	3500721026		108		PAASCH #1	MOCANE	3.6	NORTHERN NATURAL
-SAMSON RESOURCES COMPANY				RECEIVED:	08/18/82	JA: OK			
8250513	15847	3507720163		108		HALL UNIT #1	RED OAK	14.7	ARKANSAS LOUISIAN
-SCARAB PETROLEUM CORP				RECEIVED:	08/18/82	JA: OK			
8250503	07508	3507121441		103		SCARAB 78-2 #1	UNDESIGNATED	30.0	CORONADO TRANSMIS
8250501	07516	3507121459		103		SCARAB 79-1 #1	UNDESIGNATED	30.0	CORONADO TRANSMIS
8250502	07509	3507121460		103		SCARAB 79-1 #2	UNDESIGNATED	30.0	CORONADO TRANSMIS
-SENECA OIL COMPANY				RECEIVED:	08/18/82	JA: OK			
8250533	16141	3501722073		102-4		BENNETT #2-20	PIEDMONT	25.9	PHILLIPS PETROLEU
8250518	14516	3501721923		102-4		EVERY #1-31	PIEDMONT	273.8	PHILLIPS PETROLEU
-SENECA OIL COMPANY				RECEIVED:	08/23/82	JA: OK			
8250605	14507	3501721968		102-4		LENA MC #1-32	PIEDMONT	19.4	PHILLIPS PETROLEU
-SHAR-ALAN OIL CO				RECEIVED:	08/18/82	JA: OK			
8250505	15597	3507323233		103		ALLEN KORDIS #1	SOONER TREND	0.0	CITIES SERVICE CO
8250507	15601	3507323267		103		CHARLES GRUNTMEIR #2	SOONER TREND	0.0	PHILLIPS PETROLEU
8250506	15589	3507323373		103		EMMA & B F HAMIL #2	SOONER TREND	0.0	CITIES SERVICE GA
8250504	15596	3507323336		103		SALLYE ELLIS #1	SOONER TREND	0.0	CITIES SERVICE CO
-TENNECO OIL COMPANY				RECEIVED:	08/18/82	JA: OK			
8250519	15841	3512920678		102-2		BLAIR-PAIN #1-8	S E STRONG C	540.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TEXACO INC				RECEIVED:		08/18/82 JA: OK			
8250498	14905	3507100000		108		R I SHEPPARD #2	BLACKWELL WEST	1.8	ARKANSAS LOUISIAN
-TEXACO INC				RECEIVED:		08/23/82 JA: OK			
8250597	15634	3507323428		103		EVELYN LESTER #2	OKARCHE NE	0.0	CONOCO INC
-TRANS-WESTERN EXPLORATION INC				RECEIVED:		08/23/82 JA: OK			
8250620	17251	3504321271		102-4	103	DAVIDSON #1-1	(UNNAMED)	200.0	PHILLIPS PETROLEU
8250619	17250	3500721271		102-4	103	HAZEL EXLINE 1-12	(UNNAMED)	500.0	PHILLIPS PETROLEU
-TRANSIERRA EXPLORATION CORP				RECEIVED:		08/18/82 JA: OK			
8250526	15602	3510321472		103		VERL HENTGES #3	TRANSIERRA-CINNAMON	25.0	AMINOIL USA INC
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:		08/23/82 JA: OK			
8250598	15579	3501721479		103		WILLIAM 1-10		0.0	MUSTANG FUEL CORP
-WHITMAR EXPLORATION CO				RECEIVED:		08/18/82 JA: OK			
8250524	15610	3504921579		103		MATTINGLY #2-12	ANTIOCH	0.0	BUCKEYE NATURAL G
8250523	15613	3504921594		103		MATTINGLY #3-12	ANTIOCH	0.0	BUCKEYE NATURAL G
8250525	15606	3504921463		103		MURRAY #1-14	ANTIOCH	0.0	BUCKEYE NATURAL G
8250522	15614	3504921563		103		WILLIE B SMITH #2-13	E ANTIOCH	100.0	BUCKEYE GAS PRODU
-WHITMAR EXPLORATION CO				RECEIVED:		08/23/82 JA: OK			
8250601	15609	3504921412		103		MURRAY #1-13	ANTIOCH	0.0	WARREN PETROLEUM
8250600	15608	3504921619		103		MURRAY #2-13	E ANTIOCH	0.0	BUCKEYE NATURAL G
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-CHEVRON U S A INC				RECEIVED:		08/23/82 JA: CO 1			
8250737	CD-0327-82	0510308320		103		A C MCLAUGHLIN A-72X	RANGELY	17.5	NORTHWEST PIPELIN
8250739	CD-0326-82	0510308317		103		GRAY HENRY W A-22X	RANGELY	6.6	NORTHWEST PIPELIN
8250738	CD-0325-82	0510308819		103		WEYRAUCH 5X36	RANGELY	37.2	NORTHWEST PIPELIN
-COORS ENERGY CO				RECEIVED:		08/23/82 JA: CO 1			
8250714	CD-0271-82	0507708435		103	107-TF	USA 1-16 SC	WILDCAT	588.2	
8250717	CD 0268-82	0504506362		103	107-TF	USA 1-31LW	LOGAN WASH FEDERAL UN	93.4	NORTHERN NATURAL
8250716	CD 0269-82	0504506326		103	107-TF	USA 1-5 LW	LOGAN WASH FEDERAL UN	77.0	NORTHERN NATURAL
8250715	CD-0270-82	0504506170		103	107-TF	USA 1-6 LW	LOGAN WASH FEDERAL UN	123.0	NORTHERN NATURAL
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:		08/23/82 JA: CO 1			
8250728	CD 0307-82	0504506379		103		F-33-6-103-S	CARBONERA	59.0	WESTERN SLOPE GAS
8250727	CD 0308-82	0504506348		103		FEDERAL 36-10	SOUTH CANYON	92.0	WESTERN SLOPE GAS
8250729	CD 0310-82	0504506380		103		M-20-6-103-S	CARBONERA	54.0	WESTERN SLOPE GAS
-KOCH INDUSTRIES INC				RECEIVED:		08/23/82 JA: CO 1			
8250734	CD-0347-82	0507708428		103		HORSESHOE CANYON #1-29	ROBERTS CANYON	425.0	NORTHWEST PIPELIN
-NORRIS OIL CO				RECEIVED:		08/23/82 JA: CO 1			
8250724	CD-0274-82	0507708184		103	107-TF	FEDERAL 3-1	SHIRE GULCH	8.8	ROCKY MOUNTAIN NA
8250725	CD 0275-82	0507708158		107-TF		FEDERAL 36-3	SHIRE GULCH	18.6	ROCKY MOUNTAIN NA
8250723	CD-0279-82	0507708255		102-2	107-TF	FEDERAL 36-4	SHIRE GULCH	71.4	ROCKY MOUNTAIN NA
8250726	CD 0276-82	0507708186		103	107-TF	FEDERAL 4-1	UNNAMED	27.7	ROCKY MOUNTAIN NA
8250721	CD 0277-82	0507708185		103	107-TF	FEDERAL 9-1	UNNAMED	2.7	ROCKY MOUNTAIN NA
-TWIN ARROW INC				RECEIVED:		08/23/82 JA: CO 1			
8250720	CD 0198-81	0510308400		103		CONTINENTAL 7-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
8250722	CD 0107-82	0510308400		107-TF		CONTINENTAL 7-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
-AMBRA OIL & GAS CO				RECEIVED:		08/23/82 JA: UT 1			
8250736	UD-0348-82	4301930643		103		TUMBLEWEED 27-3	CISCO DOME (GREATER C	45.0	NORTHWEST PIPELIN
-BELCO DEVELOPMENT CORP				RECEIVED:		08/23/82 JA: UT 1			
8250718	UD 0020-82	4304731038		102-4		DUCK CREEK 51-6	DUCK CREEK	0.0	NORTHWEST PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED:		08/23/82 JA: UT 1			
8250719	UD 0019-82	4304730996		102-4		DUCK CREEK 50-17GR	DUCK CREEK	0.0	NORTHWEST PIPELIN
-CIG EXPLORATION INC				RECEIVED:		08/23/82 JA: UT 1			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250730	UD 0299-82	4304731164		103	107-TF	CIGE 94D-7-10-21-1	NATURAL BUTTES	273.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	08/23/82	JA: UT 1			
8250733	UD-0298-82	4304730898		103	107-TF	NBU 59Y2 (33-10-21)	NATURAL BUTTES	29.0	COLORADO INTERSTA
8250732	UD-0312-82	4304731087		103	107-TF	NBU 74N3 (24-10-20)	NATURAL BUTTES	109.0	COLORADO INTERSTA
-NP ENERGY CORPORATION				RECEIVED:	08/23/82	JA: UT 1			
8250731	UD-0339-82	4301930876		103		FEDERAL 31-2	CISCO DOME	0.0	NORTHWEST PIPELIN
-TENNECO OIL COMPANY				RECEIVED:	08/23/82	JA: UT 1			
8250735	UD-0349-82	4301930544		103		TOC USA 5-13	WESTWATER	50.0	SOUTHWEST GAS COR
-TERRA RESOURCES INC				RECEIVED:	08/23/82	JA: UT 1			
8250740	UD-0205-82	4301915024		108		BAR X UNIT #5	BAR X	6.0	NORTHWEST PIPELIN
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	08/23/82	JA: NM 4			
8250689	NM-0582-82	3002570723		103		WERTA FEDERAL #1	HOUSE DRINKARD	55.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	08/23/82	JA: NM 4			
8250656	NM-0349-82	3001523181		102-2		FEDERAL "A1" COM #1	WILDCAT ATOKA	0.0	LLANO INC
8250696	NM-0594-82	3004525203		103		GALLEGOS CANYON UNIT #186E	BASIN DAKOTA	43.6	EL PASO NATURAL G
8250653	NM-0099-82	3003921554		108		JICARILLA APACHE 102 #28 (2ND)	BLANCO-MESAVERDE	16.0	GAS CO OF NEW MEX
8250669	NM 0529-82-B	3003922486		103		JICARILLA CONTRACT 146 #36 (CHACRA)	OTERO - CHACRA	21.5	EL PASO NATURAL G
8250668	NM 0529-82-A	3003922486		103		JICARILLA CONTRACT 146 #36 (MESAVE)	GONZALES - MESAVERDE	38.0	EL PASO NATURAL G
8250695	NM-0591-82	3003906071		108		JICARILLA CONTRACT 146 #9 (2ND)	SOUTH BLANCO - PICTUR	20.0	NORTHWEST PIPELIN
8250643	NM-0124-82PB	3004506631		108-PB		P O PIPKIN #2 (3RD) (DEFERRED)	BASIN-DAKOTA	21.0	EL PASO NATURAL G
8250694	NM-0589-82	3003922045		103		ROSA UNIT #67	ROSA GALLUP	0.0	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/23/82	JA: NM 4			
8250687	NM-0580-82	3002527176		103		J H MCCLURE "B" #22	DOLLARHIDE TUBB DRINK	24.0	EL PASO NATURAL G
-DAVE M THOMAS JR				RECEIVED:	08/23/82	JA: NM 4			
8250667	NM 0525-82	3004320433		103		CHACON JICARILLA APACHE D-110	CHACON DAKOTA	57.8	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	08/23/82	JA: NM 4			
8250686	NM-0578-82	3004506926		108		HANCOCK #5	WEST KUTZ P C	19.0	GAS CO OF NEW MEX
-DUGAN PRODUCTION CORP				RECEIVED:	08/23/82	JA: NM 4			
8250688	NM-0581-82	3004522691		103		KR #6	WAW FRUITLAND - PICTU	20.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED:	08/24/82	JA: NM 4			
8250741	NM-1976-81	3003922076		108		JICARILLA 120 C #15	BLANCO SOUTH - PICTUR	22.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/23/82	JA: NM 4			
8250650	NM-1803-81	3004505844		108		BALLARD #10	BALLARD-PICTURED CLIF	24.0	EL PASO NATURAL G
8250651	NM-1811-81	3003920888		108		CANYON LARGO UNIT #279	BASIN DAKOTA	23.0	EL PASO NATURAL G
8250662	NM-0461-82	3004520812		108		DAY A #12	BLANCO - PICTURED CLI	21.0	EL PASO NATURAL G
8250655	NM-0229-82	3004520907		108		DAY A #14	BLANCO PICTURED CLIFF	21.0	EL PASO NATURAL G
8250646	NM-0009-82ER	3004521100		108-ER		HEATON #31 PC	AZTEC PICTURED CLIFFS	21.0	EL PASO NATURAL G
8250658	NM-0457-82	3004521190		108		HUGHES A #11	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8250652	NM-0081-82	3004510688		108		KELLY A #1	BLANCO - MESA VERDE	22.0	EL PASO NATURAL G
8250661	NM-0460-82	3004510764		108		MUDGE #12	BLANCO-MESA VERDE	15.0	EL PASO NATURAL G
8250648	NM-1667-81	3003906970		108		RINCON UNIT #115 PC & MV	SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
8250649	NM-1736-81	3003906960		108		RINCON UNIT #119	SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
8250663	NM-0486-82	3004507687		108		SAN JUAN #22	AZTEC - PICTURED CLIF	21.0	EL PASO NATURAL G
8250637	NM-006381PE	3003906847		108-PB		SAN JUAN 27-5 UNIT #68 MV & PC	BLANCO - MESAVERDE &	23.0	EL PASO NATURAL G
8250638	NM0004-82-PB	3003906847		108-PB		SAN JUAN 27-5 UNIT #68 MV & PC	BLANCO - MESAVERDE &	23.0	EL PASO NATURAL G
8250639	NM-0032-82PB	3003906847		108-PB		SAN JUAN 27-5 UNIT #68 MV & PC	BLANCO - MESAVERDE &	23.0	EL PASO NATURAL G
8250660	NM-0459-82	3003920406		108		SAN JUAN 28-7 UNIT #160	LARGO - CHACRA	18.0	EL PASO NATURAL G
8250659	NM-0458-82	3004520854		108		SELLERS #7	AZTEC - PICTURED CLIF	19.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	08/23/82	JA: NM 4			
8250666	NM-0522-82	3004120625		102-2		SCOTT-FEDERAL #1	N PETERSON	5.0	TRANSWESTERN PIPE

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GULF OIL CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250670	NM 0531-82	3001523492		103		FEDERAL COM "13" #1	WHITE CITY PENN	0.0	EL PASO NATURAL G
-INTEGRATED ENERGY INC				RECEIVED:	08/23/82	JA: NM 4			
8250675	NM-0541-82	3004320320		102-2		DOME RUSTY 24-22-7/1	RUSTY CHACRA EXTENSIO	207.7	SOUTHWEST GAS COR
8250677	NM-0543-82	3004320318		102-2		DOME RUSTY 30-22-6/1	RUSTY CHACRA EXTENSIO	487.3	SOUTHWEST GAS COR
8250672	NM-0538-82	3004320371		102-2		FEDERAL 17-22-6/1	WILDCAT	7.5	SOUTHWEST GAS COR
8250680	NM-0546-82	3004320343		102-2		FEDERAL 19-22-6/1	CHACRA EXTENSION	27.4	SOUTHWEST GAS COR
8250679	NM-0545-82	3004320360		102-2		FEDERAL 20-22-6/1	WILDCAT	167.2	SOUTHWEST GAS COR
8250674	NM-0540-82	3004320363		102-2		FEDERAL 26-22-7/1	RUSTY CHACRA EXTENSIO	198.6	SOUTHWEST GAS COR
8250673	NM-0539-82	3004320358		102-2		FEDERAL 28-22-6/1	WILDCAT	153.3	SOUTHWEST GAS COR
8250678	NM-0544-82	3004320344		102-2		FEDERAL 29-22-6/1	WILDCAT	356.6	SOUTHWEST GAS COR
8250676	NM-0542-82	3004300000		102-2		FEDERAL 31-22-6/1	WILDCAT	95.6	SOUTHWEST GAS COR
8250671	NM0537-82	3004320286		102-2		NAVAJO 18	RUSTY CHACRA EXTENSIO	17.2	SOUTHWEST GAS COR
-J GREGORY MERRION&ROBERT L BAYLESS				RECEIVED:	08/23/82	JA: NM 4			
8250645	NM-0008-82ER	3004506006		108-ER		DELHI TAYLOR C #1 - GALLUP 156-78	CALLEGOS GALLUP	6.0	EL PASO NATURAL G
-JACK GRYNBERG & ASSOCIATES				RECEIVED:	08/23/82	JA: NM 4			
8250681	NM-055182107	3000561367		103	107-TF	HOBBS CANYON FEDERAL #1	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-MCCLELLAN OIL CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250713	NM- 0676-82	3000561347		102-2	107-TF	MCCLELLAN COYOTE DRAW FED 2 (28306)	WILDCAT (ABO)	105.7	TRANSWESTERN PIPE
8250647	NM-0881-81	3000560672		107-TF		PJ FEDERAL NO 1 WELL NM-11596	WILDCAT (ABO)	182.5	TRANSWESTERN PIPE
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	08/23/82	JA: NM 4			
8250700	NM-0599-82	3003907057		108		JICARILLA E #2	BLANCO MESAVERDE GAS	12.9	NORTHWEST PIPELIN
-MTS LIMITED PARTNERSHIP				RECEIVED:	08/23/82	JA: NM 4			
8250690	NM-0583-82	3003922881		103		SOUTH BLANCO NAVAJO 8 #3	LYBROOK GALLUP EXTENS	166.0	
-MWJ PRODUCING CO				RECEIVED:	08/23/82	JA: NM 4			
8250654	NM-0214-82	3001500000		103		DOG CANYON 31 E FEDERAL	CROW FLATS MORROW (EX	0.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250642	NM-0122-82PB	3004521488		108-PB		COX CANYON UNIT #12	BLANCO PICTURED CLIFF	21.3	NORTHWEST PIPELIN
8250641	NM-0121-82PB	3003907964		108-PB		ROSA UNIT #10	BLANCO MESAVERDE	18.3	EL PASO NATURAL G
8250640	NM-0120-82PB	3003921028		108-PB		SAN JUAN 29-5 UNIT #61	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-PETRO-LEWIS CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250693	NM-0587-82	3004320591		103		PLC DUFF B-FEDERAL #2-19	BLANCO	145.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	08/23/82	JA: NM 4			
8250665	NM-0491-82	3004508238		108		COZZENS #1	FULCHER KUTZ	6.5	SOUTHERN UNION GA
8250644	NM-0007-82ER	3004506878		108-PB		HANKS #2	FULCHER KUTZ PICTURED	11.0	SOUTHERN UNION GA
8250683	NM-0575-82-A	3004525291		103		REID #21-E	UNDESIGNATED	1000.0	SOUTHERN UNION GA
8250684	NM-0575-82-B	3004525291		103		REID #21-E	BASIN	200.0	SOUTHERN UNION GA
-STEVENS OPERATING CORP				RECEIVED:	08/23/82	JA: NM 4			
8250712	NM 064082107	3000561402		102-2	107-TF	M & M FEDERAL #2 (NM 32324)	UNDESIGNATED ABO	31.0	TRANSWESTERN PIPE
-SUPRON ENERGY CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250703	NM-0602-82	3004507416		108		ANGEL PEAK B-15	FULCHER KUTZ PICTURE	5.1	SOUTHERN UNION GA
8250701	NM-0600-82	3004506319		108		NAVAJO B-3	BLANCO MESAVERDE & S	6.2	GAS CO OF NEW MEX
8250706	NM-0607-82	3004523920		108		NEWSOM B-16	BALLARD PICTURE CLIFF	9.6	GAS CO OF NEW MEX
8250710	NM-0611-82	3004523918		108		NEWSOM B-17	BALLARD PICTURE CLIFF	11.8	GAS CO OF NEW MEX
8250707	NM-0608-82	3004523917		108		NEWSOM B-18	BALLARD PICTURE CLIFF	8.1	GAS CO OF NEW MEX
8250704	NM-0603-82	3004524371		108		NEWSOM B-25	BALLARD PICTURE CLIFF	4.4	GAS CO OF NEW MEX
8250702	NM-0601-82	3004505856		108		NEWSOM B-5	BALLARD PICTURE CLIFF	8.6	GAS CO OF NEW MEX
8250711	NM-0612-82	3004523631		108		SANCHEZ - 4	AZTEC PICTURE CLIFFS	2.4	SOUTHERN UNION GA
8250709	NM-0610-82	3004506066		108		STARR - 1	BALLARD PICTURE CLIFF	4.2	GAS CO OF NEW MEX
8250708	NM-0609-82	3004523733		108		SUMMIT VILES - 5	AZTEC FRUITLAND EXTEN	1.9	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	08/23/82	JA: NM 4			
8250698	NM-0597-82	3004524917		103		GAGE COM 1E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8250697	NM-0596-82	3004525188		103		HUGHES 5E	BASIN DAKOTA	500.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8250699	NM-0598-82	3004525192		103		HUGHES 6E	BASIN DAKOTA	500.0	EL PASO NATURAL G
-VIKING PETROLEUM CORP				RECEIVED:	08/23/82	JA: NM 4			
8250664	NM0490-82107	3000500000		103	107-TF	GRYNBERG 29 FED #1	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION				RECEIVED:	08/23/82	JA: NM 4			
8250691	NM-0584-82	3000561400		102-2	107-TF	GEORGE "QJ" FEDERAL #2-Y	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8250705	NM-0604-82	3000560442		102-2	107-TF	HEWIT "IM" FEDERAL #2	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
8250692	NM-058582107	3000561390		102-2	107-TF	LEEMAN "OC" FEDERAL #3	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8250657	NM-0407-82	3001524002		102-4		MESCAL "SE" FEDERAL #1	LITTLE BOX CANYON MOR	0.0	EL PASO NATURAL G
-TRIGG DRILLING COMPANY INC				RECEIVED:	08/23/82	JA: OK 4			
8250682	OKA-0569-82	3501120725		103		BITCHENEN #1	WATONGA TREND	750.0	OKLA GAS & ELECTR
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/23/82	JA: OK 4			
8250685	OKA057682102	3503920539		102-2	103	WHITE SHIELD #31-1	ARAPAHO	1003.0	DELHI GAS PIPELIN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Pubic Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25548 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
81-35197	OK	Phillips Petroleum	Cato #2	460	7-02-81	C:	103 Approved
82-05772	OK	Cotton Petroleum	Barger #1	551	12-14-81	C:	102-4 & 103 Approved
82-19046	OK	Seneca Oil Company	Chain #1-21	607	3-15-82	C:	102-4 & 103 Approved
82-20651	TX	Henderson Clay Pro., Inc	Gray Estate #1	615	4-01-82	C:	102-3 & 107-TF Approved
82-25218	NM	Read & Stevens	Harris "16" State #1	634	4-20-82	C:	108 Denied
82-27051	TX	US Operating Inc	Patti Unit #1	642	5-07-82	C:	102-2 Approved, not 102-4
82-28203MMS(NM)		Yates Petroleum Corp	Engwall "RL" Federal #1	646	5-17-82	C:	103 & 107-TF Approved
82-29086	LA	Reliance TR-JV	Hopkins Estate #8	649	5-21-82	C:	107-TF Approved, 102-2 Denied
82-29088	LA	Reliance TR-JV	Hopkins #9	649	5-21-82	C:	107-TF Approved, 102-2 Denied
82-29097	LA	Reliance TR-JV	H D Green #6	649	5-21-82	C:	107-TF Approved, 102-2 Denied
82-30038	OK	GMC Oil and Gas Corp	Blazebrook #1	652	5-28-82	C:	Well Name
82-35262	PA	Envirogas Inc	R. Bernritter #1	672	6-28-82	C:	107-TF Approved, not 102-2
82-35273	PA	Kiski Valley Oil & Gas	Muffley #2 (PNG Well #9554)	672	6-28-82	C:	107-PE Approved, not 107-TF
82-35906	TX	Forest Oil Corp	Noll-Hopper #1	674	6-28-82	C:	102-2 Approved, not 102-3
82-36349	LA	Primas Production Co	Petro Lewis Cons Carbon #3	675	6-28-82	C:	Well Name
82-36757	OH	Hopewell Oil & Gas	R Linn #1	677	7-01-82	C:	107-TF Denied
82-36850	OH	Towner Petroelum Co	J Reed #1	677	7-01-82	C:	108 Denied
82-36969	OK	Keith F Walker	Burks #1	678	7-06-82	C:	Well Name
82-37170MMS(NM)		Mobil Prdg Texas & New Mexico Inc	Stephens Gas Unit #1	678	7-06-82	C:	108 Approved, not 108-SA
82-37187	TX	HNG Oil Company	L L Jones "36" #1	679	7-06-82	C:	107-DP Approved, not 107-TF
82-37262	TX	John L Cox	Rocken B "F" 3-X RRC#04577	679	7-06-82	C:	Well Name
82-38161	NY	Berea Oil & Gas	Claude Haller Unit #2	682	7-14-82	C:	JD Number Cancelled
82-38673	OH	Buckhorn Oil Co., Inc	Conner #4	684	7-14-82	C:	107-TF Denied
82-39235	TX	Vaughn Petroleum Inc	Edna Boyd #2 17973	686	7-14-82	C:	Well Name
82-39243	TX	Mitchell Energy Corp	B. E. Baker "B" #1-T	686	7-14-82	C:	103 Approved; 102-4 withdrawn
82-39450	NM	Yates Petroleum Corp	Snakeweed "SD St #1	687	7-14-82	C:	102-2 & 107-TF Approved
82-39759MMS(CO)		Twin Arrow Inc	Continental 3-29	688	7-15-82	C:	103 & 107-TF Approved
82-39763MMS(CO)		MTS Limited Partnership	Federal 6 #1	688	7-15-82	C:	102-2 & 107-TF Approved
82-39764MMS(CO)		MTS Limited Partnership	Eckley Federal 1 #1	688	7-15-82	C:	102-2 & 107-TF Approved
82-39768MMS(CO)		Coseka Resources(USA)LTD	Federal # 15-30-4-103	688	7-15-82	C:	102-2 & 107-TF Approved
82-39877	WV	Cabot Oil & Gas Corp	Peytona Coal 18-354	688	7-15-82	C:	107-DV Approved; not 107-DP
82-39878	WV	Cabot Oil & Gas Corp	Peytona Coal 19-373	688	7-15-82	C:	107-DV Approved; not 107-DP

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-39961	LA	Primos Production Co	Petro-Lewis Union Pwr. #16	689	7-15-82	C:	103 Approved; not 108
82-40011	LA	Franks & Petro Funds Inc	Smelly #1 Hoss SU N	689	7-15-82	C:	107-PE Approved; not 107-TF
82-40073	OK	Kaiser-Francis Oil Co	C M Reynolds #1	689	7-15-82	C:	108-SA Approved
82-40178	LA	Primos Production	Petro-Lewis Cons Carbon #4	690	7-23-82	C:	Well Name
82-40406	OH	Bridge Oil Development	L Elser #2	691	7-23-82	C:	Applicant Name
82-40730	NY	Eclipse Mgmt. Assoc Inc	Pagano EE1	692	7-26-82	C:	103 Approved, not 107-TF
82-40731	NY	Eclipse Mgmt. Assoc Inc	Pagano EE2	692	7-26-82	C	103 Approved, not 107-TF
82-40887	OK	Phillips Petroleum	Smith CC No. 1	692	7-26-82	C:	108-ER Approved
82-41111	TX	Ray H Eubank	J W Ing Heirs GU #1-C	694	7-30-82	C:	102-4 Approved; not 103
82-41130	TX	Cassell Oil Co	Quail Hollow #1	694	7-30-82	C:	103 Approved; not 102-4
82-41178	TX	Superior Oil Company	Randow Gas Unit #1 Well #2	694	7-30-82	C	107-TF Approved; not 102-2
82-41295	TX	Gruy Mgmt Service Co	Anastacia Salinas #1	694	7-30-82	C:	102-4 Approved; not 102-1
82-41383	TX	Hamilton Bros Oil Co	Joe G Syma Et Al #1	694	7-30-82	C:	107-DP Approved; not 102-4
82-41619	TX	H & G Oil & Gas Co	Jack C Votaw No. 1	695	7-30-82	C:	Well Name
82-41621	TX	American Quasar Petro Co	Ramseur #1-92U	695	7-30-82	C:	Well Name
82-41625	TX	Phillips Petro Company	Goldsmith Andector Ut L-10	695	7-30-82	C:	Well Name
82-41665	TX	Bill Fenn, Inc.	Johnny D #1	695	7-30-82	C:	Well Name
82-41666	TX	RK Petroleum Corp	Noret A No. 1 #63786	695	7-30-82	C:	Well Name
82-42270	TX	Mitchell Energy Corp	Lawrence Taylor #1 51127	698	8-14-82	C:	108 & 108-PB Approved
82-43056	OK	Nadel & Gussman	Buell #1	701	8-04-82	C:	Well Name
82-43464	TX	Diamond Shamrock Corp	Leland E. Mekeel "B" #1	702	8-13-82	C:	107-PE Approved; not 107-TF
82-43561	OK	Cobb Oil & Gas	Stunfill #1	703	8-13-82	C:	107-PE Approved; not 107-TF
82-43598	MMS(CO)	Intercontinental Petro. Exploration	I-2-3-101	703	8-13-82	C:	103 & 107-TF Approved
82-43842	OH	Frontier Petroleum LTD	Wade Ray #1	704	8-17-82	C:	107-DV Approved; not 107-TF
82-43843	OH	Frontier Petroleum LTD	Wade Ray #2	704	8-17-82	C:	107-DV Approved; not 107-TF
82-43910	OH	Tiger Oil Inc	Bertha Hendershot #1	704	8-17-82	C:	103 & 107-DV Approved
82-45529	TX	Hunt Petroleum Corp	Ledbetter #1	712	8-26-82	C:	107-DP Approved; not 107-TF
82-45653	TX	Fagadan Energy Corp	C W Wulfjen #1 (17603)	712	8-26-82	C:	Lease Number

BILLING CODE 6717-01-C

[Docket No. CP82-517-000]

Association of Businesses Advocating Tariff Equity, Complainant v. Trunkline LNG Company and Trunkline Gas Company, Respondents; Complaint and Request for Order To Show Cause

September 13, 1982.

Take notice that on August 27, 1982, the Association of Businesses Advocating Tariff Equity (Complainant), 1666 K Street NW., Washington, D.C. 20006, filed in Docket No. CP82-517-000 a complaint pursuant to § 385.206 of the Commission's regulations (18 CFR 385.206) for an order directing Trunkline Gas Company and Trunkline LNG Company (Trunkline) to show cause why they should not be required to cease and desist from importing liquefied natural gas (LNG) from Algeria under terms and conditions inconsistent with their existing authorization issued April 29, 1977, in Docket No. CP74-138, *et al.*, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

It is submitted that the order of April 29, 1977, authorized Trunkline to import LNG into the United States from Algeria for a period of 20 years. The cost of the gas to be delivered into the Trunkline system was estimated to be $3.37 per Mcf of vaporized gas. Complainant maintains that the project was authorized based upon Trunkline's alleged need for the LNG to of set projected severe curtailments of natural gas service to its customers in the 1980's and the reliability of Algeria as a long-term supplier. Complainant now asserts that Trunkline intends to initiate the importation under terms and conditions that are materially different from those previously considered and authorized by the Commission.

Complainant states that the proposed shipments of LNG by Algeria to Trunkline would not be pursuant to the original contract approved by the Commission on April 29, 1977, since a different escalation formula governing the future price of LNG has been subsequently agreed upon by Algeria and Trunkline in a new contract. It is asserted that Trunkline has more gas available to it today than it requires to meet the needs of its existing markets and, therefore, has no present need for the Algerian LNG. It is further asserted that the deliveries from Algeria have been interrupted for 2 years due to Algeria's insistence on a higher price than is permitted by the contract and that this insistence, along with the fact that deliveries by Algeria to other United States importers have been unilaterally interrupted by Algeria because of its demands for higher prices since 1980, raise substantial doubts as to the reliaility of Algeria as a supplier.

Complainant states that because Trunkline intends to import the Algerian gas under terms and conditions that are materially different from those previously considered by the Commission and because Trunkline's customers would experience a significant adverse impact if deliveries of LNG commence, Complainant requests that Trunkline be directed to show cause why it should not be required to cease and desist from importing LNG from Algeria in a manner inconsistent with its existing authorization in Docket No. CP74-138, *et al.* Specifically, Complainant requests that Trunkline be directed to produce copies of the new contract with Algeria, explain why the proposed deliveries of LNG by Algeria are not pursuant to a new contract in view of Algeria's refusal to perform under the old contract until Trunkline agreed to pay higher prices, and to show cause why it should not be required to seek authorization to import LNG under the new terms and conditions prior to any shipments of LNG from Algeria.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before October 13 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in acordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25549 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3920-001]

Richard L. Bean and Fred G. Castagna; Surrender of Preliminary Permit

September 15, 1982.

Take notice that Richard L. Bean and Fred G. Castagna, Permittee for the proposed Nelson Creek No. 2 Project No. 3920, has requested that its preliminary permit be terminated. The permit was issued on June 15, 1981, and would have expired November 30, 1982. The project would have been located on the Nelson Creek in Shasta County, California.

The Permittee filed its request on August 19, 1982, and the surrender of the preliminary permit for Project No. 3920 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25550 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3905-001]

Richard L. Bean and Fred G. Castagna; Surrender of Preliminary Permit

September 15, 1982.

Take notice that Richard L. Bean and Fred G. Castagna, Permittee for the proposed Nelson Creek No. 1 Project No. 3905, has requested that its preliminary permit be terminated. The permit was issued on May 15, 1981, and would have expired October 31, 1982. The project would have been located on the Nelson Creek in Shasta County, California.

The Permittee filed its request on August 19, 1982, and the surrender of the preliminary permit for Project No. 3905 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25551 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6644-000]

The Colorado River Water Conservation District; Application for Preliminary Permit

September 15, 1982.

Take notice that The Colorado River Water Conservation District (Applicant) filed on August 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6644 to be known as the Taylor Draw Project located on the White River in Rio Blanco County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert L. McCarty, McCarty, Noone and Williams, P.C., 490 L'Enfant Plaza, East, Suite 3306, Washington, D.C. 20024.

Project Description—The project would consist of: (1) A 1,150-foot-long reinforced earth dam with a maximum height of 70 feet and containing a 56-foot-high, 504-foot-long concrete

spillway; (2) a 615-acre reservoir with a normal water surface elevation of 5,317.5 feet M.S.L. and a total storage capacity of 13,800 acre-feet; (3) a new powerhouse containing a single 2 MW turbine-generator; (4) a transmission line; and (5) appurtenant facilities. The dam alone is currently being constructed for its primary purpose of municipal water supply and recreation. The run-of-river project would produce up to 8,700,000 kWh annually. The Applicant owns the dam. Energy produced at the project would be sold to the local utility.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 2, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25552 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-174-000, CP82-175-000, and CP82-176-000]

Continental Divide Pipeline Co. and Northwest Pipeline Corp.; Intent To Prepare a Draft Environmental Impact Statement

September 10, 1982.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the project proposed in Docket Nos. CP82-174-000, CP82-175-000, and CP82-176-000 would constitute a major Federal action significantly affecting the qauality of the human environment. Therefore, pursuant to section 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), a draft environmental impact statement (DEIS) will be prepared. The DEIS will analyze potential environmental impact associated with the construction and operation of approximately 405 miles of natural gas transmission pipeline and appurtenance facilities in Colorado, Utah, and New Mexico.

It will also analyze possible alternatives to the proposal such as no action, modifications to the proposed transportation system, and other pipeline routes. A description of the proposed project was published on June 18, 1982, in "Request for Comments on Environmental Issues and the Scope of These Issues for Proposals to Construct Pipeline Transportation Facilities" (47 FR 26449). The DEIS will address major issues identified through consultation with the Bureau of Land Management and other cooperating Federal agencies, scoping meetings held in Colorado, Utah, and New Mexico, and written responses to the scoping notice. Major issues to be discussed in the DEIS are the disturbance of riparian habitat and impact on threatened and endangered species, disruption of agriculture and cultural resources, and right-of-way restoration.

Additional information about this DEIS is available from Mr. Laurence J. Sauter, Jr., Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, Room 7102, at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 or by telephone at (202) 357-8881.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25553 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-515-000]

Granite State Gas Transmission Inc.; Application

September 13, 1982.

Take notice that on August 27, 1982, Granite State Gas Transmission Inc. (Applicant), 120 Royall Street, Canton, Massachusetts 02021 filed in Docket No. CP82-515-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25554 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-26-000]

Gulf Power Co.; Filing

September 13, 1982

Take notice that on September 1, 1982, West Florida Electric Cooperative Association, Inc. (West Florida) and its power supply agent, Alabama Electric Cooperative, Inc. (AEC) filed a complaint against Gulf Power Company (Gulf Power), for an alleged unlawful collection of monies by Gulf Power for wholesale electrict service to West Florida. West Florida and AEC contend that Gulf Power's overcollection of monies is in violation of the terms of its tariff and contracts governing wholesale service to West Florida.

AEC and West Florida request that the Commission direct Gulf Power (1) to cease calculating its bills to West Florida inconsistent with Gulf Power's filed tariff; (2) to render an accounting of all such past overcharges; and (3) to remit to West Florida such monies unlawfully collected, together with applicable interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-25555 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5096-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 15, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Ray Miller Creek Hydroelectric Project No. 5096, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Ray Miller Creek in Shoshone County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5096 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25556 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5783-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 15, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Woodward Creek Project No. 5783, has requested that its preliminary permit be terminated. The permit was issued on May 13, 1982, and would have expired December 1, 1983. The project would have been located on the South Woodward Creek, in Lake County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5783 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25557 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6281-000]

McDowell Forest Products, Inc.; Application for License (5 MW or Less)

September 15, 1982.

Take notice that McDowell Forest Productions, Inc. (Applicant) filed on May 3, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r) for construction and operation of a water power project to be known as 5 Bears Power Project No. 6281. The project would be located on Ward Creek partially within Plumas National Forest in Plumas County, California. Correspondence with the Applicant should be directed to: Bruce McDowell, Vice President, McDowell Forest Products, Inc., P.O. Box 131, Taylorsville, California 95983.

Project Description—The proposed project would consist of: (1) A 10-foot-high diversion structure; (2) a 16-inch-diameter, 7,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 600 kW; and (4) appurtenant facilities. The Applicant estimates a 1,900 MWh average annual energy generation.

Purpose of Project—Power would be sold to Pacific Gas and Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the

application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 29, 1982 either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-25558 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3532-001]

Ochoco Irrigation District; Surrender of Preliminary Permit

September 15, 1982.

Take notice that the Ochoco Irrigation District (District), Permittee for the proposed Ochoco Project No. 3532, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 5, 1981, and would have expired November 30, 1982. The project would have been located at Ochoco Dam on Ochoco Creek in Crook County, Oregon. The District stated that its studies found that the project is not feasible at this time.

The District filed its request on August 10, 1982, and the surrender of its permit for Project No. 3532 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25559 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5079-001]

Trinity Hydro, Inc.; Surrender of Preliminary Permit

September 15, 1982.

Take notice that Trinity Hydro, Inc., Permittee for the proposed Cow Creek #1 Hydroelectric Project No. 5079, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Old Cow Creek in Shasta County, California.

The Permittee filed its request on August 13, 1982, and the surrender of the preliminary permit for Project No. 5079 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25560 Filed 9-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6477-001]

Western Hydro Electric, Inc.; Application for License (5 MW or Less)

September 15, 1982.

Take notice that Western Hydro Electric, Incorporated (Applicant) filed on August 2, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for construction and operation of a water power project to be known as Kilborn Creek Hydroelectric Project No. 6477. The project would be located on Kilborn Creek, a tributary of Cowlitz River, within the Gifford Pinchot National Forest, in Lewis County, Washington. Correspondence with the Applicant should be directed to: Mr. J. Kirk Rector, Corporate Counsel, Western Hydro Electric, Incorporated, 4832 Colony Circle, Salt Lake City, Utah 84117.

Project Description—The proposed project would consist of: (1) A 37-foot-long, 7-foot-high concrete diversion structure; (2) a 5,000-foot-long, 30-inch-diameter pipeline; (3) a 3,800-foot-long, 28-inch-diameter penstock; (4) a powerhouse to contain one generating unit with a rated capacity of 861 kW; and (5) a 0.25-mile-long, 25-kV transmission line from the powerhouse to an existing Public Utility District No. 1 transmission line.

Purpose of Project—The project energy would be offered for sale to the Lewis County Public Utility District or the Bonneville Power Administration. The Applicant estimates that the project would produce about 5.7 GWh. The total cost of the project is estimated to be $1.73 million.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 6, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR

385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–25561 Filed 9–15–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Standard Oil Co.; Special Fund Procedures; Cancelled Hearings

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Cancellation of previously scheduled public hearings.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has cancelled three of five previously scheduled public hearings concerning the Standard Oil Company (Indiana) special refund procedures.

DATES AND ADDRESSES: Dates and places of the *cancelled* hearings are as follows:

Monday, September 20, 1982—Kansas City, MO: EPA Building, 324 East 11th Street, 4th Floor, Kansas City, Missouri 64106

Friday, September 24, 1982—Atlanta, GA: L. D. Strom Auditorium, Richard B. Russell Building, 75 Spring Street, SW., Atlanta, Georgia 30303

Tuesday, September 28, 1982—Dallas, TX: Earl Cabell Building, Room 7A23, 1100 Commerce Street, Dallas, Texas 75242

FOR FURTHER INFORMATION CONTACT: Roger J. Klurfeld, Assistant Director; M. Terry Johnson, Deputy Assistant Director, Office of hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461; (202) 633–8362.

SUPPLEMENTARY INFORMATION: On August 13, 1982, the Office of Hearings and Appeals of the Department of Energy had published in the **Federal Register** (47 FR 35317) a Notice of a Proposed Decision and Order which tentatively set forth the special refund procedures to be followed in refunding to adversely affected parties $72,000,408 plus interest obtained by the DOE under the terms of a consent order entered into with Standard Oil Company (Indiana), commonly known as Amoco. The August 13 Notice invited written comments from interested members of the public and announced that five hearings would be held at which the public would have an opportunity to present its views with respect to the appropriate refund procedures to be adopted.

In response to the August 13 Notice we have received only two requests to speak at each of the hearings scheduled to take place in Kansas City, Missouri; Atlanta, Georgia; and Dallas, Texas. We have therefore cancelled those hearings. The hearings previously scheduled to take place in Chicago, Illinois and Washington, D.C. will take place as previously scheduled. The Chicago hearing is scheduled for Wednesday, September 20, 1982, at 10 a.m., at the Ceremonial Room, U.S. District Court Building, 219 South Dearborn Street, Chicago, Illinois 60604. The Washington hearing is scheduled for September 30, 1982, at 10 a.m., at the New Post Office Building, Room 3000–A, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. Persons who had requested to speak at the cancelled hearings have been contacted and offered places on the schedules of the Chicago or Washington hearings.

Issued in Washington, D.C. on September 13, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82–25630 File 9–15–82; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 82–391; CC Docket No. 82–587, File No. 23194–CD–P–(01)–82, et al.]

A.S.D. Answer Service, Inc. et al.; Order Designating Applications for Hearing

Adopted: August 20, 1982.

Released: August 24, 1982.

In re applications of A.S.D. Answer Service, Inc.; CC Docket No. 82–587, File No. 23194–CD–P–(01)–82, et al.; B.W. Communications, Inc.; CC Docket No. 82–588; File No. 23259–CD–P–(01)–82, et al.; P.A.L. Communications Systems, Inc.; CC Docket No. 82–589, File No. 23168–CD–P–(01)–82, et al.; Vineyard Communications, Inc.; CC Docket No. 82–590, File No. 23199–CD–P–(01)–82, et al.; for authority to construct new one-way paging stations in the Domestic Public Land Mobile Radio Service on 35 and 43 MHz frequencies at various locations throughout the United States.

By the Commission: 1. Presently before the Commission are the applications of A.S.D. Answer Service, Inc. (ASD), B.W. Communications, Inc. (BW), Vineyard Communications, Inc. (Vineyard), and P.A.L. Communications Systems, Inc. (PAL) (hereafter collectively referred to as the applicants). These applicants have filed an unusually larger number of applications for new paging facilities on frequencies that were recently made available in the 35 and 43 MHz frequency bands.[1] There are approximately 700 applications in total, covering approximately 40 market areas.[2] While each of these applicants has filed a different total number of applications, the vast majority of these filings are for nearly identical facilities and services. These common applications proposed the same sites, the same equipment, the same technical arrangements, the same rates, and contain the same need study for each market area; however, they all proposed different frequencies so that none of these applications was electrically mutually exclusive with any other.[3] All four used the same consulting firm, a subsidiary of Graphic Scanning Corporation (Graphic). These circumstances prompted a host of formal and informal petitions challenging the

[1] Report and Order, CC Docket No. 80–189, 49 RR 2d 1541 (1981), *recon. granted in part*, FCC 82–342, 47 FR 34561 (August 10, 1982).

[2] A list of these applications is contained in Appendix A.

[3] They are, however, mutually exclusive with those of other applicants.

validity of these applications.[4] For the reasons explained below, we are designating these applicants for hearings to determine whether Graphic is the real party in interest behind these applicants.

2. The petitioners have raised questions about virtually every aspect of these applications.[5] The major issue is whether Graphic is the undisclosed real party in interest. The petitioners argue that these companies are merely "shell corporations" behind which Graphic seeks to obtain more paging frequencies than the Commission's Rules would properly allow.

3. In their Oppositions to the various petitions, the applicants admit that they used Graphic's consulting services to prepare their applications.[6] They argue, however, that they are all independent corporations; that they are neither owned nor controlled by Graphic; that they became aware of Graphic's consulting services as a result of their past business dealings with Graphic; and that, until the petitions were filed, they did not know the existence of the other corporations.

4. On March 15, 1982, the Mobile Services Division wrote letters to Graphic and the applicants requesting additional information about the consulting arrangement and the relationships between Graphic and the applicants. These letters requested the parties to provide documentation to support their responses.

5. In response to this letter, Graphic and the applicants described in detail the consulting services that Graphic was providing. Such consulting services included the preparation of all materials for FCC and state applications; site acquisition; engineering and frequency selection; marketing research, including the preparation of the necessary public need surveys; financial analysis of the proposed systems, including advice concerning proposed rates; recommendations pertaining to the construction and operation of the proposed systems; recommendations with respect to the hiring of personnel; and the performance of any needed work to set-up or operate the proposed facilities. Graphic's compensation from each applicant is $5,000 for each market area, irrespective of the number of frequencies or sites applied for in each area. Payment is due to Graphic within 60 days of the final completion of all applications to be filed, an unspecified date.[7]

6. In addition to the consulting agreements, ASAD, BW and PAL also have various other contracts with Graphic.[8] PAL serves as a marketing agent for subsidiaries of Graphic in the New York and Los Angeles metropolitan areas. In consideration for such agency rights, PAL has executed promissory notes for $200,000 for each city. Payment of principal and interest of nine percent per annum is due in a lump sum in either December 1983 or 1984 (at PAL's choice) for the New York City rights, and either May 1984 or 1985 for the Los Angeles rights. BW has an agency agreement with Graphic to operate as a marketing agent of Graphic and its subsidiaries in 25 markets nationwide. BW agreed to pay Graphic $100,000 per market for a total of $2.5 million. BW must also pay Graphic a fee for each pager it places on Graphic's system. ASD owns Port Telephone Answer Service, which acts as an agent for Radio Relay New York Corporation, a Graphic subsidiary, in five Long Island markets. Without going into specifics, ASD stated that this is a standard agency agreement.

Discussion

7. *Real Party in Interest.* After carefully examining the pleadings in this matter and the responses by Graphic and the applicants, we conclude that a substantial question has been raised whether Graphic exercises *de facto* control over these applicants and, thus, is the real party in interest behind ASD, BW, PAL and Vineyard. As noted above, Graphic's consulting arrangement covers essentially every aspect of establishing and operating a paging system. Graphic's recommendations on these matters appear to be tantamount to a decision. Because of this extensive participation of Graphic in the corporate decision-making process of these applicants, it is unclear whether in fact these corporations are controlled by Graphic. *See Abilene Radio and Television Co.,* 21 RR 48, 52 (1961).

8. Graphic's compensation for these consulting arrangements, viewed in context with the parties' other contracts, suggests that Graphic may also have a hidden financial interest in these applicants. The payment of $5,000 per market area, regardless of the number of frequencies or number of sites, is extraordinary. Usually, the fee for the preparation of an application is related to the number of frequencies or sites in the application because the amount of engineering that must be performed increases with every additional site. In addition, it is not clear whether $5,000 per market area is even compensatory for the comprehensive consulting services provided. At the very least, these applicants appear to have received very favorable treatment from Graphic in terms of price and payment dates. The agency agreements between PAL, BW and Graphic are also highly unusual. BW has agreed to pay Graphic $2.5 million to act as a marketing agent in 25 cities nationwide, and PAL will pay Graphic $400,000 for the marketing rights to New York and Los Angeles. These sums are quite large for such "rights," especially when standard agency agreements in this industry normally base the compensation to the carrier on the number of pagers placed on the carrier's system.[9]

9. The parties' failure to provide any documentation of any of these agreements adds to the uncertainty whether these agreements in fact exist and whether the applicants are separate corporate entities from Graphic. In response to the staff's inquiry, the applicants stated that there were no invoices or written contracts for any of these agreements.[10] The casual nature of these arrangements does not comport with normal corporate business practices. *See Miami Broadcasting Corporation,* 19 FCC 2d 651, 661 (Rev. Bd. 1969). In view of these unanswered questions, we conclude that this matter can best be resolved within the context of an evidentiary hearing. *See Abilene Radio and Television Co., supra; WACO Radio Co.,* 19 RR 538 (1959). This hearing may demonstrate that while this situation is unusual, these parties did nothing improper. On the other hand, depending on the information elicited, the evidence could lead toward piercing the corporate veil and treating these

[4] A list of the petitioners is contained in Appendix B.

[5] The petitioners allege price-fixing, lack of antenna site availability, lack of financial qualifications, failure to demonstrate need, failure to demonstrate the availability of adequate maintenance facilities, and improper application certification. With the exception of price-fixing, which is specifically discussed below, we conclude that these issues do not raise any substantial and material questions. These issues either were rendered moot by amendment of the applications, were successfully refuted or would not cause us to deny these applications, even if the allegations were true.

[6] The applications did not originally disclose that Graphic participated in the preparation of these applications

[7] Only BW indicated that it paid Graphic for these services. BW stated that it paid $125,000 to Graphic in January 1982. No cancelled check was submitted. The other applicants explained that they have not received an invoice from Graphic or paid Graphic for its services.

[8] It does not appear that Vineyard and Graphic currently have an agency agreement.

[9] BW's agreement calls for a fee for each pager in addition to the $2.5 million payment.

[10] While Graphic, BW and PAL indicated that promissory notes exist as compensation for their agency agreements, no copy of such notes was supplied.

corporations as one entity for licensing purposes. *See Pattersonville Telephone Co.*, 34 FCC 2d 258, *recon. denied*, 35 FCC 2d 745 (1972), *aff'd sub nom., Capital Telephone Company v. FCC*, 498 F.2d 734 (D.C. Cir. 1974); *General Telephone Co. of Southwest v. U.S.*, 449 F.2d 846, 855 (5th Cir. 1971). Further, if it appears that those parties misrepresented the nature of their relationship or exhibited a lack of candor, the qualifications of Graphic and the applicants may be at issue.

10. *Price-fixing.* The petitioners argue that Graphic and the applicants are engaged in price fixing in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, because all of the applications of these parties propose to charge the same rates. The applicants responded that they were unaware of the other applicants' proposals; that these rates are proposed rates, as of the date of filing of the applications, not final rates; and that the rates are subject to regulation by the state public utility commission.

11. We have carefully considered this matter and we conclude that designating a price-fixing issue for hearing is not warranted. While the Commission does not have the power to directly enforce the Sherman Act, it is permitted to take antitrust policies into account in making licensing decisions pursuant to the public interest standard. *See FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 776, 795 (1978). When evaluating the parties' conduct under this standard, we do not believe that this matter needs further examination. If, as a result of this hearing, the record reveals that Graphic is the real party in interest, then a price-fixing issue is not necessary because these applications will be treated as having been filed by one entity. If the hearing concludes that Graphic's consulting arrangement is *bona fide*, a price-fixing issue is still not warranted because the petitioners have failed to demonstrate how the conduct of Graphic and the applicants is inconsistent with the intent of Section 1 of the Sherman Act.

Conclusions

12. In view of the foregoing, we are designating the applications of ASD, BW, PAL and Vineyard for hearing, and we are making Graphic a party to the hearing.[11] Most of the applications at issue are mutually exclusive with applications filed by other parties. We ane not, however, designating all of these other parties' applications for a comparative hearing at this time.[12] Instead, on completion of the hearing, the findings and conclusions will be incorporated into the records of all of the captioned applications, as well as the applications listed in Appendix A, and the applications of the subsidiary corporations of Graphic. At that time, these applications will be eligible for final disposition. In the event that the findings and conclusions for Issue 5(c) are adverse to ASD, BW, PAL and Vineyard, the applications of these parties will be denied without further proceedings. We are structuring this proceeding in this manner in order to expedite the final resolution of these matters while still keeping the complexity of the issues and the number of parties involved to a manageable size.

13. Accordingly, it is ordered that the applications of A.S.D. Answer Service, Inc., B.W. Communications, Inc., P.A.L. Communications Systems, Inc., and Vineyard Communications, Inc. are designated for hearing, under Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

1. To determine the relationships between Graphic and the applicants, including their respective principals, and including any related parent, subsidiary or ownership related companies;

2. To determine the facts and circumstances surrounding the conception, initiation, preparation, filing and prosecution of applications of ASD, BW, PAL and Vineyard;

3. To determine the facts and circumstances surrounding any agreements or understanding, express or implied, between Graphic and ASD, BW, PAL and/or Vineyard;

4. To determine, in light of the evidence adduced above, whether Graphic is a real party in interest behind ASD, BW, PAL and/or Vineyard;

5. (a) to determine, in light of the evidence adduced above, whether ASD, BW, PAL, Vineyard and the subsidiary corporations of Graphic should be treated as one entity with respect to the need for facilities;

(b) to determine, in light of the evidence adduced above, whether ASD, BW, PAL, Vineyard and/or Graphic has exhibited a lack of candor or intentionally misrepresented material facts to the Commission; and

(c) to determine, in light of the evidence adduced above, whether ASD, BW, PAL and Vineyard are qualified to become Commission licensees.

14. It is further ordered, That the applicants, Graphic and the petitioners shall all have a responsibility to adduce evidence on the fact-finding issues (1), (2) and (3), and that the order in which the parties will go forward with the presentation as the evidence on the fact-finding issues shall be determined by the Administrative Law Judge. The burden of proof in conclusory issues (4) and (5), is placed on the applicants.[13]

15. It is further ordered, That the petitions filed against these applications are granted in part to the extent indicated herein, and denied in all other respects.

16. It is further ordered, That the Separated Trial Staff (the Hearing Division) of the Common Carrier Bureau, Graphic Scanning Corporation and the petitioners listed in Appendix B are made parties to this proceeding.

17. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

18. It is further ordered, That the applicants and parties shall file written notices of appearance under § 1.221 of the Commission's rules within 20 days of the release date of this Order.

19. It is further ordered, That parties that have mutually exclusive applications with any of these applicants and that wish to participate in this proceeding shall file a petition to intervene under § 1.223 within 30 days of the publication of this *Order* in the **Federal Register.**

20. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

A.S.D. Answer Service, Inc.:

21164-CD-P-03-82	San Diego	CA.
21292-CD-P-17-82	Stamford	CT.
21084-CD-P-06-82	San Jose	CA.
23270-CD-P-01-82	Hancock	MA.

[11] Obviously Graphic is a "party in interest" under 309 of the Communications Act whose active participation is required. *See* Douglas C. Dillard, 32 FCC 2d 181 (Rev. Bd. 1971). In a different context, see our ruling in Midwest Radio Television, Inc., 17 FCC 2d 298 (1969).

[12] Many parties whose 35 and 43 MHz applications are mutually exclusive with those designated here may amend their applications to the new 900 MHz paging frequencies.

[13] Where an applicant, against whom charges of misconduct have been raised, has within its peculiar knowledge the facts regarding the alleged misconduct, the applicant will have the burden of proof. *See* discussion and cases cited in Granbury Communications Co., 68 FCC 2d 966, 969 (1978) and Miami Broadcasting Corp., 11 FCC 2d 920, 923 (Rev. Bd. 1968).

23272-CD-P-01-82	North Greenbush Twsp	NY.
23271-CD-P-01-82	Schenectady	NY.
21292-CD-P-17-82	Trumbull	CT.
21117-CD-P-07-82	Tampa	FL.
21100-CD-P-03-82	Burnsville	MN.
21114-CD-P-04-82	St. Louis	MO.
21292-CD-P-17-82	New York	NY.
21113-CD-P-06-82	Cleveland	OH.
21102-CD-P-06-82	Dallas	TX.
21101-CD-P-03-82	Seattle	WA.
23194-CD-P-01-82	Little Rock	AR.
21082-CD-P-04-82	Phoenix	AZ.
21094-CD-P-09-82	Los Angeles	CA.
21287-CD-P-01-82	Glastonbury	CT.
21086-CD-P-06-82	Wilmington	DE.
21116-CD-P-06-82	Miami	FL.
21116-CD-P-06-82	West Palm Beach	FL.
21297-CD-P-06-82	Atlanta	GA.
23269-CD-P-01-82	Cedar Rapids	LA.
23268-CD-P-01-82	Waterloo	IA.
23190-CD-P-01-82	Boise	ID.
21083-CD-P-11-82	Arlington Heights	IL.
20976-CD-P-03-82	Chicago	IL.
21083-CD-P-11-82	Chicago	IL.
23267-CD-P-01-82	Decatur	IL.
21096-CD-P-12-82	Pontiac	MI.
23266-CD-P-01-82	Billings	MT.
21287-CD-P-01-82	Windham	NH.
23191-CD-P-02-82	Reno	NV.
21085-CD-P-03-82	Cincinnati	OH.
21096-CD-P-12-82	Holland	OH.
21096-CD-P-12-82	Toledo	OH.
23056-CD-P-01-82	Tulsa	OK.
21095-CD-P-09-82	Bell Township	PA.
21086-CD-P-06-82	Philadelphia	PA.
21287-CD-P-01-82	Cumberland	RI.
21151-CD-P-03-82	Nashville	TN.
21294-CD-P-10-82	Houston	TX.
23193-CD-P-01-82	Spokane	WA.
21083-CD-P-11-82	Milwaukee	WI.
21083-CD-P-11-82	Homewood	IL.
23464-CD-P-01-82	Peoria Heights	IL.
21083-CD-P-11-82	Schaumburg	IL.
20976-CD-P-03-82	Warren Township	IL.
21083-CD-P-11-82	Hammond	IN.
23182-CD-P-01-82	Topeka	KS.
21076-CD-P-01-82	New Orleans	LA.
21287-CD-P-01-82	Boston	MA.
21154-CD-P-03-82	Baltimore	MD.
21096-CD-P-12-82	Detroit	MI.
B.W. Communications, Inc.:		
21202-CD-P-17-82	New York	NY.
23257-CD-P-01-82	North Greenbush Twsp	NY.
23253-CD-P-01-82	Schenectady	NY.
21000-CD-P-01-82	Batava	OH.
20922-CD-P-01-82	Cincinnati	OH.
20998-CD-P-01-82	Cincinnati	OH.
21203-CD-P-08-82	Glastonbury	CT.
21202-CD-P-17-82	Stamford	CT.
21202-CD-P-17-82	Trumbull	CT.
21206-CD-P-06-82	Wilmington	DE.
20989-CD-P-01-82	Bonita Springs	FL.
20930-CD-P-01-82	Ft. Myers	FL.
20993-CD-P-01-82	Largo	FL.
20921-CD-P-01-82	Miami	FL.
20929-CD-P-01-82	Miami	FL.
20938-CD-P-01-82	Miami	FL.
20941-CD-P-01-82	Miami	FL.
20939-CD-P-01-82	North Miami Beach	FL.
21001-CD-P-01-82	Sarasota	FL.
20988-CD-P-01-82	Tampa	FL.
20919-CD-P-01-82	West Palm Beach	FL.
21194-CD-P-06-82	Atlanta	GA.
23262-CD-P-01-82	Cedar Rapids	IA.
23254-CD-P-01-82	Waterloo	IA.
23265-CD-P-01-82	Boise	ID.
20996-CD-P-01-82	Arlington Heights	IL.
21005-CD-P-01-82	Batavia	IL.
23898-CD-P-01-82	Champaign	IL.
20994-CD-P-01-82	Chicago	IL.
21002-CD-P-01-82	Chicago	IL.
21004-CD-P-01-82	Crystal Lake	IL.
23899-CD-P-01-82	Danville	IL.
23255-CD-P-01-82	Decatur	IL.
20944-CD-P-01-82	Evanston	IL.
21017-CD-P-01-82	Homewood	IL.
21009-CD-P-01-82	Lockport	IL.
21003-CD-P-01-82	Oakbrook	IL.
21008-CD-P-01-82	Oaklawn	IL.
23538-CD-P-01-82	Peoria Heights	IL.
20995-CD-P-01-82	Schaumburg	IL.
23540-CD-P-01-82	Springfield	IL.
21011-CD-P-01-82	Warren Township	IL.
20987-CD-P-01-82	Hammond	IN.
23263-CD-P-01-82	Baton Rouge	LA.
20933-CD-P-01-82	New Orleans	LA.
21203-CD-P-08-82	Boston	MA
23973-CD-P-02-82	Bettendorf	IA.
23539-CD-P-01-82	Wichita	KS.
23013-CD-P-01-82	Tulsa	OK.
20991-CD-P-01-82	Naples	FL.
22290-CD-P-01-82	Grass Valley	CA.
22289-CD-P-01-82	Lodi	CA.
22291-CD-P-01-82	Rancho Cordova	CA.
22288-CD-P-01-82	Roseville	CA.
22287-CD-P-01-82	Sacramento	CA.
22286-CD-P-01-82	Stockton	CA.
22303-CD-P-01-82	Jacksonville	FL.
22297-CD-P-01-82	Orlando	FL.
22298-CD-P-01-82	Orlando	FL.
22299-CD-P-01-82	Winter Garden	FL.
22293-CD-P-02-82	Kansas City	KS.
22292-CD-P-01-82	Kansas City	MO.
22294-CD-P-01-82	Apex	NC.
22295-CD-P-01-82	Summerfield	NC.
22300-CD-P-01-82	Portland	OR.
22301-CD-P-01-82	Memphis	TN
22302-CD-P-01-82	Bee Cave	TX.
22285-CD-P-01-82	Bingham	UT.
22282-CD-P-01-82	Odgen	UT.
22283-CD-P-01-82	Provo	UT.
22284-CD-P-01-82	Salt Lake City	UT.
23293-CD-P-01-82	Reno	NV.
23259-CD-P-01-82	Little Rock	AR.
21200-CD-P-04-82	Phoenix	AZ.
20937-CD-P-01-82	Dale City	CA.
21198-CD-P-03-82	El Cajon	CA.
21197-CD-P-09-82	Los Angeles	CA.
20934-CD-P-01-82	Mt. Diablo	CA.
21197-CD-P-09-82	Newport Beach	CA.
20936-CD-P-01-82	Oakland Hills	CA.
21198-CD-P-03-82	San Diego	CA.
21198-CD-P-03-82	San Diego	CA.
20935-CD-P-01-82	San Francisico	CA.
20928-CD-P-01-82	San Jose	CA.
21196-CD-P-12-82	Detroit	MI.
21877-CD-P-01-82	Burnsville	MN.
21879-CD-P-01-82	Lino Lakes	MN.
21878-CD-P-01-82	Solderville	MN.
20990-CD-P-01-82	Clayton	MO.
20920-CD-P-01-82	St. Lowis	MO.
23256-CD-P-01-82	Billings	MT.
21253-CD-P-08-82	Windham	MN.
21206-CD-P-06-82	Camden	NJ.
21206-CD-P-06-82	Trenton	NJ.
23261-CD-P-01-82	Virginia City	NV.
21204-CD-P-06-82	Cleveland	OH.
21006-CD-P-01-82	Dayton	OH.
20999-CD-P-01-82	Fairfield	OH.
20932-CD-P-01-82	San Jose	CA.
21197-CD-P-09-82	Santa Ana	CA.
21199-CD-P-02-82	Boulder	CO.
23258-CD-P-01-82	Hancock	MA.
21195-CD-P-03-82	Baltimore	MD.
23264-CD-P-01-82	Spokane	WA.
20201-CD-P-03-82	Tacoma	WA.
21007-CD-P-01-82	Milwaukee	WI.
21015-CD-P-01-82	Arlington	TX.
20201-CD-P-03-82	Seattle	WA.
20201-CD-P-03-82	Snohomish	WA.
20986-CD-P-01-82	Arlington	TX.
20942-CD-P-01-82	Beaumont	TX.
21016-CD-P-01-82	Bedford	TX.
20945-CD-P-01-82	Dallas	TX.
20926-CD-P-01-82	Deer Park	TX.
21014-CD-P-01-82	Fort Worth	TX.
20923-CD-P-01-82	Houston	TX.
20940-CD-P-01-82	Houston	TX.
20946-CD-P-01-82	Houston	TX.
21013-CD-P-01-82	Little El	TX.
20925-CD-P-01-82	Oyster Creek	TX.
20918-CD-P-01-82	Port Bolivar	TX.
20924-CD-P-01-82	Stafford	TX.
20931-CD-P-01-82	Wallisville	TX.
20943-CD-P-01-82	Wigginsville	TX.
21204-CD-P-06-82	Painesville	OH.
20992-CD-P-01-82	Sycamore	OH.
21196-CD-P-12-82	Toledo	OH.
21206-CD-P-06-82	Bacton Hill	PA.
21205-CD-P-06-82	Bell Township	PA.
21206-CD-P-06-82	Philadelphia	PA.
21253-CD-P-03-82	Cumberland	RI.
21196-CD-P-12-82	Holland	OH.
20927-CD-P-01-82	Maimisburg	OH.
20997-CD-P-01-82	Middleton	OH.
P.A.L. Communications Systems, Inc.:		
21280-CD-P-03-82	Solderville	MN.
20761-CD-P-01-82	Maryland	MO.
20760-CD-P-01-82	St. Louis	MO.
20762-CD-P-01-82	St. Louis	MO.
23170-CD-P-02-82	Schenectady	NY.
20769-CD-P-01-82	Batavia	OH.
20767-CD-P-01-82	Cincinnati	OH.
20768-CD-P-01-82	Cincinnati	OH.
21281-CD-P-06-82	Cleveland	OH.
20770-CD-P-01-82	Hamilton	OH.
21289-CD-P-12-82	Holland	OH.
20771-CD-P-01-82	Sycamore	OH.
21289-CD-P-12-82	Toledo	OH.
23014-CD-P-01-82	Tulsa	OK.
21276-CD-P-09-82	Pittsburgh	PA.
21293-CD-P-03-82	Nashville	TN.
21271-CD-P-06-82	Arlington	TX.
21273-CD-P-10-82	Beaumont	TX.
21271-CD-P-06-82	Dallas	TX.
21273-CD-P-10-82	Houston	TX.
20772-CD-P-01-82	Middleton	OH.
23175-CD-P-01-82	Boise	ID.
23174-CD-P-01-82	Baton Rouge	LA.
23177-CD-P-02-82	Reno	NV.
23176-CD-P-02-82	Spokane	WA.
20796-CD-P-01-82	Sarasota	FL.
20781-CD-P-01-82	Addison	IL.
23168-CD-P-01-82	Little Rock	AR.
20765-CD-P-02-82	Mesa	AZ.
20764-CD-P-01-82	Phoenix	AZ.
20763-CD-P-01-82	Tucson	AZ.
20765-CD-P-02-82	Tucson	AZ.
21279-CD-P-06-82	Daly City	CA.
21288-CD-P-09-82	Los Angeles	CA.
21279-CD-P-06-82	Mt. Diablo	CA.
21097-CD-P-17-82	New York	NY.
20766-CD-P-02-82	Dayton	OH.
21282-CD-P-06-82	Wilmington	DE.
23169-CD-P-01-82	Billings	MT.
21282-CD-P-06-82	Philadelphia	PA.
21278-CD-P-08-82	Boston	MA.
21273-CD-P-10-82	Wigginsville	TX.
21272-CD-P-03-82	Seattle	WA.
20759-CD-P-01-82	Clayton	MO.
20774-CD-P-01-82	Homewood	IL.
21277-CD-P-03-82	San Diego	CA.
21288-CD-P-09-82	Newport Beach	CA.
21274-CD-P-02-82	Boulder	CO.
20795-CD-P-01-82	Bonita Springs	FL.
21286-CD-P-01-82	Jacksonville	FL.
21275-CD-P-03-82	Orlando	FL.
20794-CD-P-01-82	West Palm Beach	FL.
21275-CD-P-03-82	Winter Garden	FL.
20799-CD-P-01-82	Atlanta	GA.
20802-CD-P-01-82	Atlanta	GA.
20803-CD-P-01-82	College Park	GA.
20798-CD-P-01-82	Douglasville	GA.
20800-CD-P-01-82	Manetta	GA.
20801-CD-P-01-82	Sunnyside	GA.
23164-CD-P-01-82	Cedar Rapids	IA.
23165-CD-P-01-82	Waterloo	IA.
20784-CD-P-01-82	Arlington Heights	IL.
20782-CD-P-01-82	Batavia	IL.
20783-CD-P-01-82	Chicago	IL.
20780-CD-P-01-82	Crystal Lake	IL.
23166-CD-P-01-82	Decatur	IL.
20778-CD-P-01-82	Evanston	IL.
20775-CD-P-01-82	Lockport	IL.
20773-CD-P-01-82	Oaklawn	IL.
23364-CD-P-01-82	Peoria Heights	IL.
20777-CD-P-01-82	Schaumburg	IL.
20779-CD-P-01-82	Warren Township	IL.
20776-CD-P-01-82	Hammond	IN.
23167-CD-P-01-82	Topeka	KS.
23480-CD-P-01-82	Wichita	KS.
20797-CD-P-01-82	New Orleans	LA.
23361-CD-P-01-82	Pittsfield	MA.
21285-CD-P-03-82	Baltimore	MD.
21289-CD-P-12-82	Detroit	MI.
21280-CD-P-03-82	Lino Lakes	MN.
20793-CD-P-01-82	Miami	FL.
20791-CD-P-01-82	Naples	FL.
20789-CD-P-01-82	Ft. Myers	FL.
20785-CD-P-01-82	Largo	FL.
20786-CD-P-01-82	Miami	FL.
20790-CD-P-02-82	Miami	FL.
20788-CD-P-01-82	North Miami Beach	FL.
20787-CD-P-01-82	Tampa	FL.
20792-CD-P-01-82	Venice	FL.
23849-CD-P-01-82	Champaign	IL.
23913-CD-P-01-82	Danville	IL.
23851-CD-P-01-82	Springfield	IL.
Vineyard Communications, Inc.:		
20689-CD-P-01-82	Middleton	OH.
21239-CD-P-01-82	North Olmsted	OH.
21243-CD-P-01-82	Painesville	OH.

20695-CD-P-01-82	Sycamore	OH.
21253-CD-P-01-82	Toledo	OH.
23053-CD-P-01-82	Tulsa	OK.
21157-CD-P-01-82	Bacton Hill	PA.
21156-CD-P-01-82	Penndel	PA.
21155-CD-P-01-82	Philadelphia	PA.
21270-CD-P-09-82	Pittsburgh	PA.
21231-CD-P-01-82	Cumberland	RI.
21216-CD-P-01-82	Nashville	TN.
21217-CD-P-02-82	Nashville	TN.
21268-CD-P-06-82	Dallas	TX.
21267-CD-P-10-82	Houston	TX.
21219-CD-P-01-82	Seattle	WA.
21220-CD-P-01-82	Snohomish	WA.
23198-CD-P-01-82	Spokane	WA.
21218-CD-P-01-82	Tacoma	WA.
20687-CD-P-01-82	Milwaukee	WI.
21222-CD-P-01-82	Beltsville	MD.
23279-CD-P-01-82	Decatur	IL.
20681-CD-P-01-82	Oaklawn	IL.
23298-CD-P-02-82	Reno	NV.
21227-CD-P-01-82	Atlanta	GA.
20651-CD-P-01-82	New Orleans	LA.
21236-CD-P-01-82	Boston	MA.
21234-CD-P-01-82	Framingham	MA.
23275-CD-P-01-82	Hancock	MA.
21233-CD-P-01-82	Kingston	MA.
21237-CD-P-01-82	Needham	MA.
21235-CD-P-01-82	Paxton	MA.
21224-CD-P-02-82	Baltimore	MD.
21223-CD-P-01-82	Harwood	MD.
21249-CD-P-01-82	Detroit	MI.
21252-CD-P-01-82	Inkster	MI.
21246-CD-P-01-82	Lincoln Park	MI.
21244-CD-P-01-82	Mt. Clemens	MI.
21248-CD-P-01-82	Pontiac	MI.
21247-CD-P-01-82	Richmond	MI.
21254-CD-P-01-82	Southfield	MI.
21250-CD-P-01-82	Troy	MI.
21245-CD-P-01-82	Ypsilanti	MI.
21161-CD-P-01-82	Burnsville	MN.
21162-CD-P-01-82	Lino Lakes	MN.
21163-CD-P-01-82	Solderville	MN.
20652-CD-P-01-82	Clayton	MO.
20685-CD-P-01-82	Maryland Heights	MO.
20684-CD-P-01-82	St. Louis	MO.
20686-CD-P-01-82	St. Louis	MO.
23277-CD-P-01-82	Billings	MT.
21230-CD-P-01-82	Windham	MH.
21159-CD-P-01-82	Camden	NJ.
21269-CD-P-18-82	Newark	NJ.
21158-CD-P-01-82	Trenton	NJ.
23173-CD-P-01-82	Reno	NV.
23200-CD-P-01-82	Virginia City	NV.
21269-CD-P-18-82	New York	NY.
23273-CD-P-01-82	No. Greenbush Township	NY.
23274-CD-P-01-82	Schenectady	NY.
21256-CD-P-01-82	Magic Mountain	CA.
21257-CD-P-03-82	Mt. Diablo	CA.
21266-CD-P-02-82	Newport Beach	CA.
21258-CD-P-01-82	Oakland Hills	CA.
21259-CD-P-02-82	Pomona	CA.
21264-CD-P-03-82	Rollings Hills	CA.
21263-CD-P-02-82	San Bernardino	CA.
21262-CD-P-01-82	San Diego	CA.
21266-CD-P-02-82	San Diego	CA.
21264-CD-P-03-82	San Francisco	CA.
21259-CD-P-02-82	San Jose	CA.
21260-CD-P-01-82	San Jose	CA.
21265-CD-P-01-82	Santa Ana	CA.
21261-CD-P-01-82	Van Nuys	CA.
21215-CD-P-01-82	Boulder	CO.
21214-CD-P-01-82	Morrison	CO.
21232-CD-P-01-82	Glastonbury	CT.
21160-CD-P-01-82	Wilmington	DE.
20701-CD-P-01-82	Bonita Springs	FL.
20707-CD-P-01-82	Ft. Myers	FL.
20699-CD-P-01-82	Miami	FL.
20704-CD-P-01-82	Miami	FL.
20705-CD-P-01-82	Miami	FL.
20710-CD-P-01-82	Naples	FL.
20700-CD-P-01-82	Sarasota	FL.
20703-CD-P-01-82	Tampa	FL.
20709-CD-P-01-82	Venice	FL.
20704-CD-P-01-82	West Palm Beach	FL.
21221-CD-P-01-82	Atlanta	GA.
21225-CD-P-01-82	College Park	GA.
21229-CD-P-01-82	Douglasville	GA.
21226-CD-P-01-82	Marietta	GA.
21228-CD-P-01-82	Sunnyside	GA.
23966-CD-P-02-82	Bettendorf	IA.
23276-CD-P-01-82	Cedar Rapids	IA.
23278-CD-P-01-82	Waterloo	IA.
23171-CD-P-01-82	Boise	ID.
20678-CD-P-01-82	Addison	IL.
20676-CD-P-01-82	Arlington Heights	IL.
20680-CD-P-01-82	Batavia	IL.
23897-CD-P-02-82	Champaign	IL.
20679-CD-P-02-82	Chicago	IL.
20679-CD-P-02-82	Chicago	IL.
20683-CD-P-01-82	Crystal Lake	IL.
23897-CD-P-02-82	Danville	IL.
23966-CD-P-02-82	East Moline	IL.
20677-CD-P-01-82	Evanston	IL.
21241-CD-P-01-82	Copley	OH.
20702-CD-P-01-82	North Miami Beach	FL.
20706-CD-P-01-82	Largo	FL.
20698-CD-P-01-82	Phoenix	AZ.
20708-CD-P-01-82	Miami	FL.
23199-CD-P-01-82	Little Rock	AR.
20696-CD-P-01-82	Tucson	AZ.
20697-CD-P-01-82	Tucson	AZ.
21264-CD-P-03-82	Daly City	CA.
21257-CD-P-03-82	La Habra	CA.
21263-CD-P-02-82	Los Angeles	CA.
21269-CD-P-18-82	White Plains	NY.
20691-CD-P-01-82	Batavia	OH.
21233-CD-P-01-82	Beachwood	OH.
21242-CD-P-01-82	Bolivar	OH.
20692-CD-P-01-82	Cincinnati	OH.
20693-CD-P-01-82	Cincinnati	OH.
20690-CD-P-02-82	Dayton	OH.
20694-CD-P-01-82	Hamilton	OH.
21251-CD-P-01-82	Holland	OH.
20690-CD-P-02-82	Miamisburg	OH.
20674-CD-P-01-82	Homewood	IL.
20675-CD-P-01-82	Lockport	IL.
23502-CD-P-01-82	Peoria Heights	IL.
20653-CD-P-01-82	Schaumburg	IL.
20682-CD-P-01-82	Warren Township	IL.
20688-CD-P-01-82	Hammond	IN.
23197-CD-P-01-82	Topeka	KS.
23503-CD-P-01-82	Wichita	KS.
23172-CD-P-01-82	Baton Rouge	LA.

Appendix B

Petitioners

1. Joint Petitions

(a) Parties represented by Radison, Pfaelzer, Woodard, Quinn & Rossi:

Aalcom
Answer, Inc.
Answer, Inc. of Galveston
Answer, Inc. of Houston
Answer, Inc. of San Antonio
Associate Telephone Answering Services System, Inc.
Beepercall
Communications, Inc.
Chalfont Communications, Inc.
Dash Page, Inc.
Dial-A-Page, Inc.
EMAC Communications Company, Inc.
Fort Smith Beepers, Inc.
Gencom Incorporated
Industrial Communications Systems, Inc.
Kelley Communications
Kelley's Radio Telephone, Inc.
Mahaffey Message Relay, Inc.
Metro Fone Communications, Inc.
Omni Communications, Inc.
Pacific Paging
Page Communications, Inc.
Twin City Beepers, Inc.
General Communication Systems, Inc.

(b) Parties represented by Blooston and Mordkofsky:

Central Radio Dispatch, Inc.
Minnesota Communications Corporation
Mobile Radio Telephone & Paging Service, Inc.
Page-A-Fone Corporation
Patterson Answerphone Communications Enterprises, Inc.
Radiofone, Inc.
Rogers Radio Communication Services, Inc.

(c) Parties represented by Schnader, Harrison, Segal & Lewis:

Answer Iowa, Inc.
Waterloo Communications, Inc.

2. Other Petitioners

Telpage of Nashville, Inc.
RAM Broadcasting Corp.
RAM Broadcasting of Texas, Inc.
Paging Network, Inc.
Mobile Radio System of San Jose, Inc.
Tel-Page Corporation

[FR Doc. 82-24790 Filed 9-15-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Auditing and Regulatory Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee scheduled to meet on Monday, September 27, 1982. The meeting will be held at 1:30 p.m., in Room 856 of the Commission's offices at 1919 M Street, N.W., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Preliminary analysis of impact of ERTA of 1981 on regulated industries
IV. Further assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico

Secretary, Federal Communications Commission.

[FR Doc. 82-25389 Filed 9-15-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto, Rico. Interested parties may submit comments on each agreements, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3508-2.

Filing Party: Mr. Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3508-2, between the Port of Palm Beach District (Port) and West India Shipping Company, Inc. (Company) provides for the renewable five-year exclusive lease by Port to Company of office, warehouse and open storage space in the Port of Palm Beach. The purpose of the modification is to extend the term of the lease for an additional five years and to adjust the rental.

Agreement No. T-3787-4.

Filing party: Mr. H. H. Wittren, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3787-4 between the Port of Seattle (Port) and Hagag-Lloyd AG Hamburg, Bremen (HL) modifies the parties' basic agreement which provides for Port's lease to HL of certain premises at Terminal 18, Seattle, together with perferential use of ship's berths and pier apron, two Port-owned container cranes and eight straddle carriers. The purpose of the modification is to document HL's relocation to the north end of the terminal upon completion of reconstruction work by the Port, and to add fender piling to HL's maintenance responsibilities.

Agreement No. T-4064.

Filing party: Mr. J. H. Fox, Director, Marine Services, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-4064 between the Port of Seattle (Port) and International Terminal Company (ITC) provides for a Revocable Trial Perferential Assignment Agreement. The Port will assign to ITC, premises located at Seattle Terminal 115 for use as a public terminal to handle breakbulk cargo. ITC will utilize the premises pursuant to Port's Tariff No. 3. The agreement will have a term of six-months from its commencement date with an option to extend the agreement beyond the six-month trial period. The charge for the premises shall be $137,640 for the current six-month period. If ITC receive in excess of that amount in wharfage and dockage charges, it shall receive 50 percent of said excess.

Agreement No. T-4065.

Filing party: Mr. John Gerhard, General Counsel/Secretary, Department of Ports and Terminals, Battery Maritime Building, New York, New York 10004.

Summary: Agreement No. T-4065, between the New York City Department of Ports and Terminals (Department) and the International Terminal Operating Co., Inc. (ITO), provides for the lease by Department to ITO of a 110-acre marine terminal facility in the Port of New York. As compensation, ITO will pay Department a minimum annual rental of $1,950,000. The term of the lease is for five years, with two five-year renewal options.

Agreements Nos. T-4066 and T-4067.

Filing party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Summary: Agreement No. T-4066, between the Port of Oakland (Port) and Hong Kong Islands Shipping Co., Ltd. (HKIS) is a terminal use agreement, which, provides that HKIS shall have the nonexclusive right to certain assigned premises at the Port's Outer Harbor Terminal, Berth 6, for the berthing, loading, discharging and related operations of its owned or operated vessels in its Transpacific service. HKIS agrees that the assigned premises shall be its published regularly scheduled Northern California port of call. The authority to manage these premises for the Port is vested in Crescent Wharf and Warehouse Company, as separately provided for under the terms of proposed management Agreement No. T-4067. The provisions of the Port of Oakland Tariff No. 2 shall apply to HKIS's use of the assigned premises. As a consideration for its regular use of the Port, HKIS will pay to Port 90 percent of tariff dockage and wharfage revenues, instead of 100 percent of said charges; and if HKIS usage generates in excess of 31,000 revenue tons in a year, no further wharfage payments to Port are required. The term of the agreement commences upon Commission approval and runs through August 1986.

Agreement No. T-4067, between the Port and Crescent Wharf and Warehouse (Crescent) provides that Crescent will perform terminal management services and terminal operating and cargo solicitation services within Berth 6 of the Port's Outer Harbor Terminal. Principally, Crescent will attempt to obtain user agreements between the Port and ocean carriers, committing such users to use these premises as their published regularly scheduled Northern California port of call. Such user will be subject to the Port's tariff. Port has the right to cancel the agreement if Crescent does not generate a minimum of 410,000 revenue tons a year. As compensation, Crescent will retain 2½ percent of the gross wharfage and dockage terminal tariff revenues which accrue for terminal users. The term of the agreement commences upon Commission approval and runs through August 31, 1986.

By order of the Federal Maritime Commission.

Dated: September 10, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25379 Filed 9-15-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 9490]

RCD Shipping Services; Cancellation

Filing Party: Akhtar Hanif, Commodore P.N., General Manager, RCD Shipping Services, 103 Tesvikiye Caddesi, Post Box No. 35 Tesvikiye, Istanbul, Turkey.

Summary: On August 31, 1982, the Commission received notice from the General Manager of RCD Shipping

Services that the Governments of Turkey, Iran, and Pakistan have decided to terminate Agreement No. 9490, as amended, and to dissolve the RCD Shipping Services Joint Service with effect from September 30, 1982. The notice conforms with the requirements of Article 14 of Agreement No. 9490 which provides, in pertinent part, that: "This agreement shall remain in force until such time as it is cancelled by action of the respective Governments of Turkey, Iran and Pakistan. In the event of such cancellation the General Manager of the Joint Service shall promptly give written notice of such cancellation to the Federal Maritime Commission."

By order of the Federal Maritime Commission.

Dated: September 10, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25377 Filed 9-15-82; 8:45 am]

BILLING CODE 6730-01-M

Seatrain International S.A. and Prudential Lines, Inc. Container Interchange Agreement; Cancellation of Agreement No. 10299

Agreement No. 10299, approved on July 25, 1977, authorizes Seatrain International S.A. and Prudential Lines, Inc. to interchange cargo containers and related equipment in connection with the operation of Seatrain's service between Puerto Rico and the U.S. Virgin Islands and ports in the Caribbean and Prudential's services between ports in the Dominican Republic and ports in South America. Prudential Lines was notified by letter dated July 13, 1982 of the Commission's concern that Agreement No. 10299 appears to be inactive and that the Commission proposed to terminate the agreement unless Prudential Lines notified the Commission that the agreement was still active. To date, no response has been receive from Prudential Lines. Therefore, it appears that Agreement No. 10299 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 10299 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

Federal Maritime Commission—Hapag Lloyd A/G Interchange and Transshipment Agreements

Cancellation of Agreements Nos. 9672, 9700, 9806, 9898, 9933 and 10019

Agreements between Hapag Lloyd A/G and the following parties were approved by the Federal Maritime Commission on the dates indicated.

Agreement No.	Participating parties	Date approved
9672	Atlantic Container Line	Dec. 20, 1967.
9700	Finnlines Ltd. D/Y	Apr. 3, 1968.
9806	Swedish Atlantic Lines Wilhelmsen Companies	July 31, 1969.
9898	Hansa Line	Oct. 26, 1970.
9933	Seatrain Lines	Apr. 7, 1971.
10019	Caribbean Sea-Road Service Inc..	May 9, 1973.

The first five agreements listed authorize the interchange of containers by the respective parties while the last is a transshipment agreement between the named parties. Hapag-Lloyd was notified by letter dated July 2, 1982 of the Commission's concern that the above listed agreements appear to be inactive and that the Commission proposed to terminate the agreements unless Hapag-Lloyd notified the Commission that the subject agreements are still active. To date, no response has been received from Hapag-Lloyd. Therefore, it appears that the above listed agreements are no longer active and that the agreements should be terminated. Accordingly, notice is hereby given that Agreements Nos. 9672, 9700, 9806, 9898, 9933 and 10019 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

Federal Maritime Commission—The Pacific Steam Navigation Company and Inter-American Shipping Corporation Transship Agreement

Notice of Cancellation of Agreement No. 9611

Agreement No. 9611, approved on February 8, 1968, authorizes The Pacific Steam Navigation Company and Inter-American Shipping Corp. to transship cargo under through bills of lading from the ports of Miami and Tampa, Florida to ports on the West Coast of South America. An attempt was made to notify Inter-American by letter dated July 9, 1982 of the Commission's concern that Agreement No. 9611 appears to be inactive and that the Commission proposed to terminate the agreement unless Inter-American notified the Commission that the agreement was still active. The letter of notification was returned by the U.S. Postal Service as undeliverable. Neither carrier to the agreement maintains tariffs with the Commission nor advertises service in the trade covered by the agreement. Therefore, it appears that Agreement No. 9611 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9611 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

Federal Maritime Commission—Commodore Cruise Line, Limited and Biscayne Express Line, Inc.

Notice of Cancellation

Filing party: Stig A. Ahlenius, Vice President, Commodore Cruise Line, Limited, 1015 North America Way, Suite 205, Miami, Florida 33132.

Summary: On August 30, 1982, the Commission received noticed that Agreement No. 10233 between Commodore Cruise Line, Limited and Biscayne Express Line, Inc. has been cancelled. Therefore, the agreement has been terminated effective August 30, 1982, the date the notice was received by the Commission.

Federal Maritime Commission—Columbus Line Section 15 Agreements

Notice of Cancellation

Agreement No. 9342, approved January 5, 1965, covers a sailing agreement between Columbus Line and Crusader Shipping Co., Ltd. (Crusader) in the trade from New Zealand to the U.S. Pacific Coast. Agreement No. 9378, approved October 13, 1964 is a sailing agreement between Columbus Line and Blue Star Line Limited (Blue Star) in the trade from U.S. Atlantic & Gulf ports to Australia. Neither Crusader nor Blue Star maintain tariffs in the agreement trades or membership in conferences serving these trades and, therefore, apparently are no longer operating as ocean common carriers in the foreign commerce of the United States.

In an effort to determine the status of Agreements Nos. 9342 and 9378, the Commission, by letter dated July 20, 1982, inquired of representatives of Columbus Line whether said agreements were inactive and could be cancelled. To date, no response has been received from Columbus Line. Therefore, it appears that the agreements are no longer active and should be terminated. Accordingly, notice is hereby given that Agreements Nos. 9342 and 9378 will be terminated effective 15 days following publication of this notice in the **Federal Register.**

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 82-25378 Filed 9-15-82; 8:45 am]

BILLING CODE 6730-01-M

Inactive Tariffs; Bureau of Compliance, Cancellation

By notice published in the **Federal Register** on May 6, 1982, the Commission notified the carriers named therein of its intent to cancel certain tariffs 30 days thereafter in the absence of a showing of good cause why such tariffs should not be cancelled. The following carriers failed to respond to the notice:

Matthew P. Guasco, Executive Vice President, Continental Forwarders, Inc., 350 Broadway, New York, New York 10013.

Raymond L. Shunterman, Manager, Rates and Tariffs, Kingpak, Inc., Post Office Box 18298, Wichita, Kansas 67218

F. C. Armentrout, Jr., Tariff Manager, Merchant International, Inc., 623 South Pickett Street, Alexandria, Virginia 22304

Victor Medina, President, Medina Shipping Co., Inc., 720 Broadway, Newark, New Jersey, 07104

N. A. Michael O'Neal, Jr., Reliance Forwarding Corporation, 67 Kings Highway, Maple Shade, New Jersey 08052

Robert Weiss, President, World Wide Forwarding, Inc., 455 Lenox Square, Jacksonville, Florida 32205

Accordingly, by authority delegated by section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981, the tariffs of the above named carriers are hereby cancelled.

Daniel J. Connors,

Director, Bureau of Tariffs.

[FR Doc. 82-25486 Filed 9-15-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of June 30-July 1, 1982

In accordance with § 217.5 of its rule regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on June 30,-July 1, 1982.[1]

The information reviewed at this meeting suggests that real GNP changed little in the second quarter, after the appreciable further decline in the first quarter, as business inventory liquidation moderated from an extraordinary rate. In May the nominal value of retail sales continued to pick up, while industrial production declined only a little further and nonfarm payroll employment was essentially unchanged. The unemployment rate edged up 0.1 percentage point to 9.5 percent. Housing starts rose appreciably from a depressed level.

The price index for gross domestic business product appears to have risen at a relatively slow rate in the second quarter. Over the first five months of this year the producer price index for finished goods was virtually stable, and the advance in the index of average hourly earnings remained at a reduced pace. The consumer price index rose sharply in May, after a small net increase over the preceding four months.

The weighted average value of the dollar against major foreign currencies has risen sharply over the past month, reaching its highest level since early 1971, in response to a rise in U.S. interest rates relative to foreign rates as well as to hostilities in the Middle East. The U.S. foreign trade deficit in the first five months of 1982 was at a rate substantially less than in the fourth quarter of last year, as imports declined more than exports.

M1 declined somewhat in May, after its sharp rise in April, while growth of M2 remained substantial. Business demands for credit, expecially short-term credit, were exceptionally strong. Short-term market interest rates and bond yields generally have risen since late May, and mortgage interest rates have increased.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in early February, the Committee agreed that its objectives would be furthered by growth of M1, M2, and M3 from the fourth quarter of 1981 to the fourth quarter of 1982 within ranges of 2½ to 5½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent. These ranges were under review at this meeting.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M1 and M2 from June to September at annual rates of about 5 percent and about 9 percent respectively. Somewhat more rapid growth would be acceptable depending on evidence that economic and financial uncertainties are leading to exceptional liquidity demands and changes in financial asset holdings. It was also noted that seasonal uncertainties, together with increased social security payments and the initial impact of the tax cut on cash balances, might lead to a temporary bulge in the monetary aggregates, particularly M1. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 10 to 15 percent.

Following the Committee's actions on July 15, the next to last paragraph of the domestic policy directive adopted at its meeting on June 30-July 1 read as follows:

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in early February, the Committee had agreed that its objectives would be furthered by growth of M1, M2, M3 from the fourth quarter of 1981 to the fourth quarter of 1982 within ranges of 2½ to 5½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent. The Committee began a review of these ranges at its meeting on June 30-July 1, and at a meeting on July 15, it reaffirmed the targets for the year set in February. At the same time the Committee agreed that growth in the monetary and credit aggregates around the top of the indicated ranges would be acceptable in the light of the relatively low base period for the M1 target and other factors, and that it would tolerate for some period of time growth somewhat above the target range should unusual precautionary demands for money and liquidity be evident in the light of current economic uncertainties. The Committee also indicated it was tentatively planning to continue the current ranges for 1983, but would review that decision carefuly in the light of developments over the remainder of 1982.

By order of the Federal Open Market Committee, September 7, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82-25391 Filed 9-15-82; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meetings of June 30-July 1, 1982, and July 15, 1982, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an actvity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests

a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (money orders; North Carolina and South Carolina): To engage through their subsidiaries, BarclaysAmerican/Financial, Inc. ("BAF") and BarclaysAmerican/Financial Services, Inc. ("BAFS"), in selling money orders at retail. This activity would be conducted from offices of BAF located in Sumter, Greenville, and Columbia, South Carolina, and offices of BAFS in Lumberton, Asheville, Waynesville, Boone, Kannapolis, Albemarle, Asheboro, and Lenior, North Carolina, serving customers throughout South Carolina and North Carolina. Comments on this application must be received not late than October 12, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Jefferson Corporation*, Biloxi, Mississippi (financing activities; Mississippi): To engage, though its subsidiary, First Jefferson Mortgage Company, in making or acquiring loans and other extensions of credit such as would be made by a mortgage company to persons, partnerships, corporations, and other legal entities, secured by mortgages or deeds of trust on real estate and servicing such loans for itself or for others. First Jefferson Mortgage Company's activities would be conducted from an office in Biloxi, Mississippi, serving Harrison County, Mississippi. Comments on this application must be received not later than October 6, 1982.

Board of Governors of the Federal Reserve System, September 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25392 Filed 9-15-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Grand Prairie Bancshares, Inc.*, Carlisle, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank & Trust, Carlisle, Arkansas. Comments on this application must be received not later than October 12, 1982.

2. *Southwest Illinois Bancshares, Inc.*, Coulterville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank of Coulterville, Coulterville, Illinois. Comments on this application must be received not later than October 12, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 55480:

1. *Citadel Bankshares, Inc.*, Wichita, Kansas; to become a bank holding company by acquiring 90.12 percent of the voting shares of East Side Bank and Trust, Wichita, Kansas. Comments on this application must be received not later than October 12, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Rochester Bancshares, Inc.*, Rochester, Texas; to become a bank holding company by acquiring 83.6 percent of the voting shares of The Home State Bank, Rochester, Texas. Comments on this application must be received not later than October 12, 1982.

Board of governors of the Federal Reserve System, September 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25393 Filed 9-15-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The Companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Southwest Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Plaza National Bank, Harlingen, Texas. Comments on this application must be received not later than October 12, 1982.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *The First National Bancorporation, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares or assets of First National Bank of Highlands Ranch, Littleton, Colorado. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than October 12, 1982.

Board of Governors of the Federal Reserve System, September 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25394 filed 9-15-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Dial Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dial Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Crown Finance Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25399 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Nationwide Mutual Insurance Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Nationwide Mutual Insurance Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Farmland Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Farmland Industries, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25401 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Occidental Petroleum Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Occidental Petroleum Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Cities Service Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice sua sponte. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25400 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Dana Corporation

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dana Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Rexnord, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dana Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25398 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; National Medical Enterprises, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: National Medical Enterprises, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Idak Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by National Medical Enterprises, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25397 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; O'Connor Associates

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: O'Connor Associates is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of The Trane Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by O'Connor Associates. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M.Thomas,

Secretary.

[FR Doc. 82-25395 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; O'Connor Securities

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: O'Connor Securities is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of The Trane Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by O'Connor Securities. Neither agency intends to take any action with respect to this acquistion during the waiting period.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25396 Filed 9-15-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; National Advisory Council on Aging; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on October

13–15, 1982, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on Wednesday, October 13 from 9:00 a.m. until 5:00 p.m., for opening remarks, a status report by the Acting Director, National Institute on Aging, a report from the Council ad hoc Working Group on Health Promotion, a report from the Director, NIH, a report on Misconduct in Science, and a report from the Council ad hoc Working Group on Program. It will be open to the public on Thursday, October 14 from 2:30 p.m. until approximately 5:30 p.m. for the Behavioral Sciences Research Program Review. It will be open to the public on Friday, October 15 from 9:00 a.m. until adjournment, for a presentation by the Assistant Secretary for Health, the Biomedical Research and Clinical Medicine Program Review, and the Epidemiology, Demography and Biometry Program Review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 14, 1982, from 9:00 a.m. until approximately 2:30 p.m. for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Council Secretary, National Institute on Aging, Building 31, Room 2C–05, National Institutes of Health, Bethesda, Maryland 20205 (Area Code 301, 496–5898), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: September 1, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–25383 Filed 9–15–82; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis, Diabetes, and Digestive and Kidney Diseases, Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on September 22, 23, and 24, 1982 in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on September 22, from 8:30 a.m. to adjournment to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on September 23, from 8:30 a.m. to approximately 12:00 noon: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on September 23 from 1:00 p.m. to adjournment on September 24.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5765.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 1, 1982.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 82–25382 Filed 9–15–82; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Resources, Centers, and Community Activities; National Cancer Institute Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities, National Cancer Institute, National Institutes of Health, October 7–8, 1982, Building 31, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 8:30 a.m. to approximately 3:00 p.m. on October 7, from 8:30 a.m. to adjournment on October 8, to discuss the current and future programs of the Division of Resources, Centers, and Community Activities, as well as to review the program concepts of that Division. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 7, from approximately 3:00 p.m. to adjournment, for the review, discussion and evaluation of programs and projects conducted by the Division of Resources, Centers, and Community Activities, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar matters, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert G. Burnight, Executive Secretary, Board of Scientific Counselors, DRCCA, National Cancer Institute, Blair Building, Room 614C, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8630) will furnish substantive program information.

Dated: September 1, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-25384 Filed 9-15-82; 8:45 am]

BILLING CODE 4140-01-M

INTER-AMERICAN FOUNDATION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Inter-American Foundation has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511.

1. A revision of Agency form F-0001A previously approved as OMB 0417-0001 for use in connection with the Agency's Doctoral and Master's Fellowship program.

2. An application form to be used in connection with a new Latin American and Caribbean Fellowship program.

Copies of these submissions are available from Melvin Asterken, Agency Clearance Officer, (703) 841-3869. Comments should be sent to David Reed, Office of Management and Budget, OIRA, Washington, D.C. 20503.

Melvin Asterken,

Agency Clearance Officer.

[FR Doc. 82-25568 Filed 9-15-82; 8:45 am]

BILLING CODE 7025-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 55228]

Montana; Realty Action, Direct Noncompetitive Sale of Public Land in Valley County

Correction

In FR Doc. 82-21583, published on page 34644, on Tuesday, August 10, 1982, in the third column, the second line under "T. 30 N., R. 36 E.," "SW¼NW¼ S¼," should be corrected to read "SW¼NW¼SW¼,".

BILLING CODE 1505-01-M

Alaska; Case File Processing

September 9, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening of the branch of Case File processing at the Anchorage District Office located at 4700 East 72nd Avenue, Anchorage, Alaska 99507.

SUMMARY: With the recent reorganization of the Bureau of Land Management's Alaska State Office, certain functions are now the responsibility of the Anchorage District Manager. The reorganization has transferred the following case types to the Anchorage District Office: new settlement claims, airport leases, rights-of-way, leases, sales and permits pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA).

Accordingly, a Branch of Case File Processing has been established at the Anchorage District Office. All future filings and applications involving these case types will be received at the Anchorage District Office during the normal business hours.

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: Fred Lohse (907) 267-1227, Bureau of Land Management, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

Fred Wolf,

Acting State Director.

[FR Doc. 82-25503 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

Montana and North Dakota; Notice of Fort Union Regional Coal Meeting

September 10, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Fort Union Regional Coal Team meeting.

SUMMARY: Pursuant to the responsibilities set forth in 43 CRR 3400.4(B), the Montana State Office is issuing this notice to announce a Fort Union Regional Coal Team meeting at 8:30 a.m. on October 19, 1982, in the Sixth Floor Conference Room of Granite Tower, 222 North 32nd Street, Billings, Montana.

Some of the items on the agenda are as follows:

Review of public comment on the Fort Union Coal Region Draft Environmental Impact Statement

The RCT's final preferred leasing alternative will be selected

Final directives to the staff concerning Fort Union Coal Region Final EIS

FOR FURTHER INFORMATION CONTACT: Lloyd Emmons, Acting Project Manager, Fort Union Project, Bureau of Land Management, Montana State Office, P.O. Box 30157, Billings, Montana 59107. Telephone: (406) 657-6632.

Bill D. Noble,

Acting State Director.

[FR Doc. 82-25504 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 7522 WR]

California; Order Providing for Opening Public Land

September 9, 1982.

T. The Secretarial Order of Interpretation No. 155 dated December 11, 1931, of Public Water Reserve 107, is hereby revoked as to the following described land which does not meet the criteria of the Executive Order of April 17, 1926:

Mount Diablo Meridian

T. 45 N., R. 16 E.,
Sec. 25, NE¼NE¼.

The land described contains 40 acres in Modoc County.

San Bernardino Meridian

T. 2 N., R. 3 E.,
Sec. 35, NW¼.

The land described contains 160 acres in San Bernardino County.

2. The land in NW¼ of Sec. 35, T. 2 N., R. 3 E., S.B.Mer., is privately owned and is not subject to disposition under the public land and mineral laws.

3. At 10 a.m. on October 20, 1982 the public land 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 October 20, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on October 20, 1982 the public land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues 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 land should be addressed to the Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Ed Hastey,

State Director.

[FR Doc. 82-25572 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[S 5283]

California; Termination of Proposed Withdrawal and Reservation of Land

September 8, 1982.

Notice of Bureau of Land Management, U.S. Department of the Interior, application S-5283 for

withdrawal and reservations of the following described land from the operation of the public land laws, including the mining laws (30 U.S.C. Ch. 2) for the Squaw Leap Management Area, was published as F.R. Doc 72-19228 on page 23853 of the issue of November 9, 1972, and republished as F.R. Doc 77-21686 on page 38435 of the issue of July 28, 1977. The applicant has cancelled its application in its entirety.

Squaw Leap Management Area

Mount Diablo Meridian, California

T. 9 S., R. 22 E.,
Sec. 26, SE¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 33, SE¼SE¼;
Sec. 34, All;
Sec. 35, SW¼NE¼, W½ and W½SE¼.
T. 10 S., R. 22 E.,
Sec. 1, Lots 19, 20 and 21;
Sec. 2, Lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, SW¼NE¼, S½NW¼, and NW¼SW¼;
Sec. 3, Lots 5, 6, 7, 8, 9, 10, 11, 12 and 13, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 4, Lots 11 and 12;
Sec. 11, NW¼NW¼ and SW¼SW¼.

The area described aggregated 2,610.51 acres in Madera and Fresno Counties.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2-1, these lands shall immediately be relieved of the segregative effect of the above mentioned application.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-25521 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[Emergency Designation Order CO-030-8202]

Colorado Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Emergency Off-Road Vehicle Designation Decisions.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and regulations contained in 43 CFR Part 8340. The following described trails under administration of the Bureau of Land Management are designated as closed to motorized vehicle use.

The trails affected by this closure designation are known as the Ute, Duncan, Bobcat, and Chukar Trails located within the Gunnison Gorge Recreation Lands. The Gunnison Gorge Recreation Lands were officially designated in September, 1972 and are located in Montrose and Delta counties east of Olathe, Colorado. This closure designation is a result of management direction from the 1970 Gunnison Gorge Management Framework Plan. Comments from public meetings and workshops during the planning process and recent written and oral input and observations concerning resource damage and user conflicts influenced this closure designation. This closure designation is published as final today. Under the provisions in 43 CFR 4.4, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

Closure Designation

The Ute, Duncan, Bobcat and Chukar trails are within the Gunnison Gorge Recreation Lands. All motorized vehicle use is prohibited on these trails in order to mitigate resource damage, eliminate user conflicts between cyclists and hiking/horseback travellers, and provide for visitor safety.

This closure designation becomes effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer.

For a map and further information about these designations, contact either of the following Bureau of Land Management Offices:

District Manager, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401

Area Manager, Uncompahgre Basin Resource Area, 336 South 10th Avenue, Montrose, Colorado 81401.

Dated: September 8, 1982.

Marlyn V. Jones,

District Manager, Authorized Officer.

[FR Doc. 82-25575 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[I-18825]

Non-Competitive Sale of Public Lands in Custer County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-18825, Non-Competitive sale of Public Lands in Custer County, Idaho.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

Boise Meridian, Idaho

T. 14 N., R. 19 E.,
Sec. 33: Lot 2.

The above-described land, comprising 2.88 acres, is being offered by direct sale to The Valley Avenue Association, Challis, Idaho 83226 at the fair market vaule of $6,000.00.

Members of The Valley Avenue Association are the owner of the private land that adjoins south of the sale tract. The members have occupied, improved and used the said tract for many years under the mistaken belief that the land was part of their privately owned land. Disposal of the land by direct sale to the members will legalize their occupancy, protect their equity in the improvements on the land, and resolve a complicated trespass situation. Sale of the land to any other party would place an undue hardship on the members because of the physical location of the land bordering the Association's privately owned land.

The lands are withdrawn for use by the Forest Service, but have been found excess to their needs. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system for the land involved. The land will not be offered for sale until at least 60 days after the date of this notice, and until the encumbering withdrawal has been revoked and an opening published in the **Federal Register.**

A patent for the land, when issued, will be subjected to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents and Environmental Assessment, is available for review at the Salmon District Office, Bureau of Land Management, South Highway 93 (Box 430), Salmon Idaho 83467.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 10, 1982.

Kenneth G. Walker,

Salmon District Manager.

[FR Doc. 82-25519 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[N-1249]

Nevada; Classification Vacated

September 9, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, sale classification N-1249 is hereby vacated in its entirety. The following township is affected:

Mount Diablo Meridian, Nevada

T. 43 N., R. 19 E.,
Sec. 17, NW¼SW¼.

The land affected comprises approximately 40 acres in Washoe County, Nevada.

The authority for this classification was Revised Statute 2455 and that section was repealed by Section 702 of the Federal Land Policy and Management Act of 1976. Accordingly, the classification has been determined to be no longer applicable and is hereby terminated.

At 9:00 a.m. on October 18, 1982, subject to valid existing rights and any existing classification, the land described above is hereby restored generally to the operation of the public land laws. All valid applications received from the date of this publication until and including 9:00 a.m. on October 18, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9:00 a.m. on October 18, 1982, the land shall be open to location and entry under the United States mining laws. The land continues to be open to mineral leasing.

The inquiries concerning the land should be addressed to District Manager, Susanville District Office, P.O. Box 1090, Susanville, California 96130.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-25511 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-050303, Nev-056257 Nev-058343, N-11007, N-19701 N-36584, N-36585, N-36623]

Nevada; Order Providing for Opening of Land

September 9, 1982.

1. The following described land was reconveyed to the United States under Exchanges N-3637, N-19701 and Nev-030519:

Mount Diablo Meridian, Nevada

T. 28 N., R. 44 E.,
Sec. 2, SE¼SE¼;
Sec. 12, SE¼NW¼, NE¼SW¼.
T. 29 N., R. 44 E.,
Sec. 1, SW¼ SW¼
Sec. 11, All;
Sec. 15, All;
Sec. 26, SW¼NE¼, S½NW¼, NE¼SW¼, W½SE¼, SE¼SE¼.
T. 27 N., R. 45 E.,
Sec. 2, Lot 4, SW¼NW¼, W½SW¼;
Sec. 3, Lot 1;
Sec. 5, Lots 3 and 4, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼;
Sec. 6, Lots 1 and 2;
Sec. 8, NW¼NE¼, S½NE¼, SE¼;
Sec. 11, W½W½;
Sec. 14, W½NW¼, NW¼SW¼;
Sec. 15, NE¼SE¼;
Sec. 16, SW¼NW¼, N½S½, SE¼SE¼;
Sec. 17, N½NE¼, SE¼NE¼;
Sec. 21, NE¼NE¼, S½NE¼, SE¼NW¼, NE¼SW¼;
Sec. 22, SE¼NW¼;
Sec. 25, S½NE¼, N½S½;
Sec. 26, N½SW¼, NE¼SE¼;
Sec. 27, S½NE¼;
Sec. 28, W½NE¼.
T. 28 N., R. 45 E.,
Sec. 1, N½SW¼, SW¼SW¼;
Sec. 2, SE¼SW¼, S½SE¼;
Sec. 3, SW¼SW¼;
Sec. 4, SE¼NE¼, SW¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 5. NE ¼SE¼;
Sec. 10 N½N½, SE¼NW¼, NE¼SW¼, SW¼SE¼;
Sec. 11, S½NE¼, N½NW¼, N½SW¼, NW¼SE¼;
Sec. 15, SW¼SW¼, W½SE¼;
Sec. 16, E½NW¼, E½SE¼;
Sec. 18, Lot 2, SE¼NW¼, NE¼SW¼, SW¼SE¼;
Sec. 19, SW¼NE¼;
Sec. 20, S½NE¼, N½SE½;
Sec. 21, SW¼, S½SE¼;
Sec. 22, NE¼NW¼, W½W½, E½SW¼;
Sec. 27, W½NW¼, SE¼NW¼, SW¼;
Sec. 28, NW¼NW¼;
Sec. 29, N½NE¼;
Sec. 31, NE¼NE¼, S½NE¼, SE¼NW¼, E½SE¼;
Sec. 32, SW¼NE¼, W½NW¼, SW¼SW¼, N½SE¼;
Sec. 33, N½SW¼, SW¼SW¼, W½SE¼, SE¼SE¼;
Sec. 34, W½NE¼, N½NW¼, SW¼SW¼, N½SE¼, SE¼SE¼.
T. 28 N., R. 46 E.,
Sec. 2, NE¼SW¼, S½SW¼, N½SE¼;
Sec. 3, SW¼SW¼, S½SE¼;
Sec. 4, SE¼SW¼, S½SE¼;
Sec. 5, NW¼SW¼;
Sec. 7, NE¼NE¼, W½NE¼, E½W½, SW¼SE¼;
Sec. 18, E½;
Sec. 19, Lots 2 and 4 NE¼NE¼, W½NE¼, SE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 29, NW¼SW¼;
Sec. 30, NW¼NE¼, E½NW¼, NE¼SW¼, N½SE¼.

The area described comprises approximately 9,520.46 acres in Lander County, Nevada.

All minerals are in private ownership.

2. The following described land was reconveyed to the United States in part under Exchanges Nev-011807 and Nev-09765, in part by gift under Nev-058343 and in part by quitclaim deeds (N-36584 and N-36585):

Mount Diablo Meridan, Nevada

T. 31 N., R. 42 E.,
Sec. 1, E½SE¼SW¼, NW¼SW¼SE¼.
T. 32 N., R. 43 E.,
Sec. 19, E½SW¼SW¼.
T. 32 N., R. 45 E.,
Sec. 17, Lots 8 through 13, Block 16 within SE¼SW¼; portion of Scott Street between Blocks 15 and 16 more particularly described as follows:
Beginning at a buried iron pin located N 45 degrees 56'30"E, a distance of 385' from the junction of North First Street and Scott Street, which is a street center nail; City of Battle Mountain, County of Lander, State of Nevada;
Thence, S 44 Degrees 03'30"E, a distance of 40.00 feet which is the southwest corner of Block 16;
Thence, N 45 degrees 56'30"E, a distance of 120.00 feet;
Thence, S 44 degrees 03'30"E, a distance of 64.94 feet;
Thence, North, a distance of 35.95 feet;
Thence, N 44 degrees 03'30"W, a distance of 39.106 feet;
Thence, N 45 degrees 56'30"E, a distance of 37.840 feet;
Thence, North, a distance of 111.323 feet;
Thence, S 45 degrees 56'30"W, a distance of 260.255 which is the southeast corner of Block 15;
Thence, S 44 degrees 03'30"E, a distance of 40.00 feet to the point of beginning.

All bearings being referred to the true meridian; the tract containing 0.455 acres, more or less. This tract includes all of Scott Street between Blocks 15 and 16, and all the alley in Block 16 as shown on Plat of Survey Lander No. 1 of Battle Mountain, Nevada.

T. 19 N., R. 53 E.

All of Lots 17 through 25 in Block 4. Also a parcel of land lying east of Block 4, which is more particularly described as follows: Beginning at the SE corner of Lot 24 in Block 4, thence N 74°45'E a distance of 60 feet to a point, thence S 21°46'E, a distance of 150 feet to a point, thence S 71°45'W to the east side line of Block 4, thence north along the east side line of Lots 18 through 23 to the SE corner of Lot 4, the place of beginning in said town of Eureka.

The area described comprises approximately 51.669 acres in Lander and Eureka Counties (50.879, in Lander and .79 in Eureka).

All minerals were reconveyed to the United States.

At 9:00 a.m. on October 18, 1982, subject to valid existing rights, and the provisions of existing classifications, all the land described in paragraphs 1 and 2 is hereby restored to the operation of the public land laws. All valid applications received from the date of this

publication until and including 9:00 a.m. on October 18, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9:00 a.m. on October 18, 1982, the land described in paragraph 2 shall be open to location and entry under the United States mining and mineral leasing laws, subject to the rules and regulations thereof and valid existing rights.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, Battle Mountain District, P.O. Box 194, Battle Mountain, Nevada 89820.

Wm. J. Malencik,,

Chief, Division of Operations.

[FR Doc. 82-25512 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[Exchange CA 13093]

Public Lands in Humboldt County California; Realty Action

The following described public land has been determined to be suitable for disposal under the provisions of Public Law 91-476, an Act to provide for the establishment of the King Range National Conservation Area (84 Stat. 1067), and Sec. 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

That portion of the Northwest Quarter of the Southeast Quarter of Section 19, Township 5 South, Range 2 East, Humboldt Meridian, described as follows:

Beginning at a point on the quarter section line of the Northwest corner of that certain parcel of land as conveyed to Jay Sooter and wife, in Deed recorded December 21, 1966, in Book 907, Page 179, Official Records, under Recorder's Serial No. 20234, Humboldt County Records;

Thence South 0 degrees 17 minutes West along the West line of said Sooter lands 191.28 feet;

Thence North 49 degrees 50 minutes West 54.92 feet;

Thence North 11 degrees 04 minutes West 76.52 feet;

Thence North 35 degrees 29 minutes East 99.20 feet to the point of beginning.

Containing 0.156 acre.

Jay Sooter, 272 Sprowl Creek Road, Garberville, California 95440, has applied to acquire the above described lands in exchange for the following described privately owned lands:

Humboldt Meridian

That portion of the Northeast Quarter of the Southeast Quarter of Section 19, Township 5 South, Range 2 East, Humboldt Meridian, described as follows:

Beginning at a point on the quarter section line located South 0 degrees 17 minutes West 191.28 feet from the Northwest corner of that certain parcel of land conveyed to Jay Sooter and wife, by Deed recorded December 21, 1966, in Book 907, Page 179, Official Records, under Recorder's Serial No. 20234, Humboldt County Records;

Thence South 0 degrees 17 minutes West along said quarter section line 368.48 feet to the Southwest corner of said Sooter parcel;

Thence North 6 degrees 13 minutes East 356.04 feet to a point that bears South 68 degrees 26 minutes East 39.50 feet from the point of beginning;

Thence North 68 degrees 26 minutes West 39.50 feet to the point of beginning.

Containing 0.156 acre.

A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consummated before the end of that period.

The value of the lands to be exchanged are equal.

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

The purpose of this exchange is to acquire non-Federal land within the King Range National Conservation Area and to resolve property line survey conflicts. Property descriptions are based on a new cadastral survey, approved February 1, 1982. The exchange is in conformance with Bureau planning, and in the public interest.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

For a period of 45 days from the first publication of this notice interested parties may submit comments to the California State Director, Bureau of Land Management, Rm E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification this realty action will become the final determination of the Bureau.

Edwin G. Katlas,

Acting District Manager, Bureau of Land Management, Ukiah District, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482.

[FR Doc. 82-25515 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

[U-48492, U-49332]

Utah; Emergency Coal Lease Offering by Sealed Bid

Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 1:30 p.m. MDT, October 8, 1982, certain coal resources in the lands hereinafter described in Emery County, Utah will be offered for competitive lease by sealed bid of $100 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in the 13th floor Conference Room of the University Club Building at 1:30 p.m. MDT, October 8, 1982. At that time the sealed bids will be opened and read. No bids received after 1:00 p.m. MDT, October 8, 1982, will be considered.

U-48492

Coal Offered: The coal reserves to be offered consists of two seams available for underground mining in the following described land located approximately eight miles west of Mohrland, Utah:

T. 16 S., R. 7 E., SLM, Utah,

Sec. 4, S½SW¼NW¼, W½SW¼, W½SE¼SW¼;

Sec. 5, S½S½SW¼NE¼, S½SE¼NE¼, SE¼;

Sec. 8, N½, N½SE¼;

Sec. 9, NW¼, N½SW¼.

Containing 950.00 acres.

The estimated total recoverable underground reserves are 4,900,000 tons. The coal quality is as follows: coal from the adjacent mine is presently averaging 10,800 Btu/lb, however, if no oxidation is present the coal is expected to average 12,000 Btu/lb; Sulfur—from .5 to 1.0 percent, and Ash—from 7 to 10 percent. The coal is located in two seams, the Blind Canyon and the Hiawatha, and is expected to average 6.3 and 5.6 feet thick respectively.

U-49332

Coal Offered: The coal reserves to be offered are recoverable by underground mining methods in the following described lands located approximately 10 miles northwest of Orangeville, Utah:

T. 17 S., R. 6 E., SLM, Utah,
Sec. 25, S½NW¼, W½SW¼, W½E½SW¼;
Sec. 26, SE¼NE¼, E½SW¼NE¼, E½SE¼, E½W½SE¼;
Sec. 35, lots 1, 2, SE¼NE¼, E½SW¼NE¼, E½SE¼, E½W½SE¼.
Containing 641.47 acres.

The estimated total recoverable underground reserves are 4,750,000 tons. The coal quality is as follows: Btu—12,517 per lb; Sulfur—approximately .57 percent and Ash approximately 8.38 percent. The coal is located in the Blackhawk formation.

Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statements of the Lease Sale. Copies of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, University Club Building, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building.

The public is also invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the Minerals Management Service. Public comments will be utilized in establishing fair market value for the coal resource in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: The quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such, stated in the first page of the submission, and must be submitted to the Minerals Management Service. Information so marked will not be available to the public if it meets exemptions in the Freedom of Information Act. Comments may be sent to both the Utah State Director, Bureau of Land Management, 136 East South Temple, SLC, Utah 84111, and to the Deputy Minerals Manager—Resources Evaluation, Minerals Management Service, Box 25048, Denver Federal Center, Bldg. 85, Denver, Colorado 80225, to arrive no later than 30 days of the date of this notice.

Ronald J. Younger,
Acting Chief, Division of Operations.

[FR Doc. 82-25507 Filed 9-15-82; 8:45 am]
BILLING CODE 4310-84-M

[W-78664]

Wyoming, Realty Action; Exchange of Public Lands in Carbon County for Private Lands in Teton County

The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian

T. 24 N., R. 86 W.,
Sec. 14, E½, SE¼NW¼, E½SW¼;
Sec. 22, E½SE¼, NE¼SW¼SE¼, S½SW¼SE¼;
Sec. 26, W½W½;
Sec. 34, E½, E½W½.
The areas described aggregate 1,190 acres.

Both the surface and mineral estates will be exchanged on the public lands.

In exchange for these lands the United States will acquire from Rocky Mountain Energy Company title to the following:

Sixth Principal Meridian

T. 42 N., R. 116 W.,
Tract A: That portion of lot 3, SE¼NW¼ and NE¼SW¼ of sec. 4 as described by metes and bounds which contains 50.28 acres, more or less.
Tract B-1: That portion of N½SW¼, SW¼SW¼, and NW¼SE¼ of sec. 8, and portion of E½E½ of sec. 7 as described by metes and bounds which contains 114.45 acres, more or less.
Tract B-3: That portion of NW¼, N½S½, and SW¼NE¼ of sec. 8; portion of E½NE¼ of sec. 7; portion of SE¼SE¼ of sec. 6; and portion of SW¼SW¼ of sec. 5 as described by metes and bounds which contains 96.42 acres, more or less.
Tract D-1: That portion of SW¼NW¼ and lot 2 of sec. 9, and portion of NE¼ of sec. 8 as described by metes and bounds which contains 129.31 acres, more or less.
Tract D-3: That portion of SW¼ of sec. 9, and portion of SE¼ of sec. 8 as described by metes and bounds which contains 133.98 acres, more or less.
Tract D-5: That portion of E½ of sec. 17 as described by metes and bounds which contains 125.68 acres, more or less.
Tract D-6: That portion of W½E½ and SE¼SW¼ of sec. 17 as described by metes and bounds which contains 104.78 acres, more or less.
Total: 754.90 acres, more or less.

The surface estate, only, will be exchanged on tracts A, B-1, and B-3. (Minerals on these tracts are already owned by the United States.) Both the surface and mineral estates will be exchanged on tracts D-1, D-3, D-5, and D-6.

The purpose of the exchange is to acquire nonfederal lands within the Grand Teton National Park which have high public values for recreation and wildlife. Upon completion of the exchange, the acquired lands will be transferred to the National Park Service and managed as part of Grand Teton National Park. This will further enable the National Park Service to maintain compatible land uses within the boundaries of the park. The proposed exchange is consistent with Bureau planning and with the National Park Service's Land Acquisition Plan for Grand Teton National Park. The public interest will be served by completing the exchange.

The fair market value of the lands to be exchanged has not been determined. Upon completion of final appraisals, any inequity in values will be resolved prior to the exchange by (1) adjusting acreages, (2) payment to the United States of funds in an amount not to exceed 25 percent of the total value of the public lands to be transferred, or (3) a combination of acreage adjustments and payments.

This exchange is subject to the completion of cultural investigations on seven identified cultural sites on the public land. These investigations will be conducted by the National Park Service and Rocky Mountain Energy Company. Mitigation to protect any sites which are eligible for the *National Register of Historic Places* will be completed prior to title transfer.

This exchange action will adversely impact the Miller Estate Company on the Seminoe Allotment when completed. After the exchange is finalized the

grazing privileges within this allotment will be reduced by 95 AUMs. Section 4 permit #1091 will be amended to exclude that portion of the livestock fence located in the N½NW¼NW¼ of sec. 26, T. 24 N., R. 86 W., Sixth Principal Meridian.

The terms and conditions applicable to the federal lands (Carbon County) involved in this exchange are:

1. A reservation to the United States of the right to construct ditches or canals pursuant to the Act of August 30, 1980 (43 U.S.C. 945);

2. The land will be exchanged subject to valid existing rights of record on the date of conveyance;

3. Oil and gas leases W-37547 and W-41061 will remain in effect until terminated by the operation of the existing laws.

There are outstanding rights in the nature of easements which will be reserved in the warranty deed to the nonfederal lands (Teton County) involved in the exchange.

The publication of this notice segregates the public lands described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

Detailed information concerning this exchange, including the environmental assessment, land report, cultural reports, and the metes and bounds descriptions is available at the Rawlings District Office, P.O. Box 670 (1300 Third Street), Rawlins, Wyoming 82301.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager at the above address. Any adverse comments will be evaluated by the Wyoming State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

David J. Walter,

District Manager.

[FR Doc. 82-25574 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-70-M

[Int DEIS 82-55]

Rawlins District, Wyo.; Availability of Draft Environmental Impact Statement and Public Hearing Schedule for the Frontier Pipeline Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement and notice of public hearings.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management, U.S. Department of the Interior, has prepared a Draft Environmental Impact Statement for the Frontier Pipeline Project crossing Uinta, Sweetwater, Fremont, Natrona, and Carbon counties in Wyoming.

Three public hearings are scheduled for the draft environmental impact statement. The first public hearing is Tuesday, October 26 at 7 p.m. at the Library of Natrona County, Crawford Room, 302 East Second Street, Casper, Wyoming. The second public hearing is Wednesday, October 27 at 7 p.m. at the Rock Springs Public Library, Ferrero Room, 400 C Street, Rock Springs, Wyoming. The third public hearing is Thursday, October 28 at 7 p.m. at the Evanston City Council Chambers, 1200 Main Street, Evanston, Wyoming. The purpose of the public hearings is to receive comments on the Frontier Pipeline Project Draft Environmental Impact Statement.

DATES: The draft environmental impact statement will be available on or before September 17, 1982. Written comments on the draft environmental impact statement will be accepted up to and including November 19, 1982, at the Bureau of Land Management, Rawlins District Office, Box 670, Rawlins, Wyoming 82301.

ADDRESSES: Written comments on the draft environmental impact statement should be sent to District Manager, Bureau of Land Management, Rawlins District Office, Box 670, Rawlins, Wyoming 82301.

The draft environmental impact statement is available for inspection at the following locations: Rawlins District Office, 1300 Third Street, Rawlins, Wyoming; Kemmerer Resource Area Office, U.S. Highway 30, Diamondville, Wyoming; Rock Springs District Office, Highway 187 North, Rock Springs, Wyoming; Lander Resource Area, Jett Building, Highway 287 South, Lander, Wyoming; Casper District Office, 951 Rancho Road, Casper, Wyoming; Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming; or Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW, Washington, D.C.

Further information or copies of the draft environmental impact statement can be obtained from Mike Karbs, Rawlins District Office, Box 670, Rawlins, Wyoming 82301, telephone (307) 324-7171.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has prepared a draft environmental impact statement on a proposal by the Frontier Pipeline Company to construct 288 miles of common carrier pipeline (and related facilities) from the eastern edge of Summit County, Utah, through Uinta, Sweetwater, Fremont, Carbon, and Natrona counties in Wyoming, to existing pipeline distribution points in Casper, Wyoming.

The draft environmental impact statement analyzes environmental impacts of the proposal (including social and economic impacts) in addition to various alignment alternatives for certain segments of the route.

All comments will be considered. Those which raise questions or issues concerning the effects of the proposed action, present new data, or question facts or analyses will be responded to in the final environmental impact statement.

David J. Walter,

District Manager.

[FR Doc. 82-25573 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-84-M

Yuma District, Arizona; Revised Use Fees at Selected Campgrounds

AGENCY: Bureau of Land Management, Interior.

ACTION: Revision of use fees at Squaw Lake recreation site, Yuma District.

SUMMARY: Use fees for camping at Squaw Lake Recreation Site are revised to $4.00/day/campsite.

EFFECTIVE DATE: The revised Yuma District Campground Fee Schedule will be effective October 1, 1982..

FOR FURTHER INFORMATION CONTACT: Allan J. Belt, Area Manager, Yuma Resource Area, Bureau of Land Management, P.O. Box 5680, Yuma, Arizona 85364, 602-726-6300.

SUPPLEMENTARY INFORMATION: The Squaw Lake Recreation Site is located 26 miles north of Yuma on the California side of the Colorado River. The present fee is $2.00/day/campsite.

For the purpose of this fee schedule, a "day" is defined as any 24 hour period or part thereof, beginning at 12:00 Noon and ending on the following calendar

day at 11:59 A.M. Fees for the area will be posted at the entrance.

(Authority for this fee schedule revision is contained in CFR Title 36, Chapter 1, Part 66, Subpart 66.9)

Dated: September 2, 1982.

Gary A. McVicker,

Acting District Manager.

[FR Doc. 82-25508 Filed 9-15-82; 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 Mobil Producing Texas and New Mexico Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 2721 and 2722, Blocks A-595 and A-596, High Island Area, offshore Texas.

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: September 9, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-25520 Filed 9-15-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 12]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-645, filed July 27, 1982. Applicant: LaVERNE E. OTT INC., 61 Fillmore Ave., Tonawanda, NY 14150. Representative: William J. Hirsch, Esq., 64 Niagara Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities:* Between all points in Allegany, Erie, Cattaragus, Chautauqua, Genesee, Niagara, Orleans and Wyoming Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25390 Filed 9-15-82; 8:45 am]

BILLING CODE 7035-01-M

[OP2-219A]

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 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 Special Rule 240 of the Commission's Rules of Practices (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice 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 an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or*

to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: September 9, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier. (Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 2, 202-275-7030.

MC-F-14946, filed August 26, 1982. WATKINS MOTOR LINES, INC. (Applicant), P.O. Box 1636, Lakeland, FL 33802—Continuance in control—LAND SPAN, INC., (Same address as applicant). Representative: Paul M. Daniell, Suite 1200, 235 Peachtree St., Atlanta, GA 30303. Applicant seeks authority to continue in control of Land Span, Inc., upon the institution by Land Span Inc., of operations, in interstate or foreign commerce, as a contract carrier. Applicant seeks to acquire control of said rights and property through the transaction. Applicant is a motor carrier holding authority under MC-95540. Watkins Associated Industries Inc., and Bill Watkins, persons controlling Watkins Motor Line, Inc. (applicant), seek authority to continue in control of Land Span, Inc., as a result of their control of applicant. Bill Watkins, Chairman of the Board of Directors and W. B. Watkins IV, President of Watkins Motor Lines, Inc., each own 45% of the stock of Highway Transport, Inc., a motor carrier (MC-111302). Common control was approved in MC-F-8308.

Note.—Land Span Inc. has filed a directly related application for its initial motor carrier authority, Docketed MC-163573, published in this same **Federal Register** issue.

[FR Doc. 82-25478 Filed 9-15-82; 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 becomes 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 Team 3 (202) 275-5223.

Volume No. OP3-140

Decided: September 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 141805 (Sub-3), filed August 23, 1982. Applicant: HOOSIER TRANSPORT, INC., R.R. 1, Box 294, Mt. Vernon, IN 47620. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401 (205) 578-3212. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 146814 (Sub-16), filed August 25, 1982. Applicant: VAN WYK, INC., Box 510, Hwy 60 S., Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004—29th St., Sioux City, IA 51004 (712)255-3127. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *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. (except AK and HI).

MC 153295 (Sub-2), filed August 23, 1982. Applicant: BRONCO, INC., P.O. Box 11886, Lexington, KY 40578. Representative: E. Douglas Ison (same address as applicant) (606) 231-0300. As a broker of *general commodities* (except

household goods), between points in the U.S.

MC 163265, filed August 4, 1982, previously published in the **Federal Register** issue of August 23, 1982. Applicant: AUBREY R. WILSON, d.b.a. REGULATED FREIGHT BROKERS, P.O. Box 11293, 318 Pickens Street, Rock Hill, SC 29730. Representative: Aubrey R. Wilson (same address as applicant) (803) 327-4298. As a broker of *general commodities,* (except household goods), between points in the U.S. *This republication corrects applicant's address.

MC 163564, filed August 26, 1982. Applicant: MARTIN F. LAWRENCE, d.b.a. NORTHWEST DISPATCH SERVICE, P.O. Box 11643, Spokane, WA 99211. Representative: (Same address as applicant) (509) 924-4677. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163615, filed August 30, 1982. Applicant: ROLLIN A. HAYNES, 5th & Margaret, Box 404, Mertzon, TX 76941. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112 (817) 457-0804. 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. (except AK and HI).

Please direct status inquiries to team 4 at 202-275-6998.

Volume No. OP4-333

Decided: September 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC 163537, filed August 24, 1982. Applicant: VALLEY FARMS, INC., Main St., P.O. Box 326, Somers, CT 06071. Representative: Arlan Greenberg, (same address as applicant) (203) 749-0711. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between Hartford, CT, on the one hand, and, on the other, points in NJ, MA, RI, CT, VT, NH, ME, NY, PA, OH, IN, MI, IL, and WI.

MC 163577, filed August 26, 1982. Applicant: DAV-RICK FREIGHT FORWARDING, INC., 83 Kean St., W. Babylon, NY 11704. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123 (212) 239-4610. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163587, filed August 27, 1982. Applicant: DONALD J. YOUNG, d.b.a., D.J. YOUNG, 6970 Madigan Rd. Waunakee, WI 53597. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086 (608) 238-3119. 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. (except AK and HI).*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25404 Filed 9-15-82; 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** of 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. 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 publications to conform to the Commissions 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, preliminary, 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 becomes 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 statment 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.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. (Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

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 Team 2, (202) 275-7030.

Volume No. OP2-219

Decided: September 9, 1982.

MC 163573, filed August 26, 1982. Applicant: LAND SPAN, INC., P.O. Box 1636, Lakeland FL 33802. Representative: Paul M. Daniell, 1200 Atlanta Gas Light Tower, 235 Peachtree St., N.W., Atlanta, GA 30303, 404-522-2322. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

Note.—This application is directly related to MC-F-14946, published in the same **Federal Register** issue.

Volume No. OP2-220

Decided: September 9, 1982.

FF-483 (Sub-1), filed September 2, 1982. Applicant: A & P SHIPPING CORP., 94-158 Leoole St., Waipahu, HI 96797. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., NW., Suite 500, Washington, D.C. 20006 (202) 828-5017. As a *freight forwarder,* in connection with the transportation of *used household goods, personal effects, unaccompanied baggage, used automobiles and used trucks,* between points in the U.S. (including AK and HI).

MC 109763 (Sub-14), filed August 31, 1982. Applicant: WOLF'S BUS LINES, INC., P.O. Box 235, York Springs, PA 17372. Representative: Lloyd R. Persun, P.O. Box 729, 1801 North Front St., Harrisburg, PA 17108-0729, 717-232-6701. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in PA, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 146343 (Sub-19), filed August 27, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Warren V. Picillo, Jr., Two Sawyer Dr., Coventry, RI 02816, 401-822-0878.Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in Kent County, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Engineered Yarns, Inc., of Coventry, RI.

MC 147173 (Sub-7), filed August 18, 1982. Applicant: C & T TRUCKING, INC., 1050 Brookside Dr., Richmond, CA 94806. Representative: Brian S. Stern, 5411-D Backlick Rd., Springfield, VA 22151 (703) 941-8200. Transporting (1) *such commodities* as are dealt in or used by chain grocery stores and food business houses, hardware, discount, and department stores, (2) *food and related products*, (3) *chemicals and related products*, (4) *such commodities* as are dealt in or used by manufacturers or distributors of swimming pool and spa equipment and accessories, (5) *such commodities* as are dealt in or used by manufacturers and distributors of industrial and institutional cleaning machinery, equipment, and supplies, between those points in the U.S. in and west of MT, WY, CO, OK, AR, and LA, (except AK and HI) and (6) *such commodities* as are dealt in or used by manufacturers and distributors of petroleum, natural gas, and their products, between points in San Francisco, Contra Costa, and Los Angeles Counties, CA, on the one hand, and, on the other, points in AZ, NV, and UT.

MC 163672, filed September 1, 1982. Applicant: BARBARA J. LUCKETT d.b.a. QUICK-WAY HOTSHOT SERVICE, Horseshoe Road No. 2, Woodward, OK 73801. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118 (405) 848-7946. Transporting *oilfield commodities*, between points in AR, CO, KS, LA, NM, OK, TX and WY.

[FR Doc. 82-25403 Filed 9-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-238)]

Rail Carriers; Consolidated Rail Corporation—Exemption for Contract Tariff ICC-CR-C-0154 (All Boxcar Commodities With Exceptions)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

The grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 8, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Chairman Taylor and Vice chairman Gilliam voted to deny the petition.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25479 Filed 9-15-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Pursuant to the Antitrust Procedures and Penalties Act 15 U.S.C. section 16, the Antitrust Division publishes below Comments, together with its Responses thereto, which it received on the proposed Consent Judgment filed in *United States* v. *The Stroh Brewery Company*, Civil No. 82-1059 (Pratt) (D.D.C.).

Joseph H. Widmar,

Director of Operations.

U.S. District Count for the District of Columbia

United States of America, Antitrust Division, Department of Justice, Washington, D.C. 20530, Plaintiff v. *The Stroh Brewery Company, One Joseph Campau, Detroit, Michigan 48226*, Defendant.

Civil Action No. 82-1059.

Comments by G. Heileman Brewing Company, Inc. on the Proposed Final Judgment Regarding the Merger of Stroh and Schlitz [1]

I. Introduction

On April 16, the Justice Department (the "Department") filed an action in which it alleged that the merger of the Stroh Brewery Company ("Stroh") and Joseph Schlitz Brewery Company ("Schlitz") is in violation of Section 7 of the Clayton Act. Simultaneously, the Department filed a proposed Final Judgment ("Consent Decree") along with a Competitive Impact Statement as required by the Antitrust Procedures and Penalties Act. [2] The proposed Consent Decree approved the acquisition and required Stroh to divest its entire interest in either the Schlitz Winston-Salem, North Carolina, plant or the Schlitz Memphis, Tennessee, plant to an approved purchaser within 12 months from the date of entry of the Decree; however, Stroh is precluded

[1] G. Heileman Brewing Company, Inc. ("Heileman") is a brewer producing and selling beer throughout the country. Its national market share in 1981 was 7.6%; however, approximately 60% of its sales were in the upper Midwest. In August, 1981 Heileman and Schlitz entered into an agreement to merge, but, because the Department indicated its position, the parties elected not to go forward with the merger at that time. In April, 1982 Heileman moved to intervene in the judicial proceedings evaluating the proposed Consent Decree. Heileman's petition was denied as was the motion to intervene submitted by The Brewery and Soft Drink Workers Conference, International Brotherhood of Teamsters ("Teamsters"). The Court indicated to Heileman that comments were the proper means of presenting its views respecting the merger of Stroh and Schlitz.

[2] 15 U.S.C. 16(b); 47 FR 18445 (April 29, 1982).

from selling either plant to Anheuser-Busch ("Anheuser") or Miller. In the event one of the plants is not sold within 12 months, the Consent Decree provides that the Department may petition the Court for the appointment of a trustee who will attempt to sell the plants.[3]

As stated by the Department, the brewing industry is concentrated; however, it is concentrated primarily by the top two brewers. Anheuser and Miller have more than half of the market while the remaining brewers are substantially smaller and weaker. Heileman's major concerns with the proposed Consent Decree are two-fold: (1) because the merger is not adequately financed, Stroh's ability to be an effective competitive force will be seriously impaired (since effective control may be in the hands of its creditors); and, (2) because, in Heileman's view, it is probable there will be no other buyers, Stroh ultimately may be forced to sell Schlitz breweries and other assets to Anheuser and Miller or not sell them at all; the first alternative would further enhance the market power of Anheuser and Miller; the second would totally frustrate the purpose of the Decree which was to foster competition in the Southeast; either result would be to the severe detriment of Heileman, all other brewers and the public.

II. The Current Beer Market

In 1981 Anheuser and Miller together accounted for approximately 50% of all brewery sales in the United States, up from a combined share of 31.6% in 1975. In the First Quarter of 1982, Anheuser and Miller accounted for 56.2% of the market with Anheuser's share at 33.8%.[4] Their annual rate of growth has far exceeded the overall annual growth in demand for beer with Miller and Anheuser experiencing compound annual growth rates of 13.75% and 10.44%, respectively, since 1978. Assuming conservative annual compound growth rates of 8.04% and 8.65% for Miller and Anheuser, respectively, by 1987 they will account for 76.1% of the beer market.[5] Both Miller and Anheuser are rapidly expanding their capacity, with Miller about to open a new 10-million barrel brewery in Ohio and Anheuser planning to add at least 13.5 million new barrels of capacity by 1983. Since the annual growth in demand for beer is stagnant at approximately 2%, Anheuser and Miller will have to fill their new capacity by taking sales away from the smaller brewers. In the past, Miller and Anheuser have been very successful in raiding the home markets of the smaller regional brewers by financing extremely expensive advertising and price promotion campaigns in the targeted areas; campaigns which, over the course of two or three years, simply cannot be countered effectively by the smaller brewers. For example, Anheuser and Miller have waged successful campaigns against the smaller brewers in the southern tier of states and, especially with respect to Schlitz, they have been quite successful. The importance of this market to Schlitz, and particularly the importance of Texas, was noted in Sanford C. Bernstein & Co.'s Report, "The Brewing Industry," June, 1980, page 10:

> To an unusually large degree, the future of Schlitz rests with its performance in Texas; this state alone generates almost 20% of the company's total volume. Consequently, Schlitz's ability to stem its sales erosion in Texas (and, in fact, throughout the Southwest) is crucial, particularly in light of recent trends there * * *.
>
> In spite of its vigorous efforts, there seems little chance of Schlitz effecting a turnaround in Texas * * *. Even after its severe sales erosion, the Schlitz brand accounts for a large part (an estimated 60%) of the company's total volume; hence, an inability to turn the brand around would have dire implications. And, given the disadvantages cited above, a turnaround seems improbable.
>
> Almost all of the market share gains made by Anheuser and Miller in Texas over the past year have been at Schlitz's expense.* * *

This report was based on 1979 figures; yet, as late as 1978 Schlitz had been number one in Texas, with Coors trailing in second place, Anheuser in third and Miller in fourth with 29%, 22%, 19%, and 13% of the market respectively. By 1980, however, Schlitz had lost approximately 10 points in market share and was in fourth place trailing Coors (25%), Anheuser (21%) and Miller (20%). In 1981 Schlitz's share dropped still further to 15% while Miller took the lead with 25%, Anheuser with 24% and Coors with 22%.[6] Thus, in only three years, Schlitz lost almost half of its Texas market to Anheuser and Miller.

Despite its severe sales' losses, the sunbelt remains Schlitz's most important market. Yet, because of Stroh's crippling debt, there is almost no chance that Stroh will be able to reverse or even temporarily halt the Anheuser-Miller advances. In an April 22, 1982 release on Anheuser's first quarter prospects, Allan Kaplan, brewery analyst and Vice President of Merrill Lynch, states:

> The recent acquisition of Schlitz by Stroh, rather than by Heileman, has eliminated the entry of the only competitor, in our mind, that could have reversed the marketshare loss Schlitz has incurred in the sunbelt market, *leaving this share to fall into the hands of Anheuser and Miller.* [Emphasis added].

Losses in this market will be devastating not only to Stroh and Schlitz, but also to all other small brewers who have suffered and continue to suffer from intense Anheuser and Miller advertising and pricing attacks in their principal markets, attacks subsidized by increased sales in markets such as the sunbelt. In short, as Miller and Anheuser become stronger, the smaller brewers, including Heileman, become weaker and, in the end (which is a close as the end of the decade), only Anheuser and Miller will remain as brewers with a share of more than seven percent.[7] Consequently Heileman is very concerned that Stroh cannot adequately finance the merger and simultaneously support the Stroh/Schlitz brands.

[3] If necessary, the trustee may also offer a prospective purchaser of the Winston-Salem plant the option of purchasing the Winston-Salem container manufacturing plant. In addition, the trustee may offer purchasers "* * * an arrangement whereby the purchaser will produce a specified volume of beer at the divested brewery for defendant for a specified period." Competitive Impact Statement at 5.

[4] Steinman, "Beer Marketer's Insights," June 1, 1982.

[5] Assuming: (1) a total industry growth rate of 2%, *see Modern Brewery Age* (Feb. 1982) at MS-17; (2) Anheuser and Miller grow at their 1981 rates of 8.65% and 8.04% respectively; (3) each brewer other than Anheuser and Miller maintain their proportionate share of the barrelage not accounted for by the industry leaders; (4) Stroh/Schlitz are treated as a single entity.

[6] Steinman, "Beer Statistics News," Vol. 8 No. 3 (March 1982).

[7] Pabst Brewing Co. contended in a May 26, 1982 Memorandum to the Department of Justice in support of Pabst's merger with Heileman that "Stroh/Schlitz is in weak financial condition because of the enormous debt burden Stroh assumed * * *" Pabst forecasted the market shares of leading firms in the brewing industry by 1987 to be as follows:

Brewer	Market share
Anheuser-Busch	44.4
Miller	31.7
Stroh/Schlitz	[1] 6.6
Heileman	4.0
Coors	3.8
Pabst	3.8
Olympia	1.6

[1] Down from 21.0% in 1977.

A copy of this memorandum is attached hereto as Exhibit A.

III. In Heileman's View, Stroh Cannot Finance the Acquisition of Schlitz and Remain a Viable Competitor

A. Because of Its Acquisition of Schlitz, Stroh is Deeply in Debt With an Approximate Debt to Equity Ratio of 10.31 to 1.00[8]

On April 17, 1982 Stroh obtained control of Schlitz. Prior to June 10, Stroh had acquired 67% of Schlitz stock at $17 per share for a total of $335.6 million. On June 10, the combined companies acquired the more than nine million remaining shares at the same price, for a combined price for Schlitz of $494 million. (Schlitz stock options outstanding which must be honored brought the total price to $500,760.9,000.)

To finance the acquisition, Stroh borrowed $160,000,000 from Morgan Guaranty Bank of New York to be repaid in nine months; $160,000,000 from Crocker National Bank and three other banks to be repaid in six months; and potentially $5 million from each of four banks payable on demand.[9] In addition, Stroh has agreed to repay an existing $14 million revolving loan from Morgan Guaranty. According to Stroh, it is paying $160,000/day in interest charges for its short-term debt.[10] As shown in the affidavit dated April 21, 1982 of Robert J. Korkowski, Executive Vice President-Finance and Assistant Secretary of Heileman, in its acquisition of Schlitz, Stroh is taking on a total liability of $742.5 million including the purchase price ($500, 760,000), the assumption of all current ($84,427,000) and long-term ($157,313,000) liabilities of Schlitz and other costs associated with the transaction. *Pro forma* combined current assets of Stroh and Schlitz on December 31, 1981, assuming the transaction had been effected on such date, would have been approximately $220,052,000 with combined *pro forma* current liabilities at $708,819,000, more than three times its current assets. Shareholders' equity totals $68,844,000 which is a ratio of total liabilities to equity of 10.31 to 1.00.[11] Even to those uninitiated in the subtleties of accounting, it is apparent that without immediate sale of plants, or some undisclosed planned capital infusion, it is extremely doubtful that Stroh can pay its debt and maintain itself and Schlitz as competitive entities. Indeed, even if Stroh were able to sell either the Memphis or Winston-Salem plant within the next year (a highly unlikely event) and sell all of the Stroh/Schlitz non-beer related assets, in Heileman's view, Stroh/Schlitz's financial viability still would be in serious jeopardy.[12]

B. Because of Its Enormous Debt Burden, Stroh Cannot Afford Adequate Advertising and Price Promotion Campaigns for Its Brands

As noted above, Schlitz sales have decreased dramatically. Since 1973, Schlitz's share of the national market has dropped from 16% to 7.7%. When acquired by Stroh, Schlitz was in the middle of costly and intense advertising campaigns which had just begun to stabilize its market shares. Thus, the second quarter of 1981 was the first time since the summer of 1976 that Schlitz had had an increase in sales (+1%).[13] Clearly, just the stabilization, let alone the increase, of Schlitz's market depends on maintaining an aggressive advertising and pricing program. Yet, Stroh has instituted a moratorium on Schlitz brand television advertising, has withdrawn the so-called Sellinger television ad campaign featuring Schlitz's President, Frank Sellinger, and has advised its wholesalers that it plans no television advertising of the Schlitz brand until September, at the earliest. Finally, Stroh has apparently withdrawn advertising support for Schlitz Malt Liquor in favor of Old Milwaukee. Since the summer is, by far, the most important beer-selling season, Stroh's chances of even maintaining Schlitz's market are slim to none. Needless to say, Schlitz's wholesalers are extremely demoralized. Of course, it is in Stroh's interest to promote Schlitz; however, because of its very precarious financial situation, Stroh is being forced, even before the merger is completed, to finance its acquisition of Schlitz by cannabalizing the company. Stroh not only is utilizing almost all of Schlitz's cash to buy Schlitz shares,[14] but also, and much more damaging, it is sacrificing Schlitz sales in the near and long term. Also of importance is the fact that Stroh's sales have not been faring well. In 1981, Stroh's share of the market declined from 5.5% to 5.1%. Its First Quarter 1982 sales were down 10.4%.[15] Consequently, like other small brewers, Stroh must use most of its resources just to try to maintain its own market share, leaving little left over to increase or even maintain Schlitz's share.

IV. Stroh Has No Tenable Answers To Its Dilemma

A. Stroh Has No Defined Plan

In its answer to Heileman's petition to intervene, Stroh stated that Heileman did not have all the facts; yet, rather than providing those facts (*e.g.*, statements from bankers, potential buyers of assets, or from accountants), Stroh countered with assertion its bankers seemed satisfied and offered its hope that it could refinance its short-term debt. Stroh stated that it plans to refinance its short-term debt by (1) using Schlitz cash or cash equivalents; (2) selling unspecified assets unrelated to beer; and (3) effecting unspecified synergies resulting in savings "which could reach 50 to 75 million per year.[16] In Heileman's financial analysis,[17] the use of Schlitz cash and cash equivalents to reduce debt was accounted for, but the debt still remained unmanageable. Indeed, there never was any doubt that Stroh would utilize all of Schlitz's cash assets to pay for Schlitz stock and reduce its debt. With respect to the sale of unspecified non-beer related assets, Heileman must rely on the Justice Department's description of these assets as "* * * a California winery and minority interests in several Spanish breweries * * *" all belonging to Schlitz.[18] If these are the assets which Stroh intends to sell (and to Heileman's knowledge they are the only available non-beer related assets), Mr. Korkowski, in Korkowski Affidavit II, estimates that the combined value of these assets is not more than $35,000,000. Even assuming that Stroh could sell these assets promptly, receipt of the proceeds would not materially alter the conclusion that the Stroh/Schlitz

[8] This information is based on the affidavit dated April 21, 1982 of Robert J. Korkowaski, Executive Vice President-Finance and Assistant Secretary of Heileman in support of the Motion of G. Heileman Brewing Co., Inc. to Intervene and for Other Relief. This affidavit referred to as "Korkowski Affidavit I" is attached as Exhibit B.

[9] This data is based on proxy information when the purchase price was $16 a share. At $17 a share an additional $30 million will have to be financed.

[10] Stroh's Memorandum of Points and Authorities in Opposition to Heileman's Motion to Intervene and For Other Relief at Exhibit 2, ¶9(a) ("Stroh Mem.") in *United States* v. *The Stroh Brewery Co.*, Civ. Action No. 82-1059.

[11] The above financial data and resultant conclusions are based on proxy information when the purchase price was $16 a share.

[12] Korkowski Affidavit dated May 16, 1982, ¶5 (Korkowski Affidavit II) In Support of Reply Memorandum of G. Heileman Brewing Co, A copy of this affidavit is attached as Exhibit C. See, Financial Analysis attached to Korkowski Affidavit I, supra, n. 8.

[13] Milwaukee Sentinal, July 21, 1981, Part 2, p. 4., col. 1.

[14] Stroh Mem., *supra*, n. 10.

[15] Steinman, *supra*, n. 4.

[16] Affidavit of Christopher W. Lole, pages 3, 4, 7 *supra*, n. 10. Mr. Lole is Vice President, Director of Corporate Planning and Development of Stroh. His affidavit is attached to Stroh Mem. as Exhibit 2.

[17] Schedule I and II of the Stroh-Schlitz Financial Analysis attached to Korkowski Affidavit I, *supra*, n. 8.

[18] May 6, 1982 Memorandum of the Justice Department, page 24, in Opposition to Heileman's Motion to Intervene and Other Relief.

combination raises serious financial viability questions. Moreover, it is increasingly obvious that no buyer exists for either Winston-Salem or Memphis and that Stroh will not gain the funds from the sale of one of these facilities which it desperately needs. Thus Stroh may be in even more severe financial difficulty than Heileman originally projected. Finally, the "synergies" to which Stroh refers, if there are any at all, will certainly not be realized for a number of years, by which time Stroh may be incapacitated.[19] In fact, as acknowledged by Donald Britt, Schlitz's chief financial officer upon whom Stroh relies in its contention that synergies can be effected, it is impossible to achieve any meaningful economies of scale unless Stroh closes or sells a plant.[20] As noted by Mr. Britt in his trial testimony at 189–190, because both Schlitz and Stroh are operating with excess capacity, they could achieve economies of perhaps $25–40 million after taxes only by closing or selling a plant; however, there is no evidence that Stroh has even one potential buyer for any of its plants, and the closing of a plant would result in large, one-time closing costs and could lead to labor problems that could affect operations at other facilities.[21]

B. It Is Highly Unlikely That Stroh Can Sell the Winston-Salem or Memphis Plants

Despite the fact that the sale of either the Winston-Salem or Memphis plants seems essential to the financial viability of Stroh/Schlitz and despite the fact that the Justice Department has ordered Stroh to divest either the Schlitz Memphis or Winston-Salem plant, Heileman believes there may be no buyers other than Anheuser and Miller. This absence of buyers is due to the fact that every brewer except Heileman, Anheuser and Miller is facing declining sales and excess capacity. To buy Memphis or Winston-Salem would cost approximately $80 million[22] plus an additional investment to convert the plant to the brewing process of the purchaser.[23] Thereafter, the purchaser would have to expend enormous sums in advertising to stimulate increased demand for its products. Neither Stroh nor the Justice Department has identified even one potential buyer, and Heileman submits there may be none except Anheuser and Miller who, by the terms of the Consent Decree, are barred from purchasing the plants. The Teamsters state their view on this matter in their intervention memorandum at 7:

> [A]n individual plant in the southeast [Winston-Salem or Memphis] could not be sold to a viable competitor, thus causing the closing of the plant and a further concentration in production and lessening of competition will occur in the area (thus, if anything, strengthening the dominance of Anheuser-Busch and Miller in the area).

In addition, Charles Klare, Secretary-Treasurer and Chief Executive Officer of the Brewery and Soft Drink Workers Conference of the United States and Canada, stated in his affidavit at 6–7:

> First, the assumption that a competitor will purchase one of the two breweries is an unrealistic one. The history of the industry, as set forth above, is that older breweries simply cannot be sold because of their economic non-viability and that even modern facilities have been purchased only by the two industry giants, because of chronic overcapacity in the industry among all but Busch and Miller. As stated above, Pabst was the number three brewer in 1980. Because of over-production, Pabst closed one of its more efficient plants that had in fact recently undergone a major renovation. Pabst is unable to sell that plant. Another case in point is the Schlitz plant in Baldwinsville, New York. Because of overcapacity, Schlitz was forced to sell a brand new plant. The purchaser was Busch. No smaller competitor bid for the plant. Schlitz closed its Milwaukee brewery in 1981. It has not been sold. The actual fact is that there are at least 20 production plants, including several in the southeast area, which have been closed and are available for purchase without any buyers and which are now lying dormant. The government's impact statement is grossly oversimplified and demonstrates a lack of information concerning the actual state of affairs. The fact of the matter is that the chances of selling one of these plants to a viable competitor other than Busch or Miller, given the current market trends, is at best extremely unlikely.

The unfortunate result of Stroh's inability to sell a plant may be that the only possible solution is for the trustee to recommend and the Justice Department ultimately either to allow Anheuser and Miller to "pick up the pieces" by acquisition of Stroh/Schlitz breweries or to permit Stroh to continue ownership of the facilities by terminating its divestiture obligation. Either result would be devastating to Heileman and all smaller brewers which, was noted above, face increasingly-intense attacks on their home markets by Anheuser and Miller.

C. Because of Labor Demands, It Will Be Difficult for Stroh to Close a Plant

Since both Schlitz and Stroh have excess capacity, closing a plant actually could enhance the Stroh/Schlitz market position by reducing costs and freeing needed funds for advertising and promotion; however, because of recent labor demands, it will be very expensive for Stroh to close a plant. All of Schlitz's breweries were governed by a single contract with the Teamsters. When this contract for all Schlitz breweries expired on May 31 of this year, Schlitz experienced a company-wide strike which was only recently resolved. Obviously given the precarious financial situation of Stroh/Schlitz, this strike can only further debilitate the Company by not only depriving it of product to sell but also imposing higher labor costs in the future. The settlement will exact a further penalty from Stroh when it undertakes to close one or more of the Stroh/Schlitz plants to reduce their over-capacity, thereby further hampering its ability to compete.

V. The Consent Decree Should Not Be Approved Until the Department and Stroh Demonstrate Stroh's Ability to Finance the Merger and Remain a Viable Competitor

To fulfill its obligations under the Antitrust Penalties and Procedures Act, this Court must consider whether the public interest will be served by sanctioning a merger of weak companies

[19] Korkowski Affidavit ¶ 16, *supra*, n. 12.

[20] *See* Transcript of Britt Testimony attached to Heileman Memorandum In Support of Its Motion to Intervene and For Other Relief. Mr. Britt testified in *Stroh Brewing Co., et al.* v. *Malmgren adn Jos. Schlitz Brewing Co.*, 1981–2 Trade Cas. (CCH) ¶ 64,670 (W.D. Wis.; 1982).

[21] *See* Memorandum of Law in Support of Motion to Intervene submitted on behalf of the Teamsters.%

[22] Anheuser paid Schlitz $100 million over two years without interest (the equivalent of $80 million) for the Syracuse plant in 1979 which was then only two years old; Memphis and Winston-Salem are between 10–12 years old.

[23] Anheuser has invested at least an equal amount in converting the Syracuse plant. The Department asserts that any brewer can purchase Winston-Salem or Memphis without major conversion expense. According to the Department, the Anheuser experience in Syracuse is not typical because its beer is "kraeusened" and that the substantial expense it incurred there will not be duplicated in the plants Stroh must sell. The Department's assertion is incorrect. For example, two of Heileman's major brands—Old Style and Special Export—are kraeusened and could not be produced at these facilities without substantial capital investment. Coors beer is unpasteurized with the result that the massive filtration and refrigerated warehouse facilities which coors maintains at its Golden, Colorado, brewery would have to be constructed before these plants would be of use. Surely, they are not a realistic purchaser of Memphis or Winston-Salem. Indeed, even Stroh cannot use these breweries to brew "Strohs" beer without substantial and costly changes because its beer is "fire brewed."

whose combination may have a greater adverse effect on competition than had they remained independent. In its memorandum opposing Heileman's motion to intervene, the Department stated that it considered the financial viability of Stroh/Schlitz to be irrelevant to its complaint charging a violation of Section 7 of the Clayton Act resulting in increased concentration in the beer industry.[24] Accordingly, the Department apparently looked no further than the market shares of the companies in analyzing the proposed merger. Since that time, however, the Department seems to have changed its practice when it declined to approve Heileman's acquisition of certain Pabst Brewing Co. assets on the ground that the financial viability of the remainder of Pabst was questionable. This financial vulnerability, the Department felt, would weaken Pabst as a competitor and enhance the power of other larger rivals, particularly Anheuser and Miller. Heileman submits that this policy should be followed in this proceeding. An analysis of the financial condition of Stroh/Schlitz must be undertaken to avoid sanctioning a combination whose ultimate unravelings will only further entrench the power of Anheuser and Miller.

Accordingly, Heileman submits that this Consent Decree should not be entered unless the Department and Stroh demonstrate that the transaction will produce a viable competitor capable of carrying out the terms of the Decree and supporting the significant financial commitments Stroh has undertaken.

Respectfully submitted,

Of Counsel: David E. Beckwith, Maurice J. McSweeney, Howard W. Fogt, Jr., Leslie C. Smith, Washington, D.C., July 29, 1982.

Howard W. Fogt, Jr., Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 862-5300, *Counsel for G. Heileman Brewing Company, Inc.*

Certificate of Service

I certify that on July 29, 1982 I caused a copy of the foregoing Comments of G. Heileman Brewing Co., Inc. to be hand delivered to: Anthony V. Nanni, Esquire, Chief, Trial Section, Antitrust Division, United States Department of Justice, Room 3266, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530—in accordance with Paragraph V of the Competitive Impact Statement published in 47 FR 18,447 (April 29, 1982).

Howard W. Fogt, Jr.

[24] Justice Mem., *supra*, n. 18 at 15.

Confidential

Sutherland, Asbill & Brennan

May 26, 1982

Re Possible Acquisition of Pabst Brewing Co. by G. Heileman Brewing Co.

Memorandum to: Antitrust Division, U.S. Department of Justice.

From: Sutherland, Asbill & Brennan.

The purpose of this memorandum is to set forth in writing the reasons, already communicated orally, why we believe a Heileman acquisition of Pabst would be of competitive benefit to the brewing industry and why the Department of Justice should not oppose such an acquisition under the Clayton Act.

I. The Effect That A-B and Miller's Unchecked Growth Will Have on Concentration in the Beer Industry

Much has been said about the dangers to competition posed by the increasing dominance of industry sales by Anheuser-Busch and Miller, whose combined market share has grown from 31.6% in 1975 to 52.9% in 1981. A-B and Miller have increased their market shares because their annual barrelage gains have substantially exceeded the growth in aggregate industry sales. Such sales growth has been made possible by a rapid expansion in their capacity which is continuing in the 1980's. On the conservative assumption that A-B and Miller will continue to expand their sales volume at the same rates that they achieved in 1981,[1] while industry barrelage will continue to grow at the 2% rate esperienced in 1981,[2] the national H-Index for the brewing industry would increase as follows:[3]

Year	Herfindahl (or "H") index	Increase in H-index from previous year	Cumulative increase in H-index
1981	1,790		
1982	1,922	132	
1983	2,090	168	300
1984	2,277	187	487
1985	2,498	221	708
1986	2,756	258	966
1987	3,070	314	1,280

While a merger between Heileman and Pabst would increaes the H-Index in the national market by approximately 117 points, the increase in the H-Index resulting from A-B and Miller's internal annual growth would be greater *each year* than the increase in the Index resulting from a Heileman-Pabst merger. Thus, if A-B and Miller's internal expansion continues, the H-Index would increase by about 1280 points by 1987.

In terms of combined market share, A-B and Miller's internal growth, on the same assumptions, would increase their dominance over the next several years as follows:

Year	A-B and Miller aggregate share
1981	52.9
1982	56.1
1983	59.7
1984	63.4
1985	67.3
1986	71.5
1987	76.1

On the same assumptions, if Heileman and Pabst maintain their current proportion of the remaining barrelage, their market shares would decline significantly:

Year	Heileman	Pabst
1981	7.8	7.5
1982	7.2	7.0
1983	6.7	6.4
1984	6.0	5.8
1985	5.4	5.2
1986	4.7	4.5
1987	4.0	3.8

These numbers are not idle speculation. A-B and Miller are already bringing onstream the additional capacity to seek to make this forecast a reality. Miller is about to open a 10-million barrel brewery in Trenton, Ohio. A-B added 4.5 million barrels of capacity at its Los Angeles brewery in 1981 and will add another 3 million shortly. A-B is also expected to open a 6-million barrel brewery in Baldwinsville, N.Y. in 1983. In the past, A-B and Miller consistently have been able to utilize new capacity at a rate

[1] Miller experienced a growth rate of 29.11% in 1978, 14.45% in 1979, 4.22% in 1980, and 8.04% in 1981, for a compound annual growth rate of 13.57% per year. A-B grew at 13.56% in 1978, 11.03% in 1979, 8.57% in 1980, and 8.65% in 1981, for a compound rate of 10.44%. Although it is our understanding that these rates are, if anything, headed upward, as witnessed by Miller's 54% increase in the first quarter of 1982 in the three states of Minnesota, Illinois, and Wisconsin, we have used 1981 figures of 8.04% for Miller and 8.65% for A-B.

[2] *Modern Brewery Age* (Feb. 1982) at MS-17 shows total industry barrelage to have grown by 1.8% from 176,311,699 in 1980 to 179,500,000 in 1981.

[3] The data from which these figures are calculated are displayed in Worksheet 1, attached. They assume, in addition to the total industry growth rate of 2% per year and A-B and Miller annual growth rates of 8.65% and 8.04%, respectively, that each brewer other than A-B and Miller maintain their proportionate share of the barrelage not accounted for by the industry leaders. All figures, including that for 1981, treat Stroh/Schlitz as a single entity. 1981 industry data is taken from *Modern Brewery Age* (Feb. 1982) at MS-17.

close to or exceeding 95%[4] at the expense of the sales volume of other brewers.[5] There is every reason to believe that they will continue to be able to do so; indeed, each increase in size and market share only heightens the advantages, particularly in advetising, that have enabled them to achieve their current position.[6]

[4] This is demonstrated in the following table:

Year	Capacity (000,000)	Sales (000,000)	Capacity utilization (percent)
Miller			
1977	25.0	24.22	96.9
1978	31.3	31.27	99.9
1979	37.5	35.79	95.4
1980	39.5	37.30	94.4
1981	43.0	40.30	93.7
A-B			
1977	42.0	36.64	93.7
1978	44.3	41.61	93.9
1979	46.9	46.20	98.5
1980	52.0	50.16	96.5
1981	56.5	54.50	96.5

A-B's capacity is forecast to be approximately 67.5 million bbl. in 1983 and 71.7 million bbl. in 1984. Miller's capacity is forecast at 51.0 million and 52 to 53 million bbl., respectively. Capacity data for Miller in the above table are estimated.

[5] See the following table:

Year	Sales by all other brewers (000,000)
1977	98.7
1978	93.3
1979	90.6
1980	88.9
1981	84.7

[6] One key advantage, discussed in section III, is the ability to target specific regions for advertising and/or price-promotion campaigns. Another is the sheer massiveness of the advertising campaigns that A-B's and Miller's size permits. For example, Miller spent over $40 million between 1974 and 1977 introducing "Lite" beer, and has budgeted $65 million for the *first year's* expenses to introduce a new super-premium brand. A-B has budgeted $50 million for one year to introduce its new Budweiser Light brand. No other brewer has the financial resources to support advertising on such a scale. Moreover, the failure of even one such campaign could bankrupt a smaller brewer, whereas A-B's and Miller's size permits them to assume such risks (as Miller did with Lowenbrau) in order to reap the potential rewards available. A third advantage is that the advertising available to A-B and Miller is both more effective and cheaper on a unit cost basis. Network sports advertising is by far the most effective means of reaching the typical beer drinker. However, such advertising is cost-efficient only for those brewers who are capable of competing nationwide on a sustained basis, and thus is beyond the reach of all but the largest brewers. All of these advantages are a result of size and financial resources and can only be expected to increase in the future.

II. Countervailing Power

A. Need for Countervailing Power

The dramatic concentration increases that would result from permitting existing forces to continue unchecked emphasizes the importance of permitting at least some mergers among second-tier firms. To the extent that the resulting combinations will be able to compete effectively against A-B and Miller, such mergers will decrease, not increase, future concentration.

Moreover, even assuming *arguendo* that such mergers would increase concentration, empirical economic studies provide strong support for the proposition that competition is enhanced rather than hampered by the creation of a third strong competitor in an industry dominated by two firms. Kwoka[7] analyzed price-cost margins in 314 manufacturing industries, using multiple regression analysis, and found that: (1) the market shares of the top two firms was significantly and positively related to price-cost margins (*i.e.*, in industries in which the top two firms had large shares, prices tended to be above the competitive level), (2) the market share of the third firm was *negatively* related to price-cost margins (*i.e.*, as the share of the third firm increased, price-cost margins tended to be lower), and (3) the market shares of all other firms had no significant effect on price-cost margins.

The existence of an effective third competitor, in other words, is key. In the brewing industry, such a competitor does not exist. An increasing size gap has developed between the third and the first two firms:

RELATIVE SALES VOLUMES

Year	Second as percentage of third firm	First as percentage of third firm
1975	149	224
1978	159	212
1979	214	275
1980	245	330
1981	286	387

The Stroh/Schlitz merger has, for the moment, narrowed this gap somewhat (to 174% and 235%, respectively), but its prospects in the long run for creating a truly effective third competitor are, as discussed below, highly uncertain.

[7] Kwoka, *The Effect of Market Share Distribution on Industry Performance*, 61 Rev. Econ. & Stat. 101 (1979).

B. How a Heileman-Pabst Combination Will Serve as an Effective Countervailing Competitor

1. *What Pabst Does for Heileman.* We have been advised by Heileman that it considers itself to be entirely too dependent upon sales of its flagship brand Old Style in the States of Wisconsin and Illinois. Heileman's ability to compete effectively in the Southeast is presently limited because it must ship to that area from older plants in Kentucky, Indiana and Illinois. Pabst has a new, efficient plant in Georgia which can produce Heileman's brands for the Southeast. Pabst has a significant presence in the Northeast where Heileman's sales presently are limited. The ability of Heileman to introduce more of its brands in the Northeast through Pabst distributors would permit it to increase its presence in that area.

Heileman is capacity-constrained in the West. Pabst has excess capacity in its Portland plant which can be used for the production of Heileman brands, particularly those brands which are shipped to California. Heileman's Phoenix plant, we understand, can be expanded to permit the production of both Heileman and Pabst brands in Phoenix for distribution in southern California. The merger of the two companies would permit Heileman to become a national brewer and reduce Heileman's vulnerability to what is certain to be intensive efforts by Miller and A-B to capture market share from Heileman in its home territory.

2. *What Heileman Does for Pabst.* A Heileman acquisition of Pabst would help correct several weaknesses which Pabst now has on its own, and would continue to have if acquired by Schmidt. First, past erosion of sales volume[8] has led to considerable under-utilization of plant capacity. Heileman provides brands and demand to increase capacity and reduce costs. For example, in the Southeast, Pabst's market share and sales volume have been eroded substantially and current utilization of its Georgia brewery is approximately 75% of capacity. An acquisition would increase capacity utilization at Pabst's Georgia brewery.

Second, Pabst has limited product diversification with preponderant reliance on the Blue Ribbon brand. In most states, this brand sells in the lowest profit margin and most steeply declining segment of the market—popularly priced beer. Heileman has a more diversified and extensive product

[8] Pabst's share of the market has declined as follows: 1977, 10.12%; 1978, 9.38%; 1979, 8.83%; 1980, 8.56%; 1981, 7.50%.

mix which is strong in higher profit margin and more stable segments of the market.

Third, Pabst has high labor costs at its inefficient Milwaukee plant. When, next year, the union contract in Milwaukee comes up for negotiation, Pabst faces the prospect of having steeply rising labor costs at an already high cost facility. Because Heileman has a brewery at La Crosse to which production could be shifted, a Heileman acquisition strengthens Pabst's negotiating position with the union in Milwaukee.

Fourth, with its major brand being eroded, Pabst has increasing difficulty maintaining a strong distribution network and, especially, motivating its distributors to promote Blue Ribbon more intensively than the non-Pabst brands they handle. Heileman and Pabst share approximately 340 common distributors. For them, the combination will add a strong incentive to push the products of the combined entity. Furthermore, the acquisition would have a very positive psychological impact on distributor morale and on the Blue Ribbon brand image.

Finally, by itself, Pabst lacks adequate access to the type of large-scale, national advertising in which A–B and Miller can engage.[9] Heileman (but not Schmidt) could give Pabst sufficient size to engage in such advertising.

C. Why No Other Brewer is Likely To Emerge as an Effective Third Competitor

A Heileman/Pabst combination is the best hope for an effective third, or perhaps fourth, national competitor. Most of the other second- and third-tier brewers have suffered major erosions in market share: [10]

Brewer	Percent	
	1977	1981
Stroh/Schaefer/Schlitz (combined)	21.0	12.9
Coors	8.2	7.4
Olympia/Hamm/Lone Star	4.4	3.2
C. Schmidt	2.3	1.8

Because their strength is primarily regional, they are highly vulnerable to targeted promotional strategies of the type discussed in Part III, below. In addition, these brewers have significant additional problems which limit their chances of emerging as effective competitors to A–B and Miller.

Stroh/Schlitz. Stroh/Schlitz is in weak financial condition because of the enormous debt burden Stroh assumed in acquiring Schaefer and Schlitz. It has excess capacity, and its brands are being eroded, particularly in the Midwest. Stroh has traditionally promoted its beer as "fire-brewed," and made a significant investment to convert Schaefer's Allentown plant to the "fire-brewing" process. If it is to continue this advertising campaign for Stroh beer produced in the Schlitz plants, it will have to incur significant additional costs to convert Schlitz's breweries to the fire-brewing process. In addition, in the Midwest, its only remaining brewery is Stroh's inefficient Detroit plant.

Coors. Having only one brewery and essentially only one brand, Coors is seriously handicapped in competing. It faces high distribution costs because its beer requires refrigerated trucks and warehouses. For this reason, its substantial losses of share in its traditional strongholds have been particularly devastating.[11] Coors' future as a major national competitor is further called into question by Chairman William K. Coors' statement at the last shareholders' meeting that the trustees of the company would consider selling the brewery.[12]

Olympia. Olympia's sales have declined from 6,831,000 bbl. in 1977 to 5,708,000 bbl. in 1981. Moreover, Olympia is in weak financial condition. In 1981, it suffered a pre-tax loss of $8.5 million.[13] Additionally, its Hamm's plant reportedly has declined to less than 50% utilization, making its continued operation questionable.

Genesee. Genesee is a regional brewer operating in New York and surrounding states. Significant transportation costs preclude Genesee from substantially expanding its geographic market from its sole brewery in Rochester, N.Y. Even within its limited marketing area, Genesee undoubtedly will face increased competition when the six million barrel A–B brewery opens in nearby Baldwinsville, N.Y.

Falstaff/General/Pearl. Falstaff/General/Pearl is suffering significant sales erosion. Its combined sales amounted to 5,629,000 bbl. in 1976, but declined to 3,596,000 bbl. in 1981. It lacks the modern plants necessary to compete effectively.

C. Schmidt. Despite several acquisitions, Schmidt's sales volume declined from 3,850,000 in 1979 to 3,300,000 in 1981, leaving Schmidt with considerable excess capacity at both its Philadelphia and Cleveland plants. Like Genesee, the location of its traditional strongholds puts it directly in the marketing orbit of A–B's new New York brewery and Miller's new ten million barrel Trenton, Ohio brewery.

III. Significance of a Heileman/Pabst Merger in the Midwest

The preceeding sections have demonstrated why allowing a Heileman/Pabst merger is important to the future of the brewing industry at the national level. Such a combination is one of the few potential means of providing a truly viable third firm in the industry. Nonetheless, it has been suggested that the impact of the merger in the Midwest requires that it be prohibited. However, current market shares vastly overstate the competitive significance of Heileman and Pabst in the Midwest. This is because A–B and Miller have both recently obtained the capacity and incentive to compete vigorously to take away market share from Heileman and Pabst in their home territory.

A. Use of Regional Marketing Strategies

Because they dominate beer sales in many areas of the country, A–B and Miller are able to engage in protracted and costly promotional efforts in one region of the country while subsidizing those efforts with comfortable profits from other regions of the country.

These targeting strategies can involve either pricing or advertising (or both). A–B has vigorously opposed "price affirmation" laws, which inhibit its ability to price on a targeted basis.[14] A–B has also taken away from regional brewers a number of opportunities to sponsor local sports teams, the advertising medium of greatest importance to regional brewers. Stroh's Schaefer brand, for example, has lost sponsorship in New York of the Mets,

[9] See note 6, *supra*.

[10] Source: 1977 data are taken from C. Keithahn, *The Brewing Industry* 22–23 (FTC Staff Report 1978); 1981 data are from Modern Brewery Age (Feb. 1982) at MS–17.

[11] Based on the FTC study data for 1977 (C. Keithahn, *op. cit.*, at 140–41) and United States Brewers Assn. data for 1981, Coors market share was:

State	Percent	
	1977	1981
California	30.2	19.7
Colorado	44.5	26.2

[12] *Denver Post*, May 10, 1982.

[13] 1981 Form 10–K, p. 10.

[14] State "price affirmation" laws prevent a brewer from selling beer to wholesalers within the state at an F.O.B. price higher than the lowest F.O.B. price it charges anywhere in the country. A–B has been a leader in opposing such laws. *See Wall Street Journal*, Sept. 9, 1980, at 48, *Beer Marketer's Insights*, Sept. 30, 1980, at 4.

Knicks, Rangers, Islanders, and Nets, and has been completely foreclosed from this medium.

Recently A-B has begun to use such techniques in the Midwest. In 1979, A-B initiated a deep-discount campaign in the Chicago area, increasing average discounts from 40 cents per case to as much as $1.25 per case. At the same time, it converted a number of independent wholesalers to company-owned distributors in the area. In 1980, Stroh lost sponsorship of the Chicago White Sox to A-B, which placed a bid well over three times the amount that Stroh had paid the year before. Stroh has also lost radio packages with the Cincinnati Reds and the Michigan State University football team.

These tactics have been extremely successful in the past. A-B and Miller have a proven track record of beating strong second-tier brewers in their home markets. As already noted, Coors' market share in Colorado and California has been cut nearly in half in only four years. Schlitz's market position in the South has been dramatically reduced.[15]

B. Incentive to Target the Midwest

The Midwest is one of the last areas of the country in which A-B and Miller's market penetration is less than 40 percent. (See red and pink areas on attached map.) It thus represents an area in which A-B and Miller have an unrealized potential to gain appreciable sales volume. The Midwest has traditionally been highly competitive. Miller and A-B campaigns to increase market share in this region would have to be supported by substantial resources and the resilience afforded by a comfortable position elsewhere in the country, which they have now obtained. Prior capacity constraints also have played a significant role in limiting their market penetration in the Midwest. A-B has been handicapped in competing for the Midwest market because it has had to utilize production from its St. Louis brewery to meet growing demand on the west coast. With the Baldwinsville, N.Y. brewery soon to come onstream and the current 7 million barrel expansion of its Los Angles brewery, additional capacity from its Columbus, Ohio and St. Louis breweries will be freed up. Miller's brewery in Milwaukee primarily serves the Midwest, but demand for its product has exceeded its capacity.[16] Miller has no other brewery within a close shipping distance of the Midwest market (closest breweries are currently in Fulton, NY, Eden, NC, and Ft. Worth, Texas). Miller's new brewery in Trenton, Ohio will remove the capacity constraint, and similarly create an incentive for aggressive promotion in the Midwest. This is reflected in the approximately 50% increase in Miller's sales in the first quarter of 1982 in Minnesota, Illinois, and Wisconsin, three large states which are traditional strongholds of Heileman and Pabst.

On this page in the original is a map of the United States depicting the market penetration of Anheuser-Bush Companies, Inc. and Miller Brewing Co. This page cannot be reproduced with sufficient clarity to permit publication. The page is available for inspection by interested persons in the court files in *United States* v. *The Stroh Brewery Company*, Civil No. 82-1059 (Pratt) (D.D.C.), and also at the Department of Justice, Antitrust Division, Room 3244, in Washington, D.C.

On this page in the original is a worksheet showing projected increases in the national Herfindahl Index for the brewing industry. This page cannot be reproduced with sufficient clarity to permit publication. The page is available for inspection by interested persons in the court files in *United States* v. *The Stroh Brewery Company*, Civil No. 82-1059 (Pratt) (D.D.C.), and also at the Department of Justice, Antitrust Division, Room 3244, in Washington, D.C.

U.S. District Court for the District of Columbia

United States of America, Antitrust Division, Department of Justice, Washington, D.C. 20530, 202/633-2477, Plaintiff v. *The Stroh Brewery Company, One Joseph Campau, Detroit, Michigan 48226,* Defendant, *G. Heileman Brewing Co., Inc., 100 Harborview Plaza, La Crosse, Wisconsin 54601, 608/785-1000,* Intervenor.

Civil Action No. 82-1059.

District of Columbia, *ss.*

Affidavit of Robert J. Korkowski in Support of the Motion of G. Heileman Brewing Company, Inc.

Robert J. Korkowski being first duly sworn under oath deposes and says:

1. I am Executive Vice President-Finance and Assistant Secretary of G. Heileman Brewing Company, Inc., ("Heileman"), of La Crosse, Wisconsin. Heileman is the fourth ranking brewery in the United States having sold approximately 14 million barrels of fermented malt beverage products in 1981. It is an "interested person" in this action pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16f(3) (the "Tunney Act") and Rule 24 of the Federal Rules of Civil Procedure. I make this affidavit in support of Heileman's Motion for Leave to Intervene in this action and for the entry of an order prohibiting The Stroh Brewery Company, ("Stroh"), from effecting a merger of Stroh and Jos. Schlitz Brewing Company, ("Schlitz"), or disposing of any assets of Schlitz prior to the entry of the proposed final judgment filed in this action by the plaintiff or any other final judgment.

2. I have been the Chief Financial Officer for Heileman for six years. I am a Certified Public Accountant and prior to my employment at Heileman was an Audit Manager at Arthur Anderson & Co., Minneapolis, Minnesota. In my career I have analyzed financial statements of brewery companies, prepared financial statements, prepared pro forma financial statements and numerous analytical reports in connection with the proposed merger of brewery companies, working in close cooperation with the Chief Financial Officer of Schlitz, I participated in the preparation of pro forma financial statements for a proposed merger of Schlitz into Heileman. On the basis of information available to me in the tender offer materials filed by Stroh in connection with its tender offer for Schlitz common stock and on the basis of my knowledge of the brewing industry and public information regarding Schlitz, it is possible to prepare a financial analysis of a merger of Schlitz into Stroh, which analysis would include a pro forma balance sheet and operating statement for the combined companies. In preparing such an analysis certain assumptions not supported by public information are necessary. Such assumptions that must be made, even if only reasonable approximations, would not significantly change the financial conclusion.

[15] Schlitz's share in the South has declined as follows:

State	Percent			
	1973	1977	1979	1981
Alabama	34.6	26.9	14.0	8.8
Arkansas	42.4	28.3	17.2	15.2
Florida	22.0	18.2	16.0	14.6
Georgia	29.5	23.7	15.7	13.0
Maryland	13.5	13.7	10.2	7.6
South Carolina	35.1	33.3	25.7	19.5
Tennessee	20.0	14.1	6.9	4.6
Texas	31.5	31.3	21.9	13.3

SOURCE: 1977 data taken from c. Keithahn, *The Brewing Industry* 137-174 (FTC Staff Report 1978); 1979 and 1981 data computed from USBA data for reporting states and, for non-reporting states, from data submitted on the record in the private litigation in Stroh/Schlitz.

[16] Miller sells approximately 10,200,000 bbls. in the 11-state region (consisting of Minnesota, Wisconsin, Michigan, Iowa, Indiana, Illinois, Ohio, Kentucky, Missouri, and North and South Dakota), which is slightly more than the capacity of its Milwaukee brewery.

3. I have prepared a financial analysis which demonstrates that if Schlitz is merged into Stroh the financial viability of the surviving company, Stroh, is very questionable. Even if I were to assume that Stroh is able to dispose of assets at very advantageous prices in a very short period of time, it is probable that Stroh will lack the capacity to repay the very large debt incurred by Stroh to acquire Schlitz. My financial analysis is attached to this affidavit and I ask the Court to consider it in connection with Heileman's motion which this affidavit supports.

4. My financial analysis speaks for itself, but in essence it demonstrates that Stroh may be, at best, marginally profitable after acquiring Schlitz; that its debt to equity ratio from a financial point of view should be unacceptable to its lenders; that it must sell substantial assets of Schlitz immediately in order to reduce its debt but that even if it sells all of the Schlitz can plants and either the Memphis or Winston-Salem plants of Schlitz, its financial viability is questionable; that for Stroh to survive in the short run it will have to substantially reduce discretionary expenses such as the advertising and promotion budgets for its brands and the Schlitz brands; that unless there is some financial arrangement which has not been disclosed by the plaintiff or Stroh, such as the sale of Schlitz assets, other long term financing or some infusion of capital, Stroh/Schlitz will in all probability within the two year period provided for in the proposed final judgment, become a company that can no longer compete with Anheuser-Busch Company, Inc. or Miller Brewery Company, the two brewery companies that presently dominate and threaten to monopolize the brewing industry. I must emphasize that my financial analysis and this affidavit is based upon all publicly available information regarding Stroh and Schlitz. If there are other transactions contemplated or already arranged by Stroh that may have an impact on the brewing industry and my financial analysis they should be disclosed by Stroh or by the Department of Justice in its Competitive Impact Statement in order that the industry, the public and the Court may be fully informed of the competitive impact of the final judgment as it is affected by such arrangements.

5. When it commenced its tender offer for Schlitz's common stock Stroh filed an action in the United States District Court for the Western District of Wisconsin to have the Wisconsin Takeover Law declared unconstitutional. *Stroh Brewing Co., et al.* v. *Malgren and Jos. Schlitz Brewing Co.*, Civ. No. 82-C-229 (W.D. Wis., filed Apr. 9, 1982). Its action was unsuccessful. However, in that action Schlitz filed a counterclaim alleging that Stroh's attempt to acquire Schlitz violated several laws including Section 7 of the Clayton Act and brought before Judge Shabaz its Motion for a Preliminary Injunction. In the hearing before Judge Shabaz, the chief financial officer of Schlitz testified that on the basis of his analysis if Schlitz were merged into Stroh upon the payment of *$16* per share (Stroh later increased the price to *$17* per share) the surviving company, Stroh, was not viable and would be unable to repay the debt incurred to purchase the Schlitz stock. Attached to my Affidavit is a copy of the transcript of the testimony of Donald Britt, the chief financial officer of Schlitz, in the hearing before Judge Shabaz.

6. As the plaintiff has indicated in the Competitive Impact Statement filed in this proceeding, the brewing industry is increasingly dominated by the two leading companies, Anheuser-Busch and Miller. Their sales are growing at rates in excess of 8% per year in a market that is growing at no more than 2% per year. They have enormous resources for plant expansion, advertising and promotions. By way of illustration, Anheuser-Busch in its most recent annual report has announced that it will invest $500 million in capital improvements in 1982 and $2 billion in capital improvements in the period 1982 through 1986. Anheuser-Busch and Miller have publicly boasted that they dominate all sports advertising and their advertising budgets are many times larger than the budgets of any other brewing company. Both Anheuser-Busch and Miller have a full array of brands and have plants strategically located throughout the United States so that they are able to serve all of their wholesalers without excessive transportation expenses being a significant factor. In some key states Anheuser-Busch and Miller are literally driving other brewing companies to the wall, California and Texas are examples. The dominance of these two companies is particularly evident in the Southern tier of states.

7. The proposed final judgement is, in my opinion, defective in a number of ways. I will only call attention to the defects which relate to the financial aspects of the merger and the surviving company.

A. Stroh is directed to sell either the Memphis or Winston-Salem plant of Schlitz to a company that will operate the plant as a brewery. There is a serious question whether there is any buyer for either of these plants other than Anheuser-Busch and Miller. When Schlitz sought the approval of the plaintiff to sell its plant in Baldwinsville, New York, the Department required that Schlitz offer the plant at favorable terms to any other company that might be interested in purchasing it, including any domestic or foreign brewer. No company was interested in purchasing the Baldwinsville plant other than Anheuser-Busch which purchased it. Even if the purchaser of the Memphis or Winston-Salem plants obtained from Stroh a contract to brew Schlitz products in the purchased plant, it is doubtful that another brewing company would be interested, knowing Stroh's precarious position, in paying a price for either plant or agreeing to terms (including the contract to brew) which would materially resolve the financial dilemma of Stroh and its bankers. I believe that Stroh can sell the Schlitz can plants but their sale may have an adverse affect upon competitors in the beverage can industry. Heileman purchases all of its can requirements and any lessening of competition in the beverage can industry will directly harm Heileman. As my financial analysis demonstrates, the sale of the Schlitz can plants in all probability will seriously adversely impact Stroh because the can plants provide a low cost supply of cans to Schlitz and further are a source of revenue from the sale of cans to other brewers or soft drink manufacturers. However, Stroh may be forced to sell the can plants and apply the proceeds to reduce its debt.

B. There is no apparent causal relationship between the antitrust violation alleged by the government and the sale of Schlitz plants. The government complaint alleges that the combination of Stroh and Schlitz will result in unacceptable market share concentration in nine Southeastern states. The sale of a Schlitz brewing plant does nothing to alter the market shares of Stroh and Schlitz when no brands, product or volume are included in the sale. Since both companies have substantial excess capacity, selling or closing one of the plants may actually enhance the Stroh/Schlitz market position by reducing unit costs and freeing needed funds for advertising and promotion. In short, the sale of either the Winston-Salem or Memphis plants will not reduce the market shares of Stroh and Schlitz and in fact, to the extent such a sale would strengthen Stroh financially, it creates the possibility that these market shares will be increased.

C. The final judgment does not require Stroh to continue to operate the Memphis and Winston-Salem plants until they are sold. The closure of either Memphis or Winston-Salem will substantially reduce its saleability. The plants are new, relatively sophisticated brewing operations and they require a trained and skilled work force. If a plant is closed and the work force is discharged not only will Stroh incur very substantial closing costs, such as severance pay and standby costs, but Stroh or a purchaser will incur substantial reopening costs including the difficulty of reassembling a work force to operate the plants. At the very minimum the final judgment should be amended to require Stroh to operate both Memphis and Winston-Salem until they are sold or until the end of the two year period provided by the consent decree.

D. Paragraph IV.D. provides that at the end of the two year period "[t]he Court shall thereafter enter such orders as it shall deem appropriate which may include terminating the trust and relieving defendant of any further divestiture obligation." Unless Stroh has a buyer for one of the Schlitz plants already in hand (and if it does that should be disclosed) the most likely result is that neither plant will be sold during the two year period and that at the end of the period Stroh or its bankers will urge the plaintiff and the court to allow the sale of one or both plants to Anheuser-Busch or Miller. At that time the Court may be faced with the Hobsons choice of forcing Stroh's bankers to place it in bankruptcy or permitting Stroh or its bankers to sell Schlitz assets to benefit Anheuser-Busch or Miller. As I have stated above and as Judge Shabaz found in the action of *Stroh Brewery Co., et al.* v. *Malgren and Jos. Schlitz Brewing Co.*, Civ. No. 82-C-229 (W.D. Wis., filed Apr. 9, 1982) in the U.S. District Court for the Western District of Wisconsin, the single most important factor in the brewery industry is the increasing dominance of the two leading companies, Anheuser-Busch and Miller. If, as a result of the Schlitz-Stroh merger or the entry of the proposed final judgment, either of these companies is benefited or Schlitz or Stroh is injured, competition in the industry will be lessened, the public will be harmed and all remaining participants in the industry will suffer severe harm. It is my opinion, that the interest of Heileman in this action is apparent. To the extent that competition is weakened or the dominant companies are strengthened, Heileman will suffer.

8. I have personal knowledge of the great interest of Anheuser-Busch in obtaining Schlitz's Memphis plant. As soon as it was announced that Heileman might acquire Schlitz, August Busch, III flew to LaCrosse, Wisconsin and told the Chief Executive of Heileman, Russell G. Cleary, that he wanted to buy the Memphis plant. I am informed that he made a similar request to a (then) member of the Board of Directors and substantial shareholder of Pabst when there was an indication that Pabst might buy Schlitz and also solicited Schlitz to sell the plant. It is important to note that there are ways that Anheuser-Busch could have the benefits of the Memphis plant without buying it. A third party could buy the plant and brew Anheuser-Busch products in the plant for Anheuser-Busch and ultimately sell the plant to Anheuser-Busch. I have no knowledge that any such arrangement is contemplated, but the possibility of such an arrangement emphasizes the importance of having all of the transactions contemplated by Stroh made known by the plaintiff and to be fully disclosed in order they they may be carefully examined by interested parties and the Court.

9. I am informed that it is the policy of the plaintiff not to approve a merger that is predicated upon a divestiture without the divestiture being contracted for before the merger is approved. Heileman was so advised when it sought to obtain the plaintiff's approval for its acquisition of Schlitz. That policy was violated in this case. There is no plausible explanation for the approval of the merger of Schlitz into Stroh before either the Memphis or Winston-Salem plant has been sold or there is a contract of sale or before there is any indication that either plant is saleable. The plaintiff attempts to rationalize this apparent policy reversal on the basis that the Stroh-Schlitz merger was an unfriendly transaction and that Stroh could not, therefore, contract to sell a Schlitz plant before the merger. In fact, the Stroh-Schlitz merger was not an unfriendly transaction. On Thursday, April 15, 1982, Stroh and Schlitz announced that they agreed to a merger of Schlitz into Stroh with Schlitz shareholders receiving $17 per share (until then the Stroh tender for Schlitz shares was for $16). If the merger had not been agreed to it could very well have been blocked by the Seventh Circuit Court of Appeals which on April 15 was considering Schlitz's appeal of Judge Shabaz's order denying a preliminary injunction against the merger or by the Commissioner of Securities of the State of Wisconsin who on that date found a violation of Wisconsin Takeover Law in the Stroh tender offer. Accordingly, there is no basis for the Department's reversal of its stated policy and consenting to a final judgment which clearly is based on a highly speculative future contract to sell a Schlitz plant with or without a contract-to-brew.

10. In its tender offer and in the copies of its agreements with its banks which were filed with the SEC, Stroh has made it clear that it expects to use Schlitz resources to finance the acquisition of Schlitz. My financial analysis also makes it clear that Stroh cannot acquire Schlitz without using Schlitz's available cash to finance the merger. I am informed that under applicable corporate law Stroh may not use Schlitz cash or sell Schlitz assets prior to affecting the merger of Schlitz into Stroh. I am further informed that such merger cannot take place without proxies being distributed to Schlitz shareholders (Stroh and the holders of ⅓ of Schlitz stock which Stroh has not yet purchased) and that such procedure may take 20 days or more to accomplish. However, if Schlitz is merged into Stroh and its cash disbursed to reduce Stroh's debt to Morgan Guaranty Trust Company and the other banks financing the merger or to purchase the remaining ⅓ of Schlitz shares and any Schlitz assets are sold to generate additional cash to reduce Stroh's debt, it will be extremely difficult and may be impossible to restore Schlitz to the position of an independent company. Further, for the merger of Schlitz into Stroh to have a change of success, it will be necessary for Stroh to effect all possible economies as soon as possible including the possible discharge of Schlitz executives, sales, marketing, production or other corporate employees whose services are no longer required by Stroh. The plaintiff in this case has not asked the court to prevent these events from transpiring prior to the entry of the proposed Final Judgment. However, in my opinion, unless the court does prevent Stroh from causing Schlitz to be merged into it and from using or disposing of Schlitz assets and discharging Schlitz employees, the court's ability to select alternatives to this or any other Final Judgment will be materially reduced, since the corporations will have been merged and Schlitz cash will have been disbursed and other steps may have been taken by Stroh that will be very difficult, if not impossible, to reestablish Schlitz as an independent company. If the merger is consummated, the Court may lose the option of requiring Stroh to divest itself of Schlitz common stock in a manner

that does not violate the antitrust laws. In short, if a merger is effected within the 60 day period called for in the Tunney Act, the transaction will be a *fait accompli* and it is doubtful that the court will be able to reject the proposed Final Judgment or that the Attorney General will be able to withdraw his Consent to the Final Judgment.

Robert J. Korkowski.

Subscribed and sworn to before me this 21st day of April 1982.

Karen L. Wissong.

Notary Public.

My commission expires: June 30, 1982.

Stroh-Schlitz—Financial Analysis

Index

April 21, 1982

Basis for analysis and related comments.

Schedules

I—Pro forma combined balance sheet—December 31, 1981.

II—Pro forma summary of combined income—year ended December 31, 1981.

III—Analysis of components of pro forma summary of combined income—year ended December 31, 1981.

IV—Estimated effects of certain asset dispositions.

Stroh-Schlitz—Basis for Analysis and Related Comments

Schedule 1

This schedule reflects the pro forma combined balance sheet of Stroh/Schlitz assuming the merger had been effected as of December 31, 1981, in accordance with the purchase method of accounting for the transaction. The December 31, 1981, financial information of the respective companies has been extracted from published financial statements or exhibits supporting the Stroh proxy statements as filed with the Securities and Exchange Commission.

Borrowings arranged by Stroh to effect the purchase of 19,740,000 shares (67%) of Schlitz are reflected in the pro forma combined balance sheet under current liabilities in accordance with their terms, which require repayment of one-half of borrowed amounts within six (6) and the other half in nine (9) months. No information as to the long-term financial arrangements of the proposed transaction have been disclosed.

The pro forma balance sheet reflects cash of $49,646,000, after effecting the merger. Such amount of operating cash is necessary to fund cyclical business needs of a company the magnitude of the Stroh/Schlitz combination.

It should be noted that the total financial commitment of Stroh for the purchase of all of the stock of Schlitz includes the purchase price for the common stock of Schlitz totaling approximately $500,760,000 as well as the assumption of all current ($84,427,000) and long-term ($157,313,000) liabilities of Schlitz and other costs associated with the proposed transaction.

The pro forma balance sheet reflects cash of $49,646,000 after effecting the merger. Such amount of operating cash is necessary to fund cyclical business needs of a company the magnitude of the Stroh/Schlitz combination.

The pro forma balance sheet reflects current assets of $220,052,000 and current liabilities of $480,510,000 for a deficit working capital of $260,458,000. Current and long-term liabilities total $709,819,000 and shareholders' equity totals $68,844,000. The ratio of total liabilities to equity is 10.31 to 1.00.

Terms of the Stroh financing agreements relating to the Schlitz acquisition contain various restrictive covenants which, if not complied with, could result in the debt being immediately due and payable. One of the more restrictive covenants requires "Consolidated Tangible Net Worth" to be at least $70,000,000. In the event of adverse operating performance in the early months following the effective date of the proposed merger, it would appear that such covenant could be violated and the remedies in the event of default would have to be considered.

Schedules II and III

Schedule II represents a pro forma summary of combined income for the year ended December 31, 1981, as if the acquisition had been effected as of January 1, 1981. Historical net income amounts for Stroh/Schlitz have been obtained from published information. Certain adjustments have been made to reflect the effects of the proposed combination. Interest expense on debt incurred to finance the acquisition and interest income which would no longer be realized by the combined entity as a result of the utilization of Schlitz cash and investments to effect the merger have been reflected in the schedule.

To more appropriately reflect the annualized performance capability of the combined entities, the benefits from the full year consolidation of operations as a result of the mid-year shutdown of the Milwaukee, Wisconsin, brewery of Schlitz have been estimated based on our general knowledge of the overhead costs of operating similar facilities. This annualized benefit has been estimated to approximate $27,000,000 on an annualized basis.

Other adjustments include the conforming of the Schlitz investment tax credit accounting method to that of Stroh and the elimination of the Schlitz gain on repurchase of debentures, net of tax, which is non-recurring in nature.

The pro forma combined (loss) totals $11,212,000 for 1981. It should also be observed, as discussed in the notes to Schedule IV, that the pro forma combined (loss) would have to be increased by $9,080,000 for a total of $20,292,000 if the container manufacturing facilities of Schlitz were sold to aid in the financing of the transaction.

While Schedule II does not attempt to identify other possible efficiencies which may be achieved by the combined entities, it should also be noted that trended sales volume deterioration being experienced by the respective entities has not been considered as well.

Schedule IV

This schedule displays the estimated effects on combined operations of the sale of certain combinations of container manufacturing facilities and either the Winston-Salem or Memphis brewery facilities of Schlitz.

The schedule assumes that the proceeds form sales of the various combinations are used to retire debt incurred in connection with the proposed acquisition. Additionally, the schedule displays the net income of the sold facilities no longer being a part of the combined entity.

The schedule reflects the estimated sales value of the Winston-Salem and Memphis plants but no attempt has been made to identify the possible savings, if any, which may result from the consolidation of production into the remaining plants of the combined entity. Since the consent decree does not attempt to define the amount of production volume that Stroh/Schlitz may be required to have produced under a contract brewing arrangement with the potential purchaser of one of the subject plants, it is not possible to determine potential impact of such yet undetermined or undisclosed arrangements.

SCHEDULE I.—STROH-SCHLITZ—PRO FORMA COMBINED BALANCE SHEET, DEC. 31, 1981

	Stroh	Schlitz	Pro forma adjustments		Pro forma combined
			Debit	Credit	
Current assets:					
Cash and marketable securities	$3,656,000	$178,670,000		$7,500,000(3)	$49,646,000
				125,180,000(2)	
Receivable from sale of plant		40,000,000		40,000,000(2)	
Accounts receivable	17,277,000	21,063,000			38,340,000
Inventories	29,760,000	50,316,000	$32,500,000(4)		112,576,000
Prepaids, deferrals and refundable income taxes	5,570,000	13,920,000			19,490,000
Total current assets	56,263,000	303,969,000			220,052,000
Investments and other assets	3,835,000	35,429,000			39,264,000
			165,180,000(2)		
Investment in Schlitz			335,580,000(1)	508,260,000(4)	
			7,500,000(3)		
Plant and equipment, net	160,345,000	268,751,000	90,251,000(4)		519,347,000
Total	220,443,000	608,149,000			778,663,000
Current liabilities	60,503,000	84,427,000		335,580,000(1)	480,510,000
Long term debt	61,808,000	111,627,000	19,100,000(4)		154,335,000
Incurred plant closing costs		45,686,000			45,636,000
Deferred income taxes	14,630,000	60,971,000	60,971,000(4)		14,630,000
Redeemable preferred stock	14,658,000				14,658,000
Shareholders' equity	68,844,000	305,438,000	305,438,000(4)		68,844,000
Total	220,443,000	608,149,000			778,663,000

The accompanying notes and assumptions are an integral part of this balance sheet.

STROH-SCHLITZ—NOTES AND ASSUMPTIONS TO PRO FORMA COMBINED BALANCE SHEET, DEC. 31, 1981

(1) Effective purchase of 19,740,000 shares of Schlitz at $17/share	$335,580,000
(2) Effect purchase of remaining Schlitz shares at $17/share:	
Total shares outstanding at Dec. 31, 1981	29,106,982
Shares subject to stock options	349,500
Total	29,456,482
Less shares purchased in (1) above	19,740,000
Subtotal	9,716,482
Purchase price per share	$17
Total	$165,180,194
(3) Acquisition costs per Stroh proxy statement	$7,500,000

(4) Allocation of purchase price to assets acquired, including elimination of Schlitz deferred income taxes and recording of Schlitz inventory and long-term debt at estimated fair value, net of related income tax effects.

SCHEDULE II.—STROH-SCHLITZ—PRO FORMA SUMMARY OF COMBINED INCOME (LOSS), YEAR ENDED DEC. 31, 1981

Historical income (lose):		
Stroh loss for the nine months ended Dec. 31, 1981 before effect of accounting changes	$(3,634,000)	
Schlitz income for the year ended Dec. 31, 1981 before loss attributable to the closing of Milwaukee brewery and sale of a subsidiary	24,500,000	
Add (deduct):		
Interest on borrowings for purchase of 19,740,000 Schlitz shares—$335,580,000 at 17.3 pct	$(58,055,000)	
Interest on Schlitz investments liquidated to purchase 9,716,482 Schlitz shares—$172,680,000 at 15 pct	(25,902,000)	
Net interest	(83,957,000)	
Estimated annual savings from closing of Milwaukee brewery	27,000,000	
Adjustments to conform Schlitz method of accounting for investment tax credit to Stroh method	(2,264,000)	
Eliminate nonrecurring gain on repurchase of Schlitz debentures in 1981	(2,671,000)	
Tax effect	29,814,000	(32,078,000)
Pro forma combined 1981 net (loss)		(11,212,000)

NOTES AND ASSUMPTIONS:
(1) For purposes of preparing this pro forma summary, it has been assumed that the Stroh loss for the full year would approximate the loss for the nine months ended Dec. 31, 1981.
(2) The estimated annual savings from closing the Milwaukee brewery is based on the assumption that operating results would be improved through better utilization of remaining plants.
(3) Certain potential benefits from the combination of the two companies have not been reflected above. Duplication of administrative, marketing, production management and selling expenses would provide potential for reduction. However, it is estimated that such potential could be realized only to a limited extent in the first year of combined operations.
(4) Schlitz had a pre-tax LIFO liquidation of $4,800,000 included in 1981 operating results. Stroh had a LIFO liquidation of $1,900,000 in the year ended Mar. 31, 1981 (amount of liquidation in results for nine months ended Dec. 31, 1981, if any, is unknown).

SCHEDULE III.—STROH-SCHLITZ—ANALYSIS OF COMPONENTS PRO FORMA SUMMARY OF COMBINED INCOME (LOSS), YEAR ENDED DEC. 31, 1981

Pro forma combined 1931 net (loss) per schedule II	$(11,212,000)
Add (deduct):	
Estimated earnings attributable to Schlitz container operations	(32,000,000)
Tax effect at 50 pct	16,000,000
Estimated pro forma net (loss) attributable to combined brewery operations	(27,212,000)

NOTES AND ASSUMPTIONS: The earnings attributable to the Schlitz container operations has been estimated based on the assumption that approximately 4,000,000,000 cans and lids were manufactured for use in the brewery operations or for sale to others on an annual basis and that the manufactured cost is approximately $8 per 1,000 less than the cost of purchasing the containers from independent suppliers.

STROH-SCHLITZ—ESTIMATED EFFECTS OF CERTAIN ASSET DISPOSITIONS

	Proceeds	Net income gain (loss)		Cumulative reduction of interest costs net of taxes	Combined effect on annual net income (loss)
		Each facility	Cumulative		
Can plant No. 1	$16,000,000	$1,500,000	$1,500,000	$1,384,000	$2,884,000
Can plant No. 2	16,000,000	(4,375,000)	(2,875,000)	2,768,000	(107,000)
Can plant No. 3	16,000,000	(4,375,000)	(7,250,000)	4,152,000	(3,098,000)
Can plant No. 4	16,000,000	(4,375,000)	(11,625,000)	5,536,000	(6,089,000)
Can plant No. 5	16,000,000	(4,375,000)	(16,000,000)	6,920,000	(9,080,000)
Winston Salem or Memphis brewery	80,000,000	Note 3	Note 3	6,920,000	Note 3
Can plant at Winston-Salem	16,000,000	1,500,000	1,500,000	8,304,000	Note 3

NOTE AND ASSUMPTIONS:

(1) The amounts reflected under the net income gain (loss) columns represent the estimated effect on net income which would result from the elimination of operations of the facilities identified. No recognition has been given to the income tax effects, if any, which would result from selling the facilities for the amounts indicated. The amounts reflected under the Cumulative Reduction of Interest Costs column represent the estimated effect of applying the sales proceeds to reduce debt incurred in the Schlitz acquisition at a rate of 17.3 pct. per annum.

(2) The can plants are assumed to have a value of five times estimated annual net income and to be of equal size and value. It is assumed that the five plants are presently operating at approximately 80 pct of capacity. Accordingly, the sale of one plant is assumed to improve net income through better utilization of the remaining plants, while the sale of more than one plant would adversely impact operating results due to the need to purchase containers from independent suppliers at higher costs.

(3) The Winston-Salem or Memphis brewery is assumed to have a sales value approximately equal to the Syracuse brewery which was sold in 1980. As discussed in the notes to Schedule II, the potential savings, if any, from the consolidation of production in the remaining facilities of the combined entity, is not presently determinable.

* * * the best I can do with trying to ask Dr. Reynolds some questions under the circumstances here, so I'll end my cross-examination at this time, thank you.

The Court: Any redirect?

Mr. Magney: No redirect, Your Honor.

The Court: Thank you.

Mr. Kerr: As promised, Your Honor, we will now turn to the securities laws issues in this case, those of them that we wish to offer testimony on and I call Donald A. Britt.

DONALD A. BRIT, called as a witness by Schlitz herein, having been first duly sworn, was interrogated and testified as follows:

Direct Examination

BY MR. KERR:

Q. Please state your name, address, and present occupation or employment for the record.

A. My name is Donald Britt, I live at 8409 Jackson Park Boulevard, Wauwautosa, Wisconsin. I work for the Joseph Schlitz Brewing Company. I am vice president of finance.

Q. Please describe for the Court your educational experience and occupational experience since graduation from high school giving the dates please and identifying any degrees you may have obtained?

A. I graduated from the University of Wisconsin in Madison in 1956 with a degree in Business Administration majoring in Accounting. At that point in time I went into the military service, served three years in the Air Force, the first year I went through pilot training and then after breaking my leg at the end of the Korean War I got out of flying, went on to serve in a data processing unit in the Strategic Air Command in Kansas and in 1959 I got out of the military service and at that point in time went to work for Arthur Anderson & Company, I worked for Arthur Anderson for eight years, was a manager in their Administrative Services Department. When I left Arthur Anderson I did consulting work with them for seven years, after the first year being on the audit staff.

In 1968 I came to work for the Joseph Schlitz Brewing Company for two years. I headed their data processing unit. In 1970 I became controller of that company and in 1977 I became vice president of finance.

Q. Are you the chief financial officer of the Schlitz Company?

A. That is correct.

Q. Are you also a Certified Public Accountant?

A. Yes, I am.

Q. In connection with the Stroh tender offer for Schlitz shares, did you examine the material that Stroh filed with the Securities and Exchange Commission with respect to its offer?

A. Yes, I did.

Q. Including I take it the exhibits to those mateials, is that correct?

A. That's correct.

Q. And included in those materials is the so-called offer to stockholders, the printed document, is that correct?

A. That is correct.

Q. Would you describe very briefly what Stroh's offer involved?

A. Strohs offered to buy 19,740,000 shares which is roughly two-thirds of the company's outstanding shares for $16 a share. They made this tender offer and that tender offer of course has certain dates asociated with it from the standpoint of as discussed proviously today as to withdrawal date which is April 16th, the effective date of the 23rd I believe and of course the proration date of the 7th.

Q. Do the materials that you examined indicate what Strohs plans are with respect to what it will do in conneciton with Schlitz after, if it does, after it acquires two-thirds of the stock it's seeking?

Mr. Cantor: Your Honor, I object, the document is in evidence or can be put in evidence. It speaks for itself. I don't know if we need a witness testifying as to his recollection as to whether a document does or does not say something, if Mr. Kerr wants to direct him to assert sections of the document.

Mr. Kerr: Your Honor, I was trying to cut through things and get into a background for a foundation of questions. I'll be happy to assume the witness and the Court and everyone else knows what the fact is in this document, but just to be—your testimony is a thorough and consistent—

BY MR. KERR:

Q. Is it not true that it is proposed by Stroh that, it has stated its intention to purchase the remaining one-third at the consideration of his $16 in cash?

A. Yes, it does speak to that.

Q. Do the Stroh documents say how Stroh plans to pay for the 19 million plus shares it's asking for tenders of in the event that many shares are tendered and purchased?

Mr. Cantor: I have an objection. I appreciate wanting to save time but we've all got the document. We can read it. I don't think it's fair. I don't know what the answer's going to be. It's either going to accurately or misaccurately state the document. Why don't we just rely on the document itself?

The Court: Let me—I realize both counsel are interested in moving this along. The document which I have attached to the affidavit of Mr. Britt is marked Exhibit A. Is this eventually going to be moved as an exhibit and offered?

Mr. Kerr: It is certainly going to be offered, Your Honor, it has been, is in the sense it's one of our moving papers here but we will certainly move that it be received in evidence.

The Court: You have no objection?

Mr. Cantor: No objection. As a matter of fact, Your Honor, there are four amendments and maybe we could put them in at the same time and then Your Honor would have everything up until today with respect to what's been filed with the SEC.

The Court: It's one thing at a time. Exhibit A attached to this document and that's now moved and it's received. No objection?

Mr. Cantor: No objection, Your Honor.

The Court: Mr. Kerr, you may proceed with your portion of the case.

BY MR. KERR:

Q. How is Stroh proposed to pay for the 19 million-plus shares it's offering to purchase?

Mr. Cantor: Objection, Your Honor, same question.

The Court: Sustained.

BY MR. KERR:

Q. Do the Stroh papers disclose that they have existing arrangements to pay back the $320 million that their papers reveal they intend to borrow to pay for the shares?

Mr. Cantor: Same objection.

The Court: Sustained.

Mr. Kerr: On what ground, form or substance, Your Honor?

The Court: On the ground that the document has been received and I don't believe that the expression of the document speaks for itself is a good one because the document is silent. The fact is the best evidence is before the Court has been offered and has been received and I don't believe that it's within the province of the witness at this time to now recite those items which are in the document.

Mr. Kerr: All right, Your Honor. I'll press ahead. I hope I won't lose the continuity of this examination but I'll go back if I do.

BY MR. KERR:

Q. Referring to the Stroh statements, in its documents that it intends to seek to refinance the $320 million loan, are you aware of any arrangements that Stroh has now in place by which it can be assured of being able to refinance that $320 million?

Mr. Cantor: Objection, Your Honor, I don't understand what the competence of this witness is.

The Court: That's overruled. He has an opportunity to answer that yes or no.

A. I know of none.

Q. I refer you to the statement in the Stroh offering materials to the effect that it may seek to refinance its borrowings by selling assets of Stroh or Schlitz. You read that in that document, is that correct?

A. Yes.

Q. There is also reference to the possible sale by Stroh of Schlitz canning facilities. Are you—strike that. Do you have any opinion as to the possibility of an owner of those Schlitz canning facilities being able to sell them in the market as it exists today?

Mr. Cantor: Objection, Your Honor, I don't know that this man has been qualified in any respect to give an opinion with respect to the sale of an asset which in any event is one of any number of undefined assets that may or may not have to be sold at some point in time to do the back end of this deal. This man is a CPA and he's the financial man of Schlitz. He's not a marketing man. He's not an investment banker. He hasn't been qualified as an expert in the sale of canning plants.

Mr. Kerr: In any event, Your Honor, his opinion is useful in this proceeding and I think I'm entitled to ask for it under Rule 710 of the Federal Rules of Evidence.

The Court: Are you asking for an expert opinion here?

Mr. Kerr: I certainly think that this witness is an expert and could and is so qualified by his answers to my previous questions, but I don't have to get to that because I think his opinion as a layman would be acceptable.

Mr. Cantor: Well, I think opinions of laymen as to expert matters are not admissible but could I ask Mr. Kerr to point me to the section of the document that refers to the sale of any canning plants because I've been informed by one of my colleagues and I know for a fact there's reference generally to the possible sale of Stroh or company assets. I've been informed by one of my colleagues and maybe we are mistaken that there is no reference in the document to the sale of a canning plant. So, that if that's correct this whole question is proceeding in a false premise. Maybe Mr. Kerr can correct me on it.

Mr. Kerr: Your Honor, I object to having any examination on these trivialities.

The Court: I object to the fact the parties are not making appropriate objection. I would say, counsel, if you're objecting to foundation questions, if that is your objection——

Mr. Cantor: I have two objections, Your Honor, number one, foundation; and number two, even if there's a proper foundation I don't think this witness has been shown to be qualified to give an opinion

The Court: I'm going to in certain instances allow some opinion as to the weight which may be given. That will be determined by the Court but I think that counsel has raised an issue which may very well be a part of that document, counsel, and that is as it relates to the foundation for this particular question. The question has been asked so long ago that I don't completely recall it myself and I'm wondering if the reporter would read that last question back to Mr. Kerr so we can make that determination.

(Last question read back by the reporter.)

The Court: Now, I'll hear your argument on that. You've indicated, counsel, that that is not a part of this agreement? That's your objection?

Mr. Cantor: My objection is improper foundation. I haven't re-read the whole document and if Mr. Kerr wanted to show it to me it will be fine. My recollection of the document is it mentions the possible sale of Stroh or Schlitz assets. At another point in time it references contacts that had been made with canning companies with respect to the possible sale, but there is no representation in the 14D1 as I understand it that canning companies are among the assets that are being considered for sale.

Mr. Kerr: If your Honor please, there's a statement on Page 12, last full paragraph in which Stroh discusses the, that it expects the following: a consummation of the merger or similar combination, certain assets of Stroh or the company or both may be sold and that the net proceeds of such sales would be used to reduce indebtedness. The next sentence reads. "In early 1982 Stroh had discussions with several can manufacturers to discuss the feasibility of the sale of one or more of the companies with Schlitz's can plants." So it seems to me clearly the strongest implication there that that is one of the assets that was referred to in the preceding sentence, Your Honor.

The Court: I will agree with you counsel and the Court had suggested the objection of foundation that I didn't recall whether or not it was in there. I believe you've shown that it is so the objection is overruled on that basis. You're now asking for that original opinion I believe?

Mr. Cantor: My impression is objection of his giving a mockening (sic) opinion.

Mr. Kerr: Your Honor, that goes to the weight of the opinion. I refer you to Rule 710.

The Court: Rule 701.

Mr. Kerr: Rule 701, thank you, Your Honor.

The Court: Do you want to point out to me that section that you believe may be pertinent here?

Mr. Kerr: Your Honor, I believe that the, that the opinion on soliciting is

rationally based on perception of the witness and would be helpful to a clearer understanding of or the determination of a fact in issue. Your Honor, one of our basic thrusts in the securities aspect of our claim is that the risks to the Schlitz stockholder who shares in the purchase on the tender offer are inadequately disclosed here, that there is some hope held out that their shares will be purchased. The concession is made in the papers that they may not be able to purchase them and that such shareholders will have to remain as minority shareholders in Schlitz or possibly holders of some kind of securities of Stroh and under those circumstances it seems to me that I'm entitled to and it would be of assistance to the trier of fact to have this witness testify as to his opinion as to whether there is in fact a realistic possibility that Stroh will be able to refinance, pay this horrendous debt with the proceeds of sale of assets and I plan to ask the witness about the sale of these properties and any others that he's aware of.

The Court: You might be able to do that but to do that I think there's not to be greater foundation provided than what has been up until now.

Mr. Kerr: Well, Your Honor, I'm a little at a loss to understand what more foundation I'm required.

The Court: He's the key financial officer of the company.

Mr. Kerr: That's correct. I can ask him some questions about his awareness of the company's business and the various aspects of it including the canning part of the business if that would be helpful to the Court.

The Court: And the basis for the opinion as to—I believe they are concerned about sale of this, aren't they? Practicalities? Possibilities?

Mr. Kerr: Yes, Your Honor, and of other assets, and I will also I think get closer to home in the sense of the financial area when I go into some of these other, ramifications of this and I make—strike that. I won't make an offer of proof in the presence of the witness.

The Court: Well, I suggest you proceed but that last question which you've asked I'm going to sustain the objection which has been made.

Mr. Kerr: On the ground that the——?

The Court: That this witness has not demonstrated the expert capacity, ability with which to answer that particular question.

BY MR. KERR:

Q. Mr. Britt, to your knowledge has any consideration been given by Schlitz at any time to the possibilities of selling any of its canning facilities?

A. We have not considered it seriously within the framework of our ongoing business.

Q. Have you made any analysis of whether the, there would be—strike that. A foundation question. Are you aware whether the canning industry in the United States is now suffering from a substantial overcapacity, undercapacity, or is it just about right?

Mr. Cantor: Objection, Your Honor.

The Court: I think he can ask his opinion about what he knows of the canning industry. It's part of the business that he is involved in, I believe.

A. There's a significant overcapacity in berverage cans in the industry.

Q. Have you given any consideration to the circumstances under which a potential purchaser of Schlitz canning facilities would be interested in purchasing those facilities?

Mr. Cantor: Is the question has he made an investigation? I'm not sure I heard the question. If it's the same question I object to it. If it's something different then I missed it.

The Court: Read that back, please.

(Question read back by the reporter.)

Mr. Cantor: Objection.

The Court: That's overruled. He's asking if he's given any consideration.

A. Yes.

Q. And what conclusion did you reach in that regard?

Mr. Cantor: Objection, Your Honor, the same question. There has been no showing that this witness is qualified to give his opinion on that.

Mr. Kerr: Again it goes to show the weight, Your Honor, if Your Honor doesn't accept Mr. Britt's analysis of the situation I think you will, then you will disregard his testimony. I think if he answers the question you will see it's relevant. You will see his, where his qualifications go into this.

The Court: I'm very well aware of its relevance and materiality here. That's why I'm attempting to determine the admissibility as it relates to that particular question.

Mr. Kerr: Your Honor, may I rephrase the question possibly to assist?

The Court: It would be helpful.

BY MR. KERR:

Q. Did you bring to bear on the analysis that you referred to your experience as a financial officer of the Schlitz company?

A. Yes.

Q. And what were your conclusions?

Mr. Cantor: Same objection, we stipulate that he is the financial expert. That's not the issue.

The Court: Well, I sustained it previously on the fact that the foundation had not been made as it relates to the competence of this witness to testify as an expert on this matter but I believe that that foundation has been properly laid. Considerations have been asked of the witness. He testified that he has had those considerations. It appears he's had those considerations as a chief financial officer of the company. Again, I understand the very—

Mr. Cantor: Your Honor, I'll withdraw the objection.

The Court: It goes to the weight that's going to be given here and I'm going to allow the question to be answered.

BY MR. KERR:

Q. Mr. Britt?

A. Well, there's a significant overcapacity in the industry. It is clear to me from our own financial results of our Canning Division that that in fact is so. We have over the last few years sold commercial cans to the outside as well as used those cans ourselves. In that process we determined that, or what has happened of course is that margins have been reduced significantly because of the extreme competition in the industry and in course and fact beverage can plants have been closed during this last year. In the case, in our particular case our Milwaukee can plant is now, does not have a brewery that it serves directly. Transportation costs are important consideration in the economics in can facilities and the can plant is currently greatly underutilized and because of what I believe to be a sure plus in the Milwaukee market and the fact that the plant is now ten years old, it is not as valuable as a newer can plant. The other can plants I believe certainly are saleable. They would be saleable I believe, however, on a basis where in fact there would be a significant supply contract with the company that sold those can facilities.

Mr. Cantor: Your Honor, I'm going to object to this. This is going so far beyond the expertise of a financial man. He's now talking about what kind of deal would have to be made from a marketing point of view a year or two from now.

The Court: Just make your objection. I believe that it's not responsive and I believe that it's a narrative and I believe that the question's been answered. Let's proceed, counsel.

BY MR. KERR:

Q. Well, Mr. Britt, would you tell us what—strike that. Your testimony was that arrangements, in order to sell the can plant arrangements would have to be made as I understood it under which Schlitz would have to agree to purchase a certain amount of the output of that can plant, is that correct?

Mr. Cantor: Objection, Your Honor, that was precisely the portion of the testimony that I moved to strike as incompetent and I object to it being reintroduced with a leading question.

Mr. Kerr: This is a financial question, Your Honor. It's a financial arrangement.

The Court: It's also a very leading question, counsel.

Mr. Kerr: It was a leading question, Your Honor. I'm sorry. I want to be sure though that the witness and I and everyone else understood his last answer which you've characterized as wordy.

BY MR. KERR:

Q. Mr. Britt, would you characterize such an arrangement that you've described, that is an arrangement under which Schlitz could sell its can plant to a purchaser only on the condition that Schlitz would agree to purchase, to commit to purchase a certain amount of the output of that plant as a financing arrangement?

A. Yes.

Mr. Cantor: Objection, Your Honor, number one it's leading. Number two, I really don't even understand the question to tell you the truth but it's certainly leading.

The Court: Well the witness has answered. I'm going to—I would normally indicate that that answer be stricken, but the fact is that it will be accepted for whatever value that will impress the Court with and I perhaps have the same difficulty that counsel has at the present time as it relates to that question.

Mr. Kerr: Well, in summation, Your Honor, we'll attempt to make our point clearer than I've been able to in my question.

BY MR. KERR:

Q. Mr. Britt, has Schlitz made any effort within the last five years to sell any of its breweries?

A. Yes.

Q. And on how many occasions? I mean how many breweries were involved in this effort?

A. One.

Q. What brewery was that?

A. Syracuse, New York brewery.

Q. Was that brewery sold?

A. Yes, it was.

Q. And to whom was it sold?

A. It was sold to Anheuser-Busch.

Q. Were there any trust considerations involved in the sale of that brewery?

A. Yes.

Q. Was the Department of Justice in any way involved in that sale?

A. Yes.

Q. In what way was the Department of Justice involved?

A. The Department of Justice carried out a, I guess you'd characterize it as an investigation as to the effect on competitiveness of that sale.

Q. Did the Justice Department ultimately remove any objections to that sale?

A. Yes.

Q. Did it do so only after conditions were met?

Mr. Bucklin: Your Honor, I'm going to object.

The Court: I don't know how many lawyers are involved.

Mr. Bucklin: He's getting into antitrust and he's using the witness as a puppet.

The Court: What's your objection, counsel?

Mr. Bucklin: That he's leading the witness down the primrose path, counsel is testifying.

The Court: It is leading.

Mr. Bucklin: Leading, Your Honor. Counsel is testifying not the witness. I've sat here a long time and I think he's in an area of antitrust and I couldn't sit any longer.

The Court: Well, you could have moved to indicate it was leading and you'd have been sustained.

Mr. Bucklin: I'm sorry, Your Honor, I apologize for the lengthy objection. Objection, leading.

Mr. Kerr: May I proceed, Your Honor?

The Court: Yes, you may.

BY MR. KERR:

Q. What were those conditions, that is the conditions required by the Justice Department?

A. The key conditions were to offer the plant to sale, for sale to other breweries both in the United States and around the world for that matter.

Q. Was that done?

A. Yes, it was.

Q. And what form of offer was made by Schlitz in terms of what kind of publicity or announcement was made concerning that?

A. An actual letter was sent to every brewery in the United States and those that we thought were appropriate around the world.

Q. Was any interest expressed by any of these breweries other than Anheuser-Busch?

A. No.

Q. Mr. Britt, I'm going to direct some questions to you concerning the interest that would be due and owing by Stroh if it purchased the 19 million plus shares of Schlitz under the tender offer borrowing $320 million to do it. I call your attention to the fact that the Stroh materials indicate that at current rates the interest costs would be I believe 17.3 percent. Are you aware of that figure?

A. Yes, that's roughly—there's a slight difference between the two pieces but 17.3 is about right.

Q. And have you calculated what that annual interest cost to Stroh would be if it borrowed that amount at 17.3 percent?

A. On an annual basis it would be about $55 million.

Q. Have you made an analysis of Stroh's ability to pay interest on the assumption that Stroh's tender offer is successful and that it thereafter merges Schlitz with Stroh paying the remaining stockholders with the remaining one-third of the stockholder's $16 a share in cash?

Mr. Cantor: Objection, Your Honor.

The Court: Sustained.

Mr. Kerr: Form or substance, Your Honor?

The Court: Form.

By MR. KERR:

Q. Mr. Britt, have you studied the pro forma cash flow figures for Schlitz and Stroh with the two companies combined?

Mr. Cantor: Objection, Your Honor, is he referring to documents prepared by Mr. Britt or some other documents?

The Court: We don't know.

Mr. Cantor: I thought he was referring to a specific document but an unidentified one.

The Court: Objection overruled.

A. Yes, I have done that.

Q. And what has your study revealed with respect to—strike that. I'll go back. In your study did you assume that Stroh has indicated as a possibility in its tender offer use Schlitz cash to finance the purchase by way of merger of the remaining one-third of Schlitz stock?

Mr. Cantor: Objection, Your Honor, leading. Mr. Kerr is testifying on almost every question.

The Court: I think that is a reasonable question. I will admit it. It's leading but I think that question can be answered.

A. Yes.

Q. And as a result of this study did you reach any conclusions about Stroh's ability to service the $55 million of interest that it would have to pay annually on the borrowing described in the materials?

A. Well, I went through and did an analysis looking at pro formas from the standpoint of earnings for Schlitz, 1981, and likewise taking into account as much as we knew about earnings for Strohs, and it would indicate that there would be some difficulty based on 1981 rules in servicing the total debt as it now appears.

Q. You say some difficulty. Did your studies indicate there would be a specific cash short fall?

Mr. Cantor: Leading, Your Honor.

The Court: That is leading, counsel. I think the previous question which I allowed because it's within the confines of the document. I think when we repeat something which is in the confines of the document I'm going to allow that. That's why I don't consider that to be leading. This I think was.

Mr. Kerr: All right. Withdrawn.

BY MR. KERR:

Q. Mr. Britt, when you havesome difficulty could you quantify the difficulty?

A. Yes, it could be done on the basis of looking at the pre-tax earnings of the two companies, what it would be for 1981 and with an estimate for Strohs fiscal 1982 ending March 31, it would be earning of pre-tax of about $33 million. The cost of borrowing as I stated previously would be some $55 million. In addition, if in fact the merger took place and there would be less interest income, that would further reduce the earnings or increase the loss by an additional $21 million. So, with that, with those kinds of numbers you would have a loss of about $43 million pre-tax.

Q. By loss of $43 million do you mean that there would be $43 million less in cash?

A. No, what it would say is that they would have a pre-tax loss of some $43 million which means that conceivably would be tax affected and they in effect would have earnings, a net loss of some $25 million, 20 to $25 million.

Q. In your computations did you take into account items of cash flow that——

The Court: What did you take into consideration when you made your computations, sir?

The Witness: I used our actual earnings for 1981. I used the earnings as are in the documents from Stroh's for nine months of 1981 and then projected those for the full year, which doesn't make any significant difference in the total calculation because it's only two and a half million dollars in the total calculation, and then I took into account the interest costs, the annualized—annualizing the current interest costs as they are now for the tender portion of the offer, and then took into consideration the merger cost, meaning that there would again be cash used, in effect Schlitz cash used, which would reduce Schlitz' earnings.

BY MR. KERR:

Q. Mr. Britt, in connection with your duties as chief financial officer of Schlitz, did you participate in any studies that were made by Schlitz, looking to possible savings that could be effected in the event that Schlitz were to acquire Stroh?

A. Yes.

Q. The so-called synergies?

Mr. Cantor: Your Honor, could I just make a request which might expedite matters? If Mr. Kerr has passed beyond the study that Mr. Britt has just testified to and if it's here in court and we could take a look at it, it would expedite cross-examination because otherwise that's one of the things obviously I want to talk about.

The Court: Is there a study here?

Mr. Kerr: I have to consult with the witness, Your Honor, to see whether something he gave me is such.

Mr. Cantor: Your Honor, I assume that there was a study and letting this go on, if there was document I could cross-examine from—if not, it's all hearsay. I mean this witness is testifying about some calculations that he did back in his office and he doesn't have them here to cross-examine.

The Court: No, I don't see it that way. I just thought—Proceed, Mr. Kerr.

Mr. Kerr: Give me my question again?

(Whereupon, the reporter read back the question.)

BY MR. KERR:

Q. Are these referred to as synergies?

A. Yes.

Q. And what conclusions were reached in those studies, sir?

A. That a range of synergies based on two different approaches of a pretax number of between 45 and 74 million dollars, $75 million is what we came up with based on our analysis.

Q. And did you reach any conclusions as to what the after-tax effects would be?

A. Yes, 25 to 40 million dollars.

Q. Was one of the synergies that was included in the study the closing of Stroh's Detroit plant?

Mr. Cantor: Objection, Your Honor.

The Court: On what basis?

Mr. Cantor: Leading. It's the same problem. He can ask him, I think, what the study does. I would have liked to see it to cross.

Mr. Kerr: Your Honor, I can ask to give every ingredient. I want one.

BY MR. KERR:

Q. Would you explain to the Court what synergies were thought—were found to be possibly available in connection with your—as a result of that study?

A. The combination would result in overcapacity. Therefore, one of the key areas to look at was the closing of a plant or the sale of a plant and in our synergies, we looked at two options; the closing of Detroit; a second option, the selling of Memphis.

Q. Were different amounts of savings to be found depending on which of those two courses you followed?

A. Yes.

Q. And what were the amounts, please?

A. Well, in the case of closing the Detroit plant, a plant in many ways similar to our Milwaukee plant with very high cost structure, the savings would be significantly greater.

Q. Did you make any study, Mr. Britt, based on 1979 figures of the results of operations that would have been occasioned had Schlitz acquired Stroh?

A. Excuse me, what year?

Q. 1981?

A. Okay.

Q. By 1981 I mean the fisal year of Schlitz that ended December 31, 1981 and the fiscal year of Stroh that ended March 31, 1981 to the extent data was available?

Mr. Cantor: I'm sorry, Your Honor, I just missed the question. Is he asking whether those were performed? I just don't know what the question was.

The Court: Repeat the question, please.

(Whereupon, the reporter read back the question.)

The Witness: Yes, I did.

Mr. Cantor: I'm going to object to the question only as to form. Is the question whether——

The Court: What's the objection, counsel?

Mr. Cantor: Well, the objection is that the question is ambiguous as stated.

The Court: No, it asked him if he did a study. I would overrule that objection.

Mr. Cantor: Okay.

BY MR. KERR:

Q. What were the results of your study?

A. Well, due to the fact that there is a significantly lower finance cost associated with that kind of transaction, the end result is much higher earnings.

Q. Can you quantity the much higher earnings that were revealed in that study?

A. Yes. In the work that I did, we had earnings calculated based on the selling of a Memphis plant before taxes, some $54 million which would be 25 percent more than what our earnings were from continuing operations in 1981.

Q. You said the sale of the Memphis plant, is that correct?

A. Yes. On that basis it would be 25 percent higher. Obviously on the basis of closing the Detroit plant, it would be some $30 million higher than that.

Q. Let me direct your attention to Page 88 of the Stroh Offer to Purchase, Mr. Britt, and particularly to the figures

shown under the heading income statement information, nine months ending December 31, 1981, and the figure I'm directing you to is $8,140,000. Do you have that figure, sir?

A. Yes, I have it.

Q. And that $8,140,000 is represented to be earnings during that period of time, is that correct?

A. It's classified as earnings from continuing operations and also net earnings, yes.

Q. Did you make any analysis of the nine months' results of operations of Stroh?

A. Yes, I did and——

Q. What did you conclude?

A. There's more than $11 million of accounting changes that are positive to earnings that affect prior years that are included in that amount.

Q. And if the $11 million were excluded, what would the result be?

A. The result would actually be a loss of between three and four million dollars.

Q. I hand you a document that Mr. Cantor has suggested he will offer, among others. This is Schedule 14D-1, Amendment No. 4 of SB Brewery, Inc., and particularly Exhibit (a)(23) thereof.

Mr. Cantor: Does Your Honor want a Copy? We'll have no objection if it's going to be offered.

The Court: Has that been marked, Mr. Kerr?

Mr. Kerr: It hasn't been marked as anything. Do you want to mark it as all for identification?

(Whereupon, Schlitz Exhibit No. 11 was marked for identifcation.)

The Court: This Exhibit No. 11, counsel, is this the document that you just handed to me?

Mr. Cantor: Yes, it is, Your Honor, and just to be sure, it should say Amendment No. 4 right up here. If it does, then that's the same one.

BY MR. KERR:

Q. Have you seen that document before; that is, that portion of Schlitz Exhibit 11 for identification that's been marked Exhibit (a)(23)?

A. You showed it to me during a recess that we had here, yes.

Q. And addressing the date as shown there concerning the nine months ending December 31, 1981, are they different from that shown in the Offer to Purchase about which you testified a moment ago?

A. Yes. It says earnings from continuing operations is a loss actually of $3,634,000, where that is labeled in the other filing a profit of $8,140,000.

Q. I offer Schlitz Exhibit 11.

Mr. Cantor: No objection, Your Honor.

The Court: Received.

(Whereupon, Schlitz Exhibit No. 11 was received in evidence.)

BY MR. KERR:

Q. Directing your attention once more to Page 8 of the Offer to Purchase, Mr. Britt, and the information I want you to refer to is under the caption balance sheet information, and there's an entry there, and this is the table at the top of the page, an entry there for shareholders' equity as of March 31, 1981 in the amount of $73,966,000. Is that figure in your analysis before or after the accounting adjustment referred to in the footnote to asterisk to that table?

A. It is before that accounting change.

Mr. Cantor: Excuse me.

The Court: What's the objection?

Mr. Cantor: Well, I'll withdraw it. Never mind.

BY MR. KERR:

Q. It is before the accounting?

A. That is correct, yes.

Q. And referring to the entry as to shareholders' equity as of December 31, 1981, the figures shown of $68,844, $844,000, is that before or after the accounting adjustment?

A. It is after the accounting adjustments.

Q. Now if—Strike it. Did you ascertain from your study of the financial statements of the Stroh Company what the comparable figure would be for March 31, 1981; that is to say, the figure after accounting adjustments for shareholders' equity?

A. Yes, I believe it would be the $73,966,000, plus the $11,744,000 or some $85 million.

Q. Now I refer you back to the figure for a shareholder equity as of December 31, 1981 shown on the last column of that table. Does the 68,844,000 shareholder equity represent a change from the shareholder equity after accounting adjustments as of March 31, 1981?

A. Yes, it's a change of some $17 million.

Q. In your study of the Stroh financial statements filed with the SEC, did you find any explanation for that $17 million decrease in shareholders' equity during that nine-month period or any portion thereof?

A. There was a loss for the nine-month period as included here of some $3,600—$3,600,000, excuse me, but there's no other explanation that I can find in this document.

Q. So there's no explanation for the missing $13 million in this document?

Mr. Cantor: Well, I'll——

BY MR. KERR:

Q. Or in the documents on file with the SEC, is that correct?

Mr. Cantor: Object to the word "missing," Your Honor.

The Court: Sustained.

BY MR. KERR:

Q. Did you find any explanation for the discrepancy between the shareholders' equity after the accounting adjustment of March 31st and after the accounting adjustment on December 31st except to the extent of the loss for the period?

A. No.

Mr. Cantor: Could I hear the last part?

(Whereupon, the reporter read back the question.)

Mr. Kerr: I have no further questions of this witness, Your Honor.

The Court: Cross-examination.

Cross-Examination

BY MR. CANTOR:

Q. If it please Your Honor, Mr. Britt, do you have here any of the written studies that you referred to during your testimony?

A. I have a summary of the studies that were done, yes.

Q. Could I take a look at them, please?

A. Sure.

Mr. Kerr: Show me what you're showing him.

The Witness: Sure.

BY MR. CANTOR:

Q. Mr. Britt, let's just stick for a monent with the decrease in shareholders' equity of—I don't know what your figure was—12 million approximately dollars. As you finally adjusted it after—When you got up to 85 million and then you knocked off the loss of 3.6, you were off 12, 13 million dollars?

A. Yes, yes. Yes.

Q. Whatever. Did it occur to you that the Stroh Company, which is privately held, might just have issued dividends to its shareholders?

A. Historically, of course, they have issued dividends and that, of course, historically based on the documents has been in the 1 to 2 million dollar range.

Q. Yes, but that certainly is an explanation, right? Isn't it that they could have issued a dividend for $12 million?

A. Definitely.

Q. That would be the whole mystery, is that right?

A. That is certainly possible.

Q. Let me take you through some of the numbers. I may have to take a slight adjournment, Your Honor, to look at Mr. Britt's work, but I want to see if I understand these numbers first and maybe we can work with them together.

If I understand your testimony, sir, and please correct because I was just

trying to make notes, the carrying charge on the $320 million would be $55 million a year?

A. On an annualized basis, that's correct, yes.

Q. On an annualized basis?

A. That's correct.

Q. Okay. Now I think what you said then was that the combined companies would have pretax earnings of $33 million?

A. Based on 1981 results and an estimate for Stroh's, that's correct, yes.

Q. Okay, and somehow you got an additional $21 million and I'm not quite clear where that figure comes from.

A. Well, it becomes a matter of if, in fact, we assume that the merger is accomplished with cash, that that would reduce the cash available that would be otherwise invested and therefore reduce earnings.

Q. I see, okay. So, what you're saying is if you deduct 33 from 55, you get 22 and then if you add back in the 21, you get up to a $43 million negative impact, if you will, on the combined entity. Is that basically your testimony, sir?

A. Based on the assumptions I've given, yes.

Q. But you have also told us that there would be certain synergies?

A. That is correct.

Q. And that the synergies of a merger could be in the range of 45 to 75 million dollars pretax?

A. Based on my work, that's correct.

Q. All right. At the low end, that more than covers the loss, isn't that correct?

A. Yes, that's correct.

Q. Okay, and, in fact, Morgan Guaranty was willing to lend money in this transaction, weren't they?

A. That's certainly what the papers indicate without question.

Q. And you know who Morgan Guaranty is, don't you?

A. Yes.

Q. And they're a very reputable financial institution, bank in New York City?

A. Yes.

Q. And they're not noted for taking fliers, are they, in this large number?

A. I can't comment on that.

Q. Do you really think that Morgan Guaranty would have loaned $160 million in this deal if they didn't think they were going to get repaid?

A. I can't speak for Morgan Guaranty.

Q. Do you think the other banks would have loaned an additional $160 million if they didn't think they were going to get repaid?

A. You know, I really can't speak for those banks and their decision making. Obviously there's something—Well——

Q. Take a look, if you would, sir, at Page 8 which is the page that Mr. Kerr directed you to of the 14D-1. I forget what the exhibit number is, Your Honor, and I didn't mark mine, but it's the fat one. It's this one.

The Court: It's Exhibit A.

BY MR. CANTOR:

Q. Exhibit A, okay. Now I think—Let me take you through what I understand to be your testimony, Mr. Britt, and again correct me if I misstate it in any respect. What you're saying is that this document shows earning from continuing operations of 8.14 million?

A. That's correct, yes.

Q. When in fact it should have shown a loss of approximately 3,600,000 or something in that order?

A. That's correct, yes. Yes.

Q. Did you read the double asterisk footnote?

A. Yes, I did.

Q. And did you see in there that it described certain accounting changes that Stroh had made and that these changes resulted in an upward adjustment of $11,774,000?

A. Yes.

Q. And if you deduct $8,140,000 from $11,770,000, what do you come up with?

A. Three million six.

Q. A negative three million six, right?

A. That's correct, yes.

Q. No further questions, Your Honor.

The Court: Counsel, any redirect?

Mr. Kerr: No redirect, Your Honor. I'd suggest, though, that the document Mr. Cantor obtained from the witness and examined him to some extent on be marked.

The Court: That will be Exhibit 12 I believe, is that correct, Mr. Clerk?

Mr. Cantor: Your Honor, I have no objection—I have no objection to either or both of these documents being marked for identification.

I do have objection to their going into evidence. They are very summary. The witness has testified. We've got his testimony. I don't think these will add anything to the record, but if they are to be identified for some purpose so that—for posterity, if nothing else, I have no objection to that.

The Court: Have them marked.

Mr. Cantor: I don't even want them marked. I thought Mr. Kerr did, but if Mr. Kerr wants them marked, that's——

The Court: Have them marked.

(Whereupon, Schlitz Exhibit No. 12 was marked for identification.)

Mr. Kerr: The status, Your Honor, is this document has been marked for identification and I offer it in evidence.

Mr. Cantor: Well, I object to it, Your Honor. It's the most cursory summary with none of the backup data here to cross-examine on. The witness was on the stand. He gave his testimony. That ought to be the record.

I think if Your Honor looks at these things, you'll see it's—it just isn't the type of thing that ought to be in the record.

The Court: He identified it as a work paper I believe, didn't he?

Mr. Cantor: I think what he said, Your Honor, is—we can ask him. I thought he said it was a summary of work that he had done, but I take it none of the backup is here.

I can't really get into the detail of that without the backup. There's an objection under the Federal Rules of Evidence to offering summaries if you don't provide the backup. That's the first technical objection and, number two, I think it's virtually meaningless.

Mr. Kerr: Well, if Your Honor please, I don't think there's been an objection that's a valid objection to it. On the other hand, unless Your Honor thinks it will be useful, then I'll withdraw my offer.

The Court: Thank you. Withdrawn.

Do you have one further witness, counsel?

Mr. Kerr: Yes, I do, Your Honor, Mr. Robert Conway.

EXHIBIT A

U.S. District Court for the District of Columbia

United States of America, Antitrust Division, Department of Justice, Washington, D.C. 20530, 202/633-2477, Plaintiff v. *The Stroh Brewery Company, One Joseph Campau, Detroit, Michigan 48226, 313/567-6667,* Defendant, *G. Heileman Brewing Co., Inc., 100 Harborview Plaza, La Crosse, Wisconsin 54601, 608/785-1000,* Applicant for Intervention.

Civil Action No. 82-1059.

State of Wisconsin, County of Milwaukee: *ss.*

Affidavit of Robert J. Korkowski in Support of Reply Memorandum of G. Heileman Brewing Company, Inc.

Robert J. Korkowski being first duly sworn under oath deposes and says:

1. I am Executive Vice President-Finance and Assistant Secretary of G. Heileman Brewing Company, Inc., ("Heileman"), of La Crosse, Wisconsin. I have read the memoranda in opposition to Heileman's motion to intervene filed by the Justice Department (the "Department") and The Stroh Brewery Company ("Stroh").

2. It has been generally acknowledged both by industry analysts and others within the brewing industry that the proposed merger of Stroh and Schlitz will primarily benefit Anheuser-Bush ("A-B") and Miller. For example, Allan

Kaplan, brewing analyst and Vice President of Merrill Lynch, makes the point that Stroh will not be able to reverse the sales decline of Schlitz in the sun-belt market, hence those shares will fall into the hands of Anheuser-Bush and Miller. Since approximately 60 to 70% of Schlitz's volume is sold in the sun-belt, its loss will be devastating not only to Stroh and Schlitz, but also to all other small brewers who have suffered and continue to suffer from intense A-B and Miller advertising and pricing attacks in their primary markets; attacks subsidized by funds from traditional A-B and Miller strongholds.

3. In its memorandum in opposition, Stroh indicates that it plans to utilize Schlitz cash or cash equivalents remaining after the purchase of the remaining outstanding Schlitz shares to reduce its debt. Stroh also states that it plans to reduce its debt by selling unspecified assets unrelated to beer and effecting unspecified synergies resulting in savings "which could reach 50 to 75 million per year."

4. In the pro forma Schedule I and II of my original financial analysis which was submitted with Heileman's Motion to Intervene, I assumed that Stroh would use Schlitz's cash to pay for Schlitz stock with any remaining cash being required for working capital purposes. The investment of such remaining cash versus the use of any excess portion to pay down debt would not be an appreciable change from my original analysis.

5. With respect to the sale of non-beer related assets, I must rely on the Department's description of these assets as "a California winery and minority interests in several Spanish breweries * * *" all belonging to Schlitz. If these are the assets which Stroh intends to sell (and, to my knowledge, they are the only available non-beer related assets), their combined value at most is $35,000,000. The possible sale of non-beer related assets for an estimated $35,000,000 does not materially impact my original fianancial analysis and certainly doesn't change the conclusion that the Stroh/Schlitz combination involves serious financial viability questions. The incresasingly obvious lack of interested buyers for either Winston-Salem or Memphis only compounds Storh's financial dilemma. If Stroh cannot show reasonable probability of a near-term sale of one of the offered plants, its financial problems will become increasingly more onerous. However, the optimistic assumption of the sale of non-beer assets and a brewing facility for a combined total of $115,000,000, in the near term, does not change the conclusion that Stroh/Schlitz's financial viability will be in serious jeopardy.

6. Finally, Stroh states that the merger will effect certain economies of scale or synergies. I have had considerable experience in calculating the benefits of consolidation and the economies of scale with respect to brewery mergers. As Chief Financial Officer of Heileman, I have been involved with financial evaluations for all of the acquisitions which Heileman has made or attempted to make since 1974. In addition, when Heileman was exploring the possibility of merging with Schlitz, I made an elaborate and detailed analysis of the synergies which could be effected by that merger. The synergies which Mr. Britt referred to in his trial testimony at 189–190 were based on the closing or sale of a brewery. The synergies referred to by Mr. Britt also are likely to have included the synergies which are in process of being realized by Schlitz of $27 million, $13.5 million after tax as a result of the closing of its Milwaukee brewery in mid-1981. In my original financial analysis, I had included these economies from the closing of the Milwaukee plant. Mr. Britt testifies that the total synergies might be within the range of $25 million to $40 million after taxes. The higher amount appeared to relate to the closing of the Stroh Detroit plant and the lower amount to the sale of the Schlitz Memphis plant. It is unlikely that Stroh intends to close its Detroit plant and thus the higher amount should be disregarded. It also is unlikely that the Memphis plant can be sold; however, even if the Detroit brewery were closed, or the Memphis plant sold, it may require considerable time as well as significant cash outlays in the form of severance payments, production relocation costs, personnel relocation costs, and other wind-down costs to achieve the synergies referred to above. Thus while Stroh is experiencing the tremendous financial burden of financing the transaction and attempting to secure long-term financing it will also have additional cash requirements to achieve the synergies of the combination.

7. As I stated in my original affidavit, and as is becoming increasingly obvious, there are no likely buyers for either Memphis or Winston-Salem. Thus Stroh may be forced to close one of such facilities to achieve the synergies referred to above. In doing so it may require additional financing as a result of the costs of shutdown and also may experience labor problems as a result of such shutdowns. As Schlitz experienced in Milwaukee, and Pabst has recently experienced in the closing of its Peoria, Illinois plant, the costs of closing can be significant. In any event, Stroh may have great difficulty in actually closing one of these facilities. The Brewery and Soft Drink Workers Conference of the United States and Canada already has indicated strong opposition to the closing of any plant. Obviously, if the closing of a brewery is precluded, for whatever reason, Stroh would be precluded from achieving the synergies it is counting on to make the transaction viable from a financial point of view.

Robert J. Korkowski.

Subscribed and sworn to before me this 11th day of May 1982.

M. J. McSweeney,

Notary Public, State of Wisconsin, My Commission is Permanent.

EXHIBIT B

Text of May 10, 1982, Denver Post Story

Quote: Trustees of Adolph Coors Co. Would consider selling the Golden Brewery "if some major corporation was looking for a brewery and made an offer," Chairman William K. Coors said Monday.

"It would have to be considered in the best interests of all stockholders," he told the annual meeting in the sixth-floor auditorium of the Brewery's administration building.

But, he continued, "the officers and directors are probably a little more subjective than their counterparts elsewhere * * * we have built-in loyalties * * * built-in responsibilities, and we have seen too many times what happens to companies that have been acquired."

Coors was responding to a shareholder's two-pronged question: Had the Company been approached with merger propositions and would Coors trustees—the family through which the Adolph Coors Jr. Foundation controls the voting stock—consider selling?

Coors reiterated earlier company statements that Coca-Cola, Atlanta-based soft drink company, had not approached Coors with an offer to but it.

However, he said, "two major brewers have come to us and asked if there is any possibility of merger with Coors, the survivor. We looked at them and came to the conclusion they were not good marriages."

Later, newly-named Division President, Peter H. Coors, said the statement represented no change in company policy. "What he was trying to convey is that we have an obligation to all our stockholders to look at any serious offer."

"We are not looking," Peter Coors said, "and nobody's come asking."

Certificate of Service

I hereby certify that true and accurate copies of the Reply Memorandum of G. Heileman Brewing Company, Inc. to Memoranda of the United States Department of Justice and the Stroh Brewery Company in Opposition to Heileman's Motion to Intervene and Other Relief were delivered by hand this 17th day of May, 1982 to the offices of Robert L. Wald, Esquire, Wald, Harkrader & Ross, 1300 19th Street, N.W., Washington, D.C. 20036; and to the offices of Anthony V. Nanni, Esquire, Chief of the Trial Sections, Antitrust Division, Department of Justice, 10th and Pennsylvania Avenue, N.W., Room 3266, Washington, D.C. 20530; and mailed first class, postage prepaid, to The Honorable William French Smith, Attorney General of the United States, Department of Justice, Room 5111, 10th and Constitution Avenue, N.W., Washington, D.C. 20530; and to Stanley S. Harris, Esquire, United States Attorney for the District of Columbia, United States Courthouse, Room 2802, Third and Constitution Avenue, N.E., Washington, D.C. 20013.

Leslie C. Smith.

Brewery and Soft Drink Workers Conference, United States of America and Canada

1400 Renaissance Drive, Suite 406, 312/299-3406, Park Ridge, Illinois 60068.

July 7, 1982.

United States of America v. *The Stroh Brewery Company; Comment of Charles Klare* pursuant to Anti-Trust Procedures and Penalties Act, 29 U.S.C. § 16(b)-(h), on the Proposed Consent Judgment in the Stroh-Schlitz Merger.

Anthony V. Nanni, Chief,
Trial Section, United States Department of Justice, Anti-Trust Division, Room 3266, Tenth & Constitution Avenue, N.W., Washington, D.C. 20530.

I am the secretary-treasurer and chief executive officer of the Brewery and Soft Drink Workers Conference of the United States and Canada ("Conference", affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The Conference is an intermediate labor organization which has affiliated to its various local unions throughout the United States and Canada, all of which are comprised of production and distribution employees in the beer and soft drink industries. Locals 391 and 1196 are such affiliates, which, jointly with the Conference, represent the employees of the Joseph Schlitz Brewing Co. ("Schlitz") and The Stroh Brewery Company ("Stroh").

I have personally been involved in the brewing industry as a labor representative of the past 33 years. I have, over the course of the last three decades, developed substantial expertise in this field. I am fully familiar with the facts hereinafter set forth.

We submit this comment on behalf of the Conference and its affiliated local unions, pursuant to the Anti-Trust Procedures & Penalties Act, 15 U.S.C. 16(b)-(h), to oppose the proposed final judgment approving the merger of Schlitz and Stroh conditioned upon the divestiture of either the Schlitz plant in Winston-Salem, North Carolina or its plant in Memphis, Tennessee. The Conference, together with various of its affiliated local unions, has for mnay years been a party to collective bargaining agreements with employers in the brewing industry, including among others Anheuser-Busch ("Busch"), Miller Brewing Co. ("Miller"), the Pabst Brewing Company ("Pabst") and Schlitz. The Conference was party to a multi-plant master collective bargaining agreement with Schlitz, which recently expired. Schlitz and the Conference are in the process of negotiating a new agreement which has led to a strike over various issues certain of which are directly related to this issue and will be discussed below.

We submit that the Department of Justice erred in opposing the merger and that in any event the proposed consent judgment, authorizing the merger subject to the divestiture of either the Winston-Salem or Memphis plant, is not consonant with the purposes and provisions of federal anti-trust laws. Neither plaintiff's action in opposing the merger nor the proposed judgment will increase competition, or decrease concentration in the southeastern area of the United States (the purported rationale), for the reasons set forth below:

A. Mergers such as the instant one are the only viable means by which smaller brewers can effectively survive and compete with the two major producers of beer in the southeast and elsewhere in the United States, Busch and Miller. Hence, the impact of the merger will be to enhance rather than limit competition. Prohibition of or limitations upon such mergers will have the counterproductive result of driving smaller brewers out of the industry, lessening competition, increasing concentration and causing unemployment with attendant loss of presently secured rights and benefits.

B. The proposed merged corporation will continue to have the same capacity to produce and distribute sufficient beer to meet its sales needs after divestiture, as before, and the divestiture will have no competitive impact upon the merged corporation's market share in the southeastern United States.

C. The proposed judgment is unrealistic. Based on its knowledge of the history and condition of the industry, it is the judgment of the Conference that no viable purchaser will or can be found for the plants designated for divestiture. The net effect of the judgment must simply be to close the plant(s) targeted for divestiture, without any significant change in the relative market positions of the various beer companies, but with resultant loss of jobs to members of the Conference and improper interference with an undermining of existant legal collective bargaining rights.

D. The proposed judgment wholly fails to protect the interests of employees of Schlitz, including their job security and terms and conditions of employment, most particularly affecting those employees of the plants targeted for divestiture. There is no provision to ensure the continued recognition of the unions and the bargaining agreements. No provision is made, in event of divestiture for the protection of the jobs of the employees should a plant be sold, nor is there a requirement that any successor recognize the Conference and its affiliated unions or assume the collective bargaining agreements.

1. The History of Competition in the Beer Industry Demonstrates That the Merger is Not Anti-Competitive and is the Only Viable Means of Survival of Competition in the Industry.

The government's allegations that the merger will reduce competition in the industry flies in the face of 30 years of contrary experience. A brief history of the industry may be helpful. The brewing industry in the United States, until about 30 years ago, was a highly competitive, non-concentrated industry in which numerous small manufacturers shared portions of the market. Most of the companies in the industry had operated single small plants serving a limited region or locality. Large multi-plant national distributors were unknown. No particular companies dominated the market. Over the last number of years, because of various factors, including technological changes in production methods, obsolescence of older breweries, increased advertising, quality control, innovative products, and production costs, among others, a large number of smaller breweries closed,

while certain manufacturers' market shares dramatically increased. A major factor contributing to the development of large multi-plant manufacturers and concentration in the industry was the ability to create a national market through extensive television advertising. Today, marginal companies, which include almost all brewers other than Busch and Miller, cannot individually meet the per barrel expenditure for advertising necessary to compete with Miller and Busch. Indeed, the amount of per barrel dollars spent by Miller and Busch on advertising exceeds the total per barrel net profit of the lesser competitors such as Schlitz and Pabst. It is this fact which is key and central to any analysis of competition in the Industry. For example, from 1980 to 1981 Pabst, the number three brewer, Schlitz, the number four brewer, and Stroh, the number seven brewer, all sustained some decline in sales in spite of the fact that sales of beer in the industry increased and the combined market shares of Busch and Miller increased. Exhibit "A," annexed, is a statistical chart showing the distribution of sales in the industry and the changes from 1980 to 1981. Exhibit "B," annexed, is a table of advertising expenditures. The chart demonstrates the continued expansion of the market share of Busch and Miller and the erosion of the market share of almost all of the secondary producers, including Stroh and Schlitz.[1] By 1981, every brewery in New York City, Chicago and San Francisco had closed. The same pattern was repeated in almost every major nothern urban center. Even in Milwaukee, whose name is synonymous with the production of beer, only two companies remain. (Schlitz closed its Milwaukee plant in 1981.) At the same time in 1981, Busch and Miller dominated the market with over 50% of the general market share. (See Exhibit "A.")

In 1980, Schlitz was the number four brewer and in 1981 it replaced Pabst as number three. Yet, at the same time, Schlitz's sales declined. In 1980 Schlitz produced 14.9 million barrels and in 1981 it produced 14.3 million barrels. The company has a total capacity of 18.8 million barrels and thus had a surplus capacity of about 4.5 million in 1981. In 1972 Schlitz closed its Brooklyn brewery which it was unable to sell and which never reopened. In 1981 it closed its Milwaukee plant which also lies dormant. Busch and Miller continue to gain a larger share of the market while their competitors' sales decline. The last hope of maintaining some semblance of competition in the brewing industry is to permit the merger of smaller companies to compete with Busch and Miller. The alternative is, as history demonstrates, that other brewers will continue to suffer declining sales, and further closures will be inevitable. Schaefer, Rheingold, Piels, Blatz, Trommers, Ballantine, Rupperts, Meisterbrau, are only part of the epitaph of the beer industry. Though some of their names survive as labels on brands produced by other companies, they have otherwise disappeared from the industry, taking with them thousands of jobs held by union and salaries employees.

2. The Proposed Consent Judgment Will Decrease Rather Than Increase Competition.

The government's complaint alleged three grounds for opposing the merger of Schlitz and Stroh. First, that the merger will eliminate competition between Stroh and Schlitz. Second, that competition in the beer industry in the southeastern United States will be lessened. Third, that concentration in the sale and production of beer in the southeast will be increased. The proposed consent judgment according to the impact statement will avoid the second and third problems set forth in the complaint by requiring the merged company to divest itself of either the Memphis brewery, having a capacity of 5.5 million barrels, or the Winston-Salem plant, having a capacity of 5 million barrels. The government's rationale apparently is that a viable competitor (other than Busch or Miller) will purchase one of these plants and thereby lessen the market share of the newly combined company and, at the same time, decrease the concentration in the region by introducing a new competitor. However, as demonstrated below, this rationale for the judgment is unrealistic and erroneous.

First, the assumption that a competitor will purchase one of the two breweries is an unrealistic one. The history of the industry, as set forth above, is that older breweries simply cannot be sold because of their economic non-viability and that even modern facilities have been purchased only by the two industry giants, because of chronic overcapacity in the industry among all but Busch and Miller. As stated above, Pabst was the number three Brewer in 1980. Because of overcapacity, Pabst closed one of its more efficient plants that had in fact recently undergone a major renovation. Pabst is unable to sell that plant. Another case in point is the Schlitz plant in Baldwinsville, New York. Because of overcapacity, Schlitz was force to sell a brand new plant. The purchaser was Busch. No smaller competitor bid for the plant. Schlitz closed its Milwaukee brewery in 1981. It has not been sold. The actual fact is that there are at least 20 production plants, including several in the southeast area, which have been closed and are available for purchase without any buyers and which are now lying dormant. The government's impact statement is grossly oversimplified and demonstrates a lack of information concerning the actual state of affairs. The fact of the matter is that the chances of selling one of these plants to a viable competitor other than Busch or Miller, given the current market trends, is at best extremely unlikely. The net result will be the closure of one of these plants, and resulting loss of hundreds of jobs as well as serious economic hardship to the communities involved, with no effect on competition or concentration.

The second assumption of the government, that divestiture will limit the competitive stance of the newly merged company in the southeastern market and thereby enhance competition and decrease concentration is equally without merit. The assumption that plant location has a significant impact on sales or market share in a region is without foundation and erroneous. This is demonstrated by the fact that Stroh itself was number five in sales in the southeast, yet did not maintain a single plant in that region. All of the beer was shipped from its northern plants. Conversely, Schlitz, which maintains two plants in the southeast, shipped a substantial portion of its production from these southeastern locations to the northeast and midwest. Almost 80% of the production of the Memphis Schlitz plant is shipped to the mid-west area. Indeed, Stroh is a major competitor in Georgia, and has no plant in that state, and its sales exceed those of Pabst, which has the largest and most modern brewery in the state.

In actual fact, Stroh would probably welcome the divestiture as the merged company's production capacity without one of these plants can readily be geared to meet its sales needs in the southeast. As noted above, in 1981 Schlitz sold 14.3 million barrels, yet had a production capacity of 18.8 million barrels or a production overcapacity of 4.5 million barrels. Stroh, while it was the fifth largest brewer in southeast and seventh largest in the nation in 1980 suffered a sales decline in 1981 from 9.7 million barrels in 1980 to 9.1 million barrels in 1981. Thus, between the two companies' facilities, the merged

[1] Indeed, the only exception is Heileman, which increased its share due to acquisition and merger.

company could readily divest itself of one of the two southeastern plants and still meet the full production needs of the southeast, by shipping beer into the region. The increased shipping costs would easily be offset by the elimination of the fixed costs of the divested plant. Indeed, Stroh, in 1980, sold 2.2 million barrels of beer in the southeast market, all of which were shipped from its two northeastern breweries. Moreover, Schlitz sold 4.2 million barrels in the southeast in 1980 and less in 1981. Its two southeastern plants have a combined production of 10.5 million barrels, which it has used to produce and supply beer for the northeast and central states of the country. The combined Stroh-Schlitz southeastern sales in 1980 amounted to 6.4 million barrels.

3. The Market Concentration Analysis Proffered by the Justice Department in Its Competitive Impact Statement is Unrelated to Competition in the Brewing Industry and Has Been Rejected by the Court Under Stroh's Urging in a Recently Reported Case Involving This Very Merger.

The government's entire analysis of the competitive impact of the merger and proposed judgment is based upon a simplistic and obsolete market concentration analysis which has no significance with regard to actual competition in the brewing industry. The Justice Department assumes that a merger between Schlitz and Stroh reduces the number of competitors in the southeast and, therefore, increases market concentration. The government thereby concludes that the merger is anti-competitive and assumes that the sale of a southeastern plant will detract from the merged companies' competitive stance and bring forward a new viable competitor in the region. This analysis is unsupported by actual facts, industry patterns or historical support. Indeed, a true analysis of the issues would lead to an opposite conclusion and this is precisely what the district court, at Stroh's urging, concluded. In *Stroh Brewery* v. *Malmgren*, — F. Supp. —, 1982 CCH Trade Cases, 73, 642 ¶ 6470 (W.D. Wis. 1982) (copy annexed as Exhibit "C"), the Commissioner of Securities of the State of Wisconsin, together with Schlitz, attempted to enjoin Stroh from acquiring Schlitz under the Clayton Act.

In rejecting a simple market concentration analysis such as that offered by the United States here, the court concluded that such an analysis, though sufficient to make out a prima facie case, was rebutted by a showing of the actual historical nature of the industry as follows: [2]

"After carefully reviewing the evidence in the case before the Court, the Court concludes that Schlitz has made a prima facie showing of a violation of § 7 of the Clayton Act. It demonstrated, through statistical data, that concentration in the relevant geographic market for beer will increase as a result of the proposed acquisition.

Stroh, however, has rebutted this prima facie case. The Court has considered the following factors which show that competition may not be lessened by the proposed merger *and may, in fact, be increased: geographical sales patterns, different brands and grades of beer, excess plant capacity economics of scale, national advertising and product differentiation, inability to fix prices, industry structure and history.*

To succeed at trial, Schlitz cannot contest the acquisition solely on the basis of market shares before and after the merger. The statistics alone won't prevail nor will expert opinion primarily based upon those statistics. For this reason, the Court finds that Schlitz has not demonstrated a reasonable likelihood of success at trial on the merits of its counterclaim. Thus, an injunction may not issue."

In so holding, the court relied on *United States* v. *General Dynamics Corporation* [1974–1 Trade Cases ¶ 74,967], 415 U.S. 486 (1974), *Quoting Brown Shoe Co.* v. *United States* [1962 Trade Cases ¶ 70,366], 370 U.S. 294 (1962), where the Court stated:

"Congress indicated plainly that a merger had to be functionally viewed, in the context of its particular industry. (cite omitted).

Statistics reflecting the shares of the market controlled by the industry leaders and the parties to the merger are, of course, the primary index of market power; *but only a further examination of the particular market—its structure, history, and 'probable future—can provide the appropriate setting for judging the probable anti-competitive effect of the merger.* (cite omitted).' 415 U.S. at 498.

The Court then stated:

'In affirming the District Court, General Dynamics rejected the government's prima facie case. The government's case was very similar to its case in Pabst. *Both relied on statistical evidence of market shares and concentration.* Justice Stewart, writing for the court, indicated that the government's statistical presentation *simply did not establish that a substantial lessening of competition was likely to occur in any market.'* "

The court also made clear that it must make:

"* * * a careful factual inquiry into the particular market in question, in order to determine the probable effect on competition. (cites omitted). This Court believes that such an analysis is required 'to examine the structure, history and probable future of a particular market in order to determine the anti-competitive effects of a merger. (cites omitted).' "

Indeed, in a Federal Trade Commission decision reported in the May 22, 1982 New York Times at p. 43 (copy annexed), the Commission Judge ruled that market concentration was not sufficient reason to bar the merger. See article annexed as Exhibit "D."

In summary, if left unrestricted by the Justice Department, the merger will increase competition in the brewing industry as:

1. The history of the industry demonstrates a pattern of smaller manufacturers going out of business because they are unable to compete with the two industry leaders.

2. The smaller companies are unable to compete because they cannot afford the capital costs of modern breweries or of intensive television advertising. Because of technological advances, new breweries are highly automated, whereas older breweries are labor intensive and are not competitive with modern facilities. Modern breweries are highly efficient and expensive to construct and the two largest brewers have had a virtual monopoly on new plant construction. Similarly, television advertising has become so costly that it also is virtually monopolized by the two largest brewers.

3. Primarily as a result of these factors, most of the brewing companies in existance 30 years ago are no longer in business and their facilities either lay idle or have been destroyed as unsaleable. In addition, many of the older facilities operated by brewers still in business have been closed and remain unsold and idle.

4. As a further and most significant result of the history of the industry, the two largest brewers in the industry have been increasing their sales and market shares, whereas almost every other brewer has suffered a decrease in sales and market share while at the same time overall sales in the industry have increased. This is due to the inability of

[2] Though the Court was concerned with a nationwide market, there is little statistical difference between the southeastern and the national market. In both of these markets, Busch and Miller have in excess of a 50 percent share, as the court itself noted.

any existing manufacturers to compete with the two industry giants who now sell over 50% of all beer nationally and over 60% in the Southeast region. If the industry trends continue, the market shares of the two leaders will continue to increase and their competitors will be driven out of business.

6. The only effective way to promote competition is to permit viable mergers of the existing companies so that they may pool their assets for the capital and advertising expenditures necessary to compete. Without such mergers, no existing brewer, other than the two leaders, will be exempt from the impending threat of plant closure and corporate doom. With that will come the loss of thousands of jobs and livelihoods for members of the local unions affected, who, in these times of high unemployment will be unable to find work.

Similarly, the proposed consent decree will worsen, not ameliorate, the problem.

1. The assumption that the geographic locale of a plant has a substantial impact on competition in a region is simply unfounded. Indeed, Stroh did not maintain a single plant in the region, yet sold more beer there than Pabst or Schlitz, while each had major facilities in the region. Indeed, Stroh sold more beer in Atlanta, Georga from its Detroit brewery than did Pabst, which has its major Southeast Regional plant there. The Justice Department wholly fails to account for the ability to ship into an area at a cost lower than maintaining an underproductive plant.

2. The Justice Department wholly fails to account for the problem of surplus capacity faced by Schlitz, Stroh and almost every brewer other than Busch and Miller. In fact, most of the bear produced by Schlitz in the southeast was shipped to other regions. The government's analysis wholly fails to consider the very serious problem of overcapacity in the industry faced by all but Busch and Miller.

3. The government assumption that a viable competitor other than Busch or Miller will pruchase the plant or opt to purchase the cannery is sheer fantasy. These lesser producers are suffering sales declines and already suffer from overcapacity. Numerous idle breweries already exist.

Our analysis was recently confirmed by a panel of experts who met to discuss the problems facing the brewing industry. The complete panel discussion is reproduced in the Wall Street Transcript, Vol. LXXVI No. 5, May 3, 1982, *Brewers & Distillers, a Roundtable Discussion by Emanuel Goldman, Samford C. Bernstein Co.; Larry Jones, Equitable Life Assurance Society of the U.S.; Arthur Kirsch, Drexel Burnham, Lambert Inc.; Donald W. Rice, Blunt Ellis & Loewi, Inc.; Arnold Robinson, Trust Co. of the West, and Martin Rom, First Boston Corp.* In that discussion the panel was asked about the role played by the Justice Department in the brewing industry as follows:

"TWST:[3] Don, what is the brewing industry going to be doing over the next three to five years? What's it going to look like?

Mr. Rice: I think when you get out there, you end up with Miller and Anheuser in the same type of dominant position they are in today. But between the current number three and number seven brewers, a third and maybe a fourth competitor that can continue to exist and survive will have been created.

TWST: Who do you think it will be?

Mr. Rice: The cards are all dealt, and we're just seeing the basic playing start right now. But I think in the next year, it's going to be very well defined as to who belongs to whom.

How they go together is still up for grabs. You have a logjam created by the Justice Department right now. If that breaks, it occurs very quickly.

Mr. Robinson: But that's always been the case of the beer industry. *The Justice Department actually has played a role which accelerated the demise of the weaker companies.* That old story is still an ongoing story. Both Schlitz and Pabst have closed breweries recently. Schlitz also sold one. The excess capacity of the industry is being reduced.

TWST: Marty?

Mr. Romm: I've got one comment on the Justice Department. It strikes me that even as recently as nine months ago, when the proposed merger between Schlitz and Heileman was before them, they had to make a decision, and made the wrong decision, that is, that the merger proposal was an anticompetitive combination. It is rare that we have the opportunity to see anti-trust law changed in as short a period of time as nine months, but my guess would be that *the Justice Department will have to acquiesce in order to maintain the viability of a couple of these companies that are really on the ropes and need to be combined with stronger partners,* which would suggest at least that perhaps the Heileman-Schlitz proposal may be rekindled and be given the blessing of the Justice Department under certain guidelines.

Mr. Rice: and in fact, if that does occur, it is essentially going to have to happen this week. The clock is running.

TWST: Manny, on a three to five year basis, what do your forecasts show for the brewers? What projections are you making? Can you take us through this maze of merger?

Mr. Goldman: Five years out, there is very little question that Anheuser-Bush and Miller will be in an overwhelmingly strong position. In fact, with the rollout of Bud Light occurring at this very moment, you can see the strength they have, and projecting it out, it is going to be even more overwhelming. With Bud Light, what I mean is the following. Anheuser I estimate will spend $40 to $50 million in marketing in their Bud Light rollout this year. That is about equal Pabst spends in marketing for all of its products. Now, Miller will obviously respond vigorously. Of Miller's 3 million barrel gain last year, 2.5 million barrels was their light product. So it is clear that there will be a very strong response, and what effectively is happening, then is that Anheuser is essentially upping the ante within the industry, and Miller, of course, has to respond, and the other participants simply can't afford it. So the gap in marketing support that already exists between Anheuser and Miller on the one hand, and everybody else on the other, is in the process of widening this year, and it will widen even more so further out, since Anheuser and Miller should grow faster than any of the other brewers. So there is being established an enormoulsy strong position for the top two brewers, and it is just getting stronger * * *.

As far as Schlitz and Pabst go five years out, the outlook is bleak. As Arnold pointed out, the Schlitz brand is still eroding, and one of the things we've seen in this industry is that once a brand starts a significant erosion, with very few exceptions (there have been some, but not too many), once that image is severely tarnished, it's very hard to come up with a polish that is going to get rid of that tarnish. That appears to be the situation with Schlitz brand. For example, the move by Stroh to acquire Schlitz is not predicated on their ability to turn Schlitz brand around. Rather they are looking to take Stroh national."

Thus, the foremost experts in the field concur with our analysis.

4. The Proposed Consent Decree Fails To Protect the Public Interest in That it Fails To Protect the Rights of the Affected Employees.

There is a public policy recognized in federal legislation which seeks to protect the interest of employees, before approving merger agreements. Thus, 49 U.S.C. § 5(2)(c), regarding combinations and consolidations of carriers, expressly provides that "In passing upon any proposed transaction under the provisions of this paragraph, the Commission shall give weight to the following considerations among others * * * the interest of the carrier employees affected." 49 U.S.C. § 2(f) then goes on to provide:

"As a condition of its approval, under this paragraph * * * of any transaction involving a carrier or carriers by railroad subject to the provision of this chapter, the commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected * * *."

The Supreme Court has uniformly recognized the appropriateness of protecting the interest of employees in such mergers. *Penn Centeral Merger and N&W Inclusion Cases,* 389 U.S. 486, 88 S.

[3] The Wall Street Transcript moderators are Joseph G. Barata and Richard A. Holman.

Ct. 602 (1968); *Burlington Northern, Inc.* v. *American Ry. Labor Executives' Ass'n* v. *U.S.* 339 U.S. 142, 70 S. Ct. 530 *United States* v. *Lowden*, 308 U.S. 225, 60 S. Ct. 248. (The steps involved in carrying out the Congressional policy of railroad consolidation will unavoidably subject railroad labor relations to serious stress and its harsh consequences may so seriously affect employee morale as to require their mitigation, both in the interest of the successful prosecution of the Congressional policy and the efficient operation of the industry itself, both of which are of "public concern.")

Indeed, the Supreme Court in *United States* v. *Lowden*, 308 U.S. 225, 60 S. Ct. 248 (1939), recognized the duty of the courts to protect employees and their unions from the impact of mergers under the Interstate Commerce Act (42 U.S.C. § 5) *even before the Railway Merger Act was amended to specifically provide for such protection.* In ruling that the "public interest" required such protection the court stated:

"One must disregard the entire history of railroad labor relations in the United States to be able to say that the just and reasonable treatment of railroad employees for mitigation of the hardship imposed on them in carrying out the national policy of railway consolidation, has no bearing on the successful prosecution of that policy.

* * * * *

In light of this record of practical experience and Congressional legislation, we cannot say that the just and reasonable conditions imposed on appellees in this case will not promote the public interest in its statutory meaning by facilitating the national policy of railroad consolidation; that it will not tend to prevent interruption of interstate commerce through labor disputes growing out of labor grievances, or that it will not promote that efficiency of service which common experience teaches is advanced by the just and reasonable treatment of those who serve. In the light of that record too we do not doubt that Congress, by its choice of the broad language of § 5(4)(b) intented at least to permit the Commission, in authorizing railroad consolidations and leases, to impose upon carriers conditions related, as these are, to the public policy of the Transportation Act to facilitate railroad consolidation, and to promote the adequacy and efficiency of the railroad transportation system.

The fact that a bill has recently been introduced in Congress and approved by both its houses, requiring as a matter of national railway transportation policy the protection of employees such as the Commission has given here, does not militate against this conclusion. Doubts which the Commission at one time entertained but later resolved in favor of its authority to impose the conditions were followed by the recommendation of the Committee of Six that fair and equitable arrangements for the protection of employees be "required." It was this recommendation which was embodied in the new legislation. Sen. Rep. No. 433, 76th Cong., 1st Sess., p. 29. We think the only effect of this action was to give legislative emphasis to a policy and a practice already recognized by § 5(4)(b) by making the practice mandatory instead of discretionary, as it had been under the earlier act. 308 U.S. at 254, 258, 259.

This reasoning is equally applicable to the instant case. If collective bargaining rights won by Schlitz employees are disrupted as a result of the divestiture condition imposed by the government, industrial unrest is sure to follow.[4] Such unrest both defeats the intent of the NLRA and subverts the "public interest."

In commenting upon this purpose of the public policy, the D.C. Circuit, in *American Train Dispatcher's Ass'n* v. *I.C.C.*, 578 F. 2d 412, 413 (D.C. Cir. 1978), stated:

"Suffice it to say, that Congress, in promulgating this legislation, was clearly concerned with the fact that merger economies would be achieved largely at the expense of displaced labor."

Though such policy is not made express in the Clayton Act, 15 U.S.C. 12, *et seq.*, it is implicitly recognized in 15 U.S.C. 15 which provides for treble damages for "any person who shall be injured in his business or property by reason of anything forbidden in the anti-trust laws." In *Nichols* v. *Spencer International Press, Inc.*, 371 F. 2d 332, 334 (7th Cir. 1967), the Court recognized that such provision protected injury to employment, as follows:

"[W]e readily conclude that one who has been damaged by loss of employment as a result of a violation of the antitrust laws is "injured in his business or property" and thus entitled to recovery under 15 U.S.C.A. § 15. Work as the employee of another is not, indeed, an independent business enterprise, and an opportunity to perform such work may not be property in the ordinary sense, but the interest invaded by a wrongful act resulting in loss of employment is so closely akin to the interest invaded by impairment of one's business as to be indistinguishable in this context."

Conclusion

For the foregoing reasons we urge the Justice Department to permit the merger without any constraints, or to amend the proposed judgment so as to protect the rights of the affected employees.

Thank you.

Yours truly,

Charles Klare,

On behalf of the Brewery and Soft Drink Workers Conference of the United States and Canada, I.B.T., and its affiliated locals, 391 and 1196.

cc: John H. Pratt, U.S.D.J.

TOTAL BARRELAGE OF LEADING U.S. BREWERS 1981-80

	1981 sales 31-gal bbl	1980 sales 31-gal bbl	gain or loss (barrels)	Gain or loss (percent)
1. Anheuser-Busch, Inc	54,500,000	50,200,000	+4,300,000	+8.6
2. Miller Brewing Co	40,300,000	37,300,000	+3,000,000	+8.0
3. Jos. Schlitz Brewing Co	[1]14,100,000	14,900,000	−800,000	−5.4
4. G. Helleman Brewing Co	13,960,000	13,270,000	+690,000	+5.2
5. Pabst Brewing Co	13,465,000	15,091,000	−1,626,000	−10.8
6. Adolph Coors Co	13,261,000	13,800,000	−539,000	−3.9
7. The Stroh Brewery Co	6,200,000	6,161,255	+38,745	+0.6
8. Olympia Brewing Co	5,708,000	6,091,000	−383,000	−6.3
9. Genesee Brewing Co	3,625,000	3,600,444	+24,556	+0.7
10. Falstaff Brewing Co	3,596,455	3,901,000	−304,545	−7.81
11. C. Schmidt & Sons, Inc	3,300,000	3,625,000	−325,000	−9.0
12. F. & M. Schaefer Brewing Co	2,939,000	3,572,000	−633,000	−17.7
All others	4,642,000	4,800,000	−158,000	−3.3
Total industry	[1]179,500,000	176,311,699	+3,188,301	+1.8

[1]Estimate.

All figures included exports.

Falstaff barrelage includes Pearl Brewing Co. (1,500,929 bbls); General Brewing Co. (628,000) and Naragansell, which operated only 9 months of 1981.

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The following attachments could not be reproduced for publication. They may be inspected in the case file of the Clerk of the United States District Court for the District of Columbia or in Room 3246, Antitrust Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20530:

Statistical Study of Anheuser-Busch and Miller Brewing Company 1981 Beer Advertising Expenditures 1978–

[4]It is noteworthy that a strike by our union is currently taking place against Schlitz nationally and has to date lasted over two weeks with no end in sight. One of the major stumbling blocks is a clause which will guarantee that a successor will assume the new agreement in light of the divestiture required by the Justice Department. Thus, the wisdom of *Lowden, supra*, has come to pass.

1981

Excerpts of Commerce Clearing House Trade Cases 1982–1, pages 73,641–73,644

State of North Carolina

Office of the Governor

Raleigh 27611, July 15, 1982

Re *United States* v. *Stroh Brewing Company,* Civil Number 82–1059.

Dear Mr. Nanni: Please accept this letter as the comment of the State of North Carolina regarding the proposal which is now before the Court for the acquisition of Schlitz Brewing Company by the Stroh Brewing Company. It is my understanding that this proposal would require the Stroh Brewing Company to sell, or at least to make a good faith effort to sell, either the Schlitz Brewery in Memphis, Tennessee, or the one in Winston-Salem, North Carolina, within two years of the acquisition.

The Schlitz Brewery and Container plant in Winston-Salem represents a major economic force in the Central Piedmont region of North Carolina. Over one thousand jobs and sizable tax base are dependent upon the continued successful operation of those facilities.

Should the Stroh Brewing Company propose to sell the Winston-Salem facility, I want to strongly encourage the United States Department of Justice and the Court to exercise the utmost diligence to ensure that the proposed purchaser of that plant is making the acquisition with the good faith intention of keeping the brewery in full operation and protecting the livelihoods of its employees. Every possible assurance must be sought by the Justice Department and the Court that the Winston-Salem facility would in fact remain in full operation, if it is sold. Certainly anything less would be inconsistent with the efforts of the Court and the Justice Department to ensure that this industry remains strong and competitive.

My warmest personal regards.

Sincerely,

James B. Hunt, Jr.

Mr. Anthony Nanni,

Chief, Trial Section, United States Department of Justice, 10th and Constitution Avenues, N.W., Washington, D.C. 20530.

May 3, 1982.

Mr. Anthony V. Nanni,

Chief, Trial Section, U.S. Department of Justice, Anti-Trust Division, Room 3266, 10th & Constitution Ave. N.W., Washington, D.C. 20530.

Dear Mr. Nanni: I have learned through the **Federal Register, Vol. 47 No. 83,** of April 29, 1982, that the Stroh Brewery Company has acquired the Schlitz Brewing Company.

In the above noted FR citation, it was requested that comments on the proposed acquisition will be solicited for a period of 60 days. Also, of contention, was a question of whether or not the trustee in the take over would utilize the Winston-Salem, North Carolina, Schlitz facility.

As a loyal, very loyal I might add, Stroh drinker, I am most concerned with the take over proposition and how this may affect delivery of the product to Kentucky. I highly recommend that any trustee appointment of the acquisition, be instructed to operate the said Winston-Salem facility to ensure product delivery to this state.

Thank you for your consideration in this matter.

Sincerely yours,

James Davenport,

216 Ballard Avenue, Barbourville, Kentucky 40906.

August 10, 1982.

Re *United States* v. *The Stroh Brewery Company,* Civil No. 82–1059 (Pratt) (D.D.C.).

Howard W. Fogt. Jr., Esquire,

Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Dear Mr. Fogt: This letter is the response of the United States to the written comments of G. Heileman Brewing Co., Inc. ("Heileman") of July 29, 1982, opposing the proposed final judgment in *United States* v. *The Stroh Brewery Company.*[1] Heileman is concerned that the combination of the Jos. Schlitz Brewing Co. ("Schlitz") and The Stroh Brewery Company ("Stroh") will be a financially weak competitor and that Stroh will not be able to find a purchaser for either the Winston-Salem or Memphis brewery required to be divested under the proposed decree. In our view, the arguments Heileman has advanced do not provide a sufficient basis for rejecting the proposed final judgment.

As we stated in our memorandum in opposition to Heileman's motion to intervene as a party in the present case, the alleged financial weakness of the combined Stroh and Schlitz firm provides no justification under the antitrust laws for prohibiting the merger. Heileman has cited no authority, and we have found none, which finds a violation of Section 7 of the Clayton Act solely on the basis that the resulting firm is financially weak. Moreover, we believe that a detailed examination of the future financial prospects of the combined firm in this instance would be based largely on speculation and conjecture, and would be inherently unproductive. In our view, the court should not substitute its judgment of the financial merits of the merger for that of Stroh's management.

We also disagree with the assertion that the Department "changed its practice" of not reviewing the financial prospects of companies resulting from mergers or acquisitions when it recently disapproved Heileman's attempt to acquire assets of Pabst Brewing Co. (Heileman Comment, p. 15) The situations are clearly distinguishable. After the Department stated its opposition to Heileman's proposal to acquire Pabst, Pabst became the target of a tender offer by financier Irwin Jacobs. The offer was supported by Heilman's agreement to purchase from Jacobs the Pabst Breweries in Newark, New Jersey and Perry, Georgia, and to enter into an exclusive license to manufacture and sell Pabst brands in 27 Eastern and Southern states. We concluded that the transition raised serious antitrust concerns for a number of reasons, including the fact that the continued viability of the remaining Pabst entity ("Pabst West") was open to serious question.[2] Although we normally do not do so, it was necessary and approipriate to consider the business prospects of Pabst West because Heileman, a Pabst West competitor, was joining with Jacobs in creating the entity and would have directly benefited from its competitive weakness.

Heileman, has maintained that some further consolidation among regional brewers may be necessary or inevitable. It is ironic, however, that having urged the Department to permit further consolidation in the beer industry, Heileman now takes the position that Stroh and Schlitz should be prevented from obtaining whatever procompetitive benefits that may exist from combined operations. We note that Charles Klare of the brewery workers union, whose views Heileman relies upon for support (Heileman Comment, pp. 12–13), has urged the contrary position upon the Department.

[1] Comments By G. Heileman Brewing Company, Inc. On The Proposed Final Judgment Regarding The Merger Of Stroh And Schlitz, dated July 29, 1982.

[2] In addition, we concluded that splitting the Pabst brands would inherently create an anticompetitive interdependence between Heileman and Pabst West. The Department's position is set forth in a letter from Assistant Attorney General William F. Baxter to Ira M. Millstein, Esquire, counsel for Irwin Jacobs, dated July 22, 1982, responding to is request for a statement of the Department's enforcement intentions. A copy of the letter, which was made public at the time, is enclosed.

The argument that there is no identifiable purchaser for either of the breweries to be divested also provides no basis to reject the proposed final judgment. The decree provides strong incentives built into Section IV, F to ensure that a brewery is, in fact, sold. In addition, both the Memphis and Winson-Salem plants are modern, highly efficient facilities which are very attractive to potential purchasers. Although we cannot guarantee that a buyer will be located, the decree clearly creates an opportunity to introduce new competition into the highly-concentrated Southeastern market. Further, since Stroh did not operate a brewery in the Southeast market before the merger, a successful sale will not merely return the market to its prior competitive status, but will operate as a positive procompetitive vehicle for the entry of a new beer producer in the Southeast. If ultimately that opportunity is not grasped by a competitor, the public will be in no worse position than if the merger has gone forward without challenge.

There is no requirement that either plant in question be closed in the event a purchaser is not found. The intent of the decree is to maintain the plants as viable production facilities in the beer industry. Additionally, entry of the decree will not increase the chance of an anticompetitive sale of assets to the industry leaders, Anheuser-Busch Companies, Inc. or Miller Brewing Co. The decree contains a specific prohibition against a sale to either of those companies and the Department will remain in a position to oppose any attempt to evade that prohibition.

In summary, we continue to believe that the proposed decree offer the best feasible solution to the anticompetitive effects of the merger of Schlitz and Stroh and that it is in the public interest.

Sincerely yours,

John Schmoll,

Attorney, Antitrust Division.

July 22, 1982.

Ira M. Millstein, Esquire,

Weil, Gotshal & Manges, 767 Fifth Avenue, New York, New York 10153.

Dear Mr. Millstein: This letter responds to your request of June 23, 1982 for a statement by the Antitrust Division of our present enforcement intention with respect to the proposed acquisition by JMSL Acquiring Co. ("JMSL") of Pabst Brewing Co. ("Pabst") and subsequent sale of certain assets to G. Heileman Brewing Co. ("Heileman").

In their submissions the parties stated that JMSL, a corporation controlled by certain dissident Pabst stockholders including Irwin Jacobs, would make a tender offer seeking to acquire a sufficiently large block of stock to give it control of Pabst. If successful, JMSL would thereafter cause Pabst to convey to Heileman the Pabst breweries at Perry, Georgia and Newark, New Jersey. Heileman would also acquire an exclusive license to produce and market all the Pabst brands in a 27 state area consisting of Louisiana, Texas, Arkansas, Oklahoma and all states east of the Mississippi River (except for Wisconsin, Illinois and Indiana).

In 1981 Heileman and Pabst were, respectively, the nation's fourth and fifth largest brewers of beer. The Department of Justice announced last month that it would not acquiesce, under outstanding consent decree, to a merger of the two firms. We stated that the proposed merger of Heileman and Pabst would violate Section 7 of the Clayton Act because it would substantially increase concentration in the nation as a whole and in its northern portion. The instant proposal seeks to avoid these competitive problems by splitting the Pabst brands between Heileman and a JMSL-controlled surviving Pabst entity in the western states ("Pabst West").

We believe that the proposed transaction would raise serious competitive problems for a number of reasons. Heileman's acquisition of the Pabst brands and breweries will combine two significant competitors in the eastern states. The resulting increasec concentration, as measured by the Berfindahl Index, would exceed, in a substantial portion of this region, levels acceptable under the Division's recently announced merger guidelines for an industry as concentrated as beer.

Another major competitive problem is that the splitting of the Pabst brands inherently creates an interdependence between Heileman and Pabst West. This interdependence raises serious antitrust concern because these two entities would have been substantial competitors.

Finally, our reviews of the financial structure and the business prospects of Pabst West leads us to conclude that its long-term viability is open to serious question. While we usually do not attempt to evaluate the business prospects of a company resulting from a merger or acquisition, we did so in this instance because Heileman, which is presently a competitor of Pabst in the western region, is joining with JMSL to accomplish the transaction. In our judgment, the competitive weakness of Pabst West is likely to enhance Heileman's position in the West, and the positions of Miller Brewing Co. and Anheuser-Busch Companies, Inc. as well, thus adding to concentration in the brewing industry.

Based upon the information we have gathered during the course of our investigation, we have concluded that the proposed transaction would violate Section 7 of the Clayton Act. It is our present intention to bring a civil antitrust action to enjoin the proposed transaction should you proceed with it.

The statement herein is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6, a copy of which is enclosed. Pursuant to its terms, your business review request and your supporting data will be publicly available within 30 days of the date of this letter unless you request that part of the material be withheld in accordance with Paragraph 10(c) of the Business Review Procedure.

Sincerely yours,

William F. Baxter,

Assistant Attorney General, Antitrust Division.

August 10, 1982.

Re *United States* v. *The Stroh Brewery Company,* Civil No. 82-1059 (Pratt) (D.D.C.).

Mr. Charles Klare,

Chief Executive Officer, Brewery and Soft Drink Workers Conference of the United States and Canada, 1400 Renaissance Drive, Suite 406, Park Ridge, Illinois 60068.

Dear Mr. Klare: This letter is the response of the United States to your written comment of July 7, 1982, on behalf of the Brewery and Soft Drink Workers Conference of the United States and Canada ("Conference") and its affiliated local unions, opposing the proposed final judgment in *United States* v. *The Stroh Brewery Company.*[1] We understand that the Conference and its affiliated local unions 391 and 1196 represent the employees of the Joseph Schlitz Brewing Co. ("Schlitz") and The Stroh Brewery Company ("Stroh"), and has for many years been a party to collective bargaining agreements with other employers in the brewing industry.

It is the Conference's position that the Department of Justice erred in challenging the merger of Schlitz and Stroh and that the proposed final judgment, which mandates Stroh's divestiture of either Schlitz's Winston-Salem or Memphis brewery, is not consonant with the purposes and provisions of the antitrust laws. For the

[1]United States of America v. The Stroh Brewery Company; *Comment of Charles Klare* pursuant ot Anti-Trust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), on the Proposed Consent Judgment in the Stroh-Schlitz Merger, dated July 7, 1982.

reasons set forth below, we disagree with the Conference's analysis and conclusions. Each of the four arguments advanced by the Conference in support of its position are addressed in turn.

1. Contention That the Merger Is Not Anticompetitive.

The Conference's first argument is that the merger of Schlitz and Stroh should not have been challenged because it is not anticompetitive, given the increasingly concentrated nature of the beer industry and the asserted need for smaller brewers to combine so that they may compete more effectively. (Comment, pp. 4–5) The argument overlooks both the probable anticompetitive effects of the merger in the Southeast market alleged in the Complaint and the fact that the Department has not sought to prevent the Stroh-Schlitz combination.

The beer industry in the Southeast market is characterized by the dominance of large brewers and the virtual absence of small regional and local brewers. As indicated in the Complaint, the top six brewers in the Southeast market, all large companies, accounted for approximately 97 percent of total shipments, the top two firms, Anheuser-Busch Companies, Inc. and Miller Brewing Co., accounted for 63 percent, and the total pre-merger Herfindahl Index is substantial (2345).

The merger combines two of these six dominant firms. The resulting company is the third largest in the market with a combined market share in excess of 20 percent. The combination significantly increases total seller concentration in this already highly concentrated market. The Herfindahl Index is increased by 186 points to 2531, and the 4-firm concentration ratio is increased by 6.9 percent from 85.2 to 92.1 percent. Such substantial increases in concentration in a highly concentrated market are the clear hallmarks of a violation of section 7 of the Clayton Act.

Of equal importance, in our view, is the fact that the anticompetitive effects of the merger in the Southeast market would not have been reduced by other relevant economic factors. For example, the rate of technological change in the beer industry is not expected to be great and thus would be unlikely to ameliorate the effects of further seller concentration; barriers to new entry into the market are high; and there is no secondary or used product market in this industry to offer competition.

It is also important to recognize that the Department did not find that the merger would violate the Clayton Act in the national market.[2] In other areas of the country outside the southeastern states, the Department concluded that the merger would be competitively neutral and possibly procompetitive. For this reason, the Department did not seek to block the merger entirely, but instead sought relief tailored specifically to the area in which a violation was alleged. Thus, the parties are not precluded by the Department's action from combining their operations to capture whatever synergies which might allow them to compete more effectively on a national basis.

2. Contention That the Proposed Final Judgment Will Decrease Competition.

The Conference's second argument is that the proposed final judgment will decrease competition because (a) it is unrealistic to expect that one of the Schlitz southeastern breweries will be sold and (b) the divestiture will not limit the competitive stance of the combined company and may strengthen it. (Comment, pp. 6–8) On the contrary, the divestiture provided for in the proposed final judgment offers a real prospect of enhanced competition and reduced concentration in the Southeast market.

The two plants subject to the proposed divestiture order are modern, highly-efficient breweries. In this respect they can be clearly distinguished from the numerous old, inefficient and outdated facilities mentioned by the Conference which have been closed and are lying dormant. (Comment, p. 7) As the Conference correctly points out, in 1979 the new Schlitz brewery in Baldwinsville, New York, near Syracuse, was sold to Anheuser-Busch; no alternative purchaser was found. However, the brewery was located in an area where beer consumption was not growing significantly and where regional and local brewers were already present, so that new entry was not as likely. In contrast, the Southeast is a growing market that is desired by a number of large and medium-sized brewers who do not now have a sizeable presence there, such as the G. Heileman Brewing Co., Adolph Coors Co. and C. Schmidt & Sons Brewing Co.

The Conference's dismissal of the prospects of achieving a divestiture ignores three strong incentives built into Section IV, F of the proposed final judgment to ensure that a plant is sold. First, that Section's provision for turning over the divestiture to a trustee if Stroh does not divest within the first year puts considerable pressure on Stroh to find a buyer. Otherwise, Stroh will lose control of the transaction—an outcome the company would wish to avoid. Second, Section IV, F provides the trustee with the ability to make the divestiture package more attractive. The trustee may offer prospective purchasers the option of purchasing the Schlitz container facility associated with the Winston-Salem plant [3] and a contract brewing arrangement on reasonable terms and conditions. Third, the Court retains the power to enter such other orders as it deems appropriate.

Finally, the proposed divestiture creates an opportunity to introduce new competition into the highly-concentrated southeastern area. It is the best cure that is feasible for the anticompetitive effects of the merger. It is also the proposed relief the United States would seek after a full trial. If ultimately this opportunity is not grasped by a competitor, the public will be in no worse position than if the merger had gone forward without challenge. There is no requirement that either plant in question be closed in the event a purchaser is not found. The intent of the decree is to maintain these plants as viable production facilities in the beer industry.

As noted above, the decree attempts to tailor the relief to the violation that has occurred. If the divestiture is accomplished, either to a new entrant into the Southeast or to a firm which is presently only marginally involved in that market, competition will be enhanced.

3. Contention That Market Concentration Is Unrelated to Competition in the Beer Industry.

The Conference's third argument is that the Department's analysis of market concentration has no significance with regard to actual competition in the beer industry and that such an approach was rejected by the district court in *Stroh Brewery Co., et al.* v. *Malmoren and Jos. Schlitz Brewing Co.* 1982–1 Trade Cas. (CCH) ¶64,670 (W.D. Wis. 1982). (Comment, pp. 8–15) It is the Department's position that in the increasingly concentrated beer industry, market concentration statistics continue to provide an accurate indicator of probable adverse effects on competition. Analysis of market concentration is neither obsolete nor irrevelant to antitrust enforcement in the beer industry.

The Supreme Court, as well as lower federal courts, have looked to market concentration in the past in ruling on beer industry mergers. *See, e.g., United States* v. *Pabst Brewing Co.,* 384 U.S. 546

[2] Department of Justice Press Release, April 16, 1982, p. 2.

[3] Since there is no container facility associated with the Memphis plant, no similar option could be provided with that brewery.

(1966); *F. & M. Schaefer Corp.* v. *C. Schmidt & Sons, Inc.*, 597 F. 2d 814 (2nd Cir. 1979); *United States* v. *Jos. Schlitz Brewing Co.*, 253 F. Supp. 129, 136–37 (N.D. Cal.), *aff'd per curiam*, 385 U.S. 37 (1966); *Jacobs* v. *Pabst*, — F. Supp. — (D. Del., July 21, 1982); *United States* v. *G. Heileman Brewing Co.*, 345 F. Supp. 117, 120 (E.D. Mich. 1972).

The reliance of the Supreme Court and other federal courts on market share statistics in cases involving acquisitions in the increasingly concentrated beer industry is based on the economic validity of such figures in predicting the likelihood that a challenged beer merger will substantially lessen competition. As the Supreme Court stated in *United States* v. *General Dynamics Corp.*, 415 U.S.C. 486, 501 (1974), "In [concentrated] markets involving * * * beer, as in * * * *Pabst, supra*, statistics involving annual sales naturally indicate the power of each company to compete in the future." Because Section 7 is aimed at stopping anticompetitive acquisitions in their incipiency, *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 362 (1963), the critical inquiry is into the factors that provide a prediction of future competitive conditions. In an industry where "concentration is already great," market share statistics will usually be highly probative because of the "importance of preventing even slight increases in concentration and so preserving the possibility of eventual deconcentration." *United States* v. *Philadelphia National Bank, supra*, 374 U.S. at 365 n. 42 (1963).

As recognized by the Supreme Court in *United States* v. *General Dynamics Corp., supra*, market concentration statistics may not in every instance give an accurate account of an acquisition's probable future impact on competition. The instances, however, in which market share statistics fail to accurately portray the probable effects of a proposed acquisition are circumscribed. In *General Dynamics*, a coal company merger case, the Supreme Court decided that in the coal industry a coal producer's uncommitted reserves, rather than its recent production levels, were the true indicator of its probable future competitiveness. As a result, it concluded that statistics regarding the acquired company's historical share of production did not accurately reflect competitive conditions in the coal industry. The Court therefore discounted market shares based on production and upheld the merger. 415 U.S. at 501–504.

In the beer industry, on the other hand, market share statistics continue to be utilized by courts in evaluating the probable competitive effects of acquisitions. Thus, the Second Circuit, relying on market share statistics, recently rejected an acquiring brewer's *General Dynamics defense. F. & M. Schaefer Corp.* v. *C. Schmidt & Sons, Inc., supra*. In that case Schmidt, then the fourth largest brewer in the Northeast region, sought to acquire stock of Schaefer, a direct competitor and then the fifth largest brewer in the region. Each brewer accounted for 8.6 percent of the relevant regional market, in which the top six competitors accounted for 78.1 percent of regional sales. Relying on *General Dynamics*, Schmidt presented evidence that Schaefer had experienced declining sales and large losses during the period prior to the proposed acquisition which, Schmidt argued, showed Schaefer to be an ineffective competitor. The court held that this showing was insufficient to overcome the relevant market share statistics of the two companies.

The Conference's reliance upon *The Stroh Brewery Company* v. *Malmgren, supra*, is misplaced. In that case, Schlitz management sought to block the proposed merger in its entirety on antitrust grounds, among others. The precedential value of the opinion is limited for present purposes since it was a decision upon Schlitz's application for preliminary relief, not a decision on the merits. In addition, unlike the present case, Schlitz alleged that the merger would violate Section 7 in the national market, but in no specified regional market. Although acknowledging that Schlitz had proved a *prima facie* case of a national violation based on market share statistics, the court nevertheless denied a preliminary injunction. The present case, in contrast, is based upon a regional violation in the Southeast that was never considered by the court in the *Malmgren* case and for which the market concentration statisics are more compelling.[4] Nor does the United States seek to block the entire merger. Accordingly, in the present case the parties and the public are not foreclosed from obtaining any possible procompetitive benefits that may exist from combined operations.

4. Contention That the Proposed Final Judgment Fails to Protect the Public Interest Because It Fails To Protect the Rights of Affected Employees.

The Conference's final argument is that there is a "public policy recognized in federal legislation" which seeks to protect the interests of employees, in considering merger agreements. (Comment, pp. 15–18.) The Department's position is that there is no such public policy which applies to this case. As the Conference points out, 49 U.S.C. § 5(2)(c) requires that employee interests be considered by the ICC in reviewing railroad mergers. However, as the Conference acknowledges (Comment, p. 17), this case is brought under a different statute, Section 7 of the Clayton Act, which contains no such express policy favoring employee interests. As we stated in our memorandum in opposition to the Conference's motion to intervene as a party in the present case, Government antitrust actions typically have repercussions on a large number of business relationships. It would be difficult if not impossible to consider the particular interests of each person whose business dealings were affected by a Government merger case. The Conference's apparent interest in opposing any change in ownership of the breweries in question which might affect its members employment rights cannot be allowed to outweight the public interest in effective antitrust enforcement.

Moreover, any concern that the Conference had about the impact of the proposed Final Judgment on employees at the Winston-Salem and Memphis breweries has since been satisfied, according to press reports. On July 9, 1982, two days after the date of the Conference's comment, the Associated Press reported that negotiators for Schlitz and the Conference had reached an agreement settling their strike against Schlitz. At that time, you were reported by the Associated Press to have stated:

> One of the key issues resolved in the negotiations was the question of protection of the employees of any plant that may be sold during the life of the agreement, Klare said.
>
> This became an important issue because midstream in the negotiations with Schlitz, the company was acquired by the Stroh Brewing Co. of Detroit, Mich., and the acquisition had a condition set by the antitrust division of the Department of Justice that in a 12-month period after acquisition they sell one of two plants in the Southeast area, Klare said.
>
> This was a key issue that arose during the negotiations. The settlement meets the problems created by those conditions.

We believe that the reported settlement is further indication that the entry of the proposed final judgment will not impair or impede the employees' ability to adequately protect their legitimate interests through normal collective bargaining channels.

In conclusion, we thank you for bringing your views about the beer industry and the impact of proposed

[4] For example, whereas nationally the Stroh-Schlitz merger would incease the Herfindahl Index by only 78 points to 1722, in the highly concentrated Southeast market the merger would produce a 186 point increase to 2531, more than twice the national increase.

final judgment to our attention. We nevertheless continue to believe that the proposed decree offers the best feasible solution to the anticompetitive effects of the merger of Schlitz and Stroh and is in the public interest.

Sincerely yours,

John Schmoll,

Attorney, Antitrust Division.

July 30, 1982.

Re *United States* v. *The Stroh Brewery Company,* Civil Number 82-1059 *(Pratt) (D.D.C.).*

Honorable James B. Hunt, Jr.,
Governor, State of North Carolina,
Raleigh, North Carolina 27611.

Dear Governor Hunt: This letter is the response of the United States to your written comment of July 15, 1982, on the proposed Final Judgment in *United States v. The Stroh Brewery Company.* You urge the Department of Justice and the Court to exercise the utmost vigilence to ensure that any proposed purchaser of the Schlitz brewery in Winston-Salem, North Carolina maintain it in full operation.

You may be assured that the Department will do everthing in its power to assure the continued operation of the Winston-Salem brewery. There is no requirement in the proposed Final Judgment that either of the plants subject to the divestiture order be closed nor do we have any reason to believe that this will happen. The intent of the decree is to maintain these plants as viable production facilities in the beer industry. We will carefully review any proposed sale under the decree with this objective in mind.

Thank you for bringing your concerns about the Winston-Salem plant to our attention. We appreciate receiving the benefit of your views.

Sincerely yours,

Anthony V. Nanni,

Chief, Trial Section, Antitrust Division.

July 30, 1982.

Re *United States* v. *The Stroh Brewery Company,* Civil Number 82-1059 (Pratt) (D.D.C.).

Mr. James Davenport,
216 Ballard Avenue,
Barbourville, Kentucky 40906.

Dear Mr. Davenport: This letter is the response of the United States to your written comment of May 3, 1982, on the proposed Final Judgment in *United States* v. *The Stroh Brewery Company.* You are concerned about ensuring the delivery of Stroh beer to the state of Kentucky in the event a trustee is appointed to accomplish the mandated divestiture.

We understand that the Stroh Brewing Company presently ships beer into Kentucky from its Detroit, Michigan plant, which would not be subject to divestiture. There is nothing in the proposed Final Judgment which would restrict the delivery of Stroh beer into Kentucky. If anything, Stroh's acquisition of the Schlitz plants should assist Stroh in expanding its sales in that marketing area.

Thank you for bringing your concerns regarding this matter to our attention. We appreciate receiving the benefit of your views.

Sincerely yours,

Anthony V. Nanni,

Chief, Trial Section, Antitrust Division.

[FR Doc. 82-23513 Filed 9-15-82; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

W. F. Merchant Pharmaceutical Co., Inc.; Denial of Application

On July 16, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to W. F. Merchant Pharmaceutical Co., Inc., 3704 Otis Street (Rear), Mt. Rainier, Maryland 20712. The Order to Show Cause proposed to deny the firm's application for renewal of its DEA Certificate of Registration PW0177178 as a distributor of controlled substances listed in Schedules III, IIIN, IV and V. The Order was predicated upon the apparent continuing relationship with the firm of Martin A. Bramson, a person who had been convicted of controlled substance related felony offenses, and further reasons which were set forth in the Acting Administrator's Final Order relating to another of this firm's registrations; see 47 FR 26475, published on June 18, 1982.

W. F. Merchant Pharmaceutical Co., Inc. failed to respond to the Order to Show Cause and, pursuant to the provisions of 21 CFR 1301.54, has waived its right to a hearing on any and all issues raised by the Order. After reviewing the record of this proceeding as it now appears, the Acting Administrator finds that the facts set forth or incorporated by reference in the Order to Show Cause stand unrebutted. For the same reasons as set forth in the June 18, 1982 Final Order, the Acting Administrator concludes that the continued registration of this applicant would not be consistent with the public interest.

Accordingly, pursuant to the authority vested in the Attorney General by Section 303 of the Controlled Substances Act [21 U.S.C. 823], as redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator orders that the application of W. F. Merchant Pharmaceutical Co., Inc., be, and it hereby is, denied, effective October 18, 1982.

Dated: September 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82-25484 Filed 9-15-82; 8:45 am]
BILLING CODE 4410-09-M

Agency Forms Under Review

September 13, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chaper 35) since the last list was published. The list has all the entries grouped into new forms, revisions, extensions, or revisions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents are available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

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. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202-633-4312.

Revision

- Immigration and Naturalization Service, Department of Justice

Arrival-Departure Record, I-94
On occasion
Individuals or households
Nonimmigrant aliens entering or departing the United States: 15,000,000 responses; 1,250,000 hours; not applicable under 3504(h).
Andy Uscher—395-4814

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 82-25380 Filed 9-15-82; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

Funds for Local Public and Private Non-Profit Agencies in North Dakota, South Dakota, and Wyoming

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

SUBJECT: Announcement of availability of financial assistance to pursue the goals of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDPA).

This announcement does not constitute a "major" rule, as defined by Executive Order 12291, because it does not result in: (a) an effect on the economy of $100 million or more, (b) a major increase in any costs of prices, (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Pursuant to Section 223(d) of the JJDPA, the Administrator is endeavoring to make funds available to local public and private non-profit agencies in states which do not receive JJDPA formula grants. The Office will make awards, totalling $225,000 in North Dakota, $175,000 in South Dakota, and $225,000 in Wyoming to eligible agencies for projects designed to carry-out the purposes of subsections 223(a)(12)(A), 223(a)(13), or 223(a)(14) of the JJDPA.

Section 23(a)(12)(A) provides that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such non-offenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities.

Section 223(a)(13) provides that juveniles alleged to be or found to be delinquent not be detained or confined in any institution in which they have regular contact with incarcerated adults.

Section 223(a)(14) provides that, juveniles shall not be detained in any jail or lock-up for adults, except in low population density areas where juveniles accused of serious crimes against persons may be held, subject to Section 223(a)(13) for up to 48 hours if no suitable alternative is available.

Awards will be made on a competitive basis within each state based on specified selection criteria.

Applications for these funds must be postmarked by October 25, 1982.

Agencies interested in applying for these funds should obtain a copy of the detailed program announcement as well as direct any inquiries regarding this program to Paul Steiner, Juvenile Justice Specialist, Formula Grants and Technical Assistance Division, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 724-5914.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-25472 Filed 9-15-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL CAPITAL PLANNING COMMISSION

Environmental Policies and Procedures: Proposed Amendment

AGENCY: National Capital Planning Commission.

ACTION: Notice of proposed amendment.

SUMMARY: The proposed amendment sets forth criteria to be applied by the Executive Director of the Commission to determine whether an environmental assessment should be prepared for a proposed Federal element or amendment of the Comprehensive Plan of the National Capital. The Commission's current Environmental Policies and Procedures (44 FR 64923-64928, November 8, 1979) require an environmental assessment to be prepared for the adoption or amendment of each Federal element of the Comprehensive Plan. Experience with elements of the Comprehensive Plan adopted to date indicates that several of the elements or policies contained therein are either not capable of environmental analysis or are not appropriate for environmental documentation at this stage because they are too general, only advisory in nature, or too speculative to be identified as proposals for major federal action. Therefore, the proposed amendment will eliminate unnecessary documentation by identifying only those Comprehensive Plan elements or amendments for which an environmental assessment should be prepared.

DATE: Comments must be received on or before October 18, 1982.

ADDRESS: Comments should be mailed to: Daniel H. Shear, Secretary to the Commission, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576, (202) 724-0206.

FOR FURTHER INFORMATION CONTACT: Ronald E. Wilson, Environmental/Energy Office, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576, (202) 724-0182.

Section 7 of the National Capital Planning Commission's Environmental Policies and Procedures is amended by adding a new clause (4) to read as follows:

(4) Adopt a Federal element of the *Comprehensive Plan* or amendment thereto pursuant to Section 4(e) of the *Planning Act* if the *Executive Director* determines that such element or amendment:

(a) Involves a significant cumulative effect on the environment that will not be assessed in connection with a later Commission action for which an environmental assessment is normally required by this section;

(b) Contains provisions having the force of law; and

(c) Contains a degree of specificity that is capable of environmental analysis.

Daniel H. Shear,

Secretary to the Commission.

[FR Doc. 82-25509 Filed 9-15-82; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Oversight Subcommittee for the Metallurgy Program; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Ad Hoc Oversight Subcommittee for the Metallurgy Program, Advisory Committee for Materials Research
Date and time: October 7, 8, 1982—9:00 am-5:00 pm each day
Place: Room 421, National Science Foundation, 1800 G. Street, N.W., Washinton, D.C. 20550
Type of meeting: Closed

Contact person: Dr. Ben A. Wilcox, Head, Metallurgy, Polymers, and Ceramics Section, Division of Materials Research, Room 411, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-9789.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metallurgy.
Agenda:

Thursday, October 7, 1982—9:00 am to 5:00 pm—closed

Review and comparison of declined proposals (and supporting documentation) with successful awards under the Metallurgy Program, including review of peer review materials and other privileged material.

Friday, October 8, 1982—9:00 am to 5:am—Closed

9:00 am—Further discussions of declined. proposals and awards.
12:00 noon—lunch.
1:00 pm—Preparation of report on Subcommittee findings and recommendations.
Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P. L. 92-463. The Committee Mangement Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
September 13, 1982.
[FR Doc. 82-25530 Filed 9-15-82; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Physics; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics.
Date and time: October 7-9, 1982; 9:00 a.m.-5:00 p.m., each day.
Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550. Room 540 each day.
Type of Meeting: Open.
Contact person: Dr. Margrete S. Klein, Staff Associate, Division of Physics, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7611.
Summary of minutes: May be obtained from Dr. Margrete S. Klein, Division of physics, National Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Purpose of committee: To provide advice and recommendations concerning support for research in physics.
Agenda:

October 7, 1982, 9:00 a.m.-5:00 p.m.

Oversight review of NSF support of nuclear science, including the report of the Subcommittee for Review of NSF Nuclear Science Programs

October 8, 1982, 9:00 a.m.-5:00 p.m.

Discussions of FY 1983 budget; major projects in nuclear science; balance of allocations to Physics Division Programs; review of the Institute for Theoretical Physics.

October 9, 1982, 9:00 a.m.-5:00 p.m.

Continuation of discussions of previous two days.

M. Rebecca Winkler,
Committee Management Coordinator.
September 13, 1982.
[FR Doc. 82-25531 Filed 9-15-82; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular, and Molecular Biology Subpanel on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cell Biology, of the Advisory Panel for Physiology, Cellular, and Molecular Biology
Date and time: October 13, 14, and 15, 1982; 9:00 a.m. to 5:00 p.m. each day
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, DC 20550
Type of meeting: Closed
Contact person: Dr. Jack Pate, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington, DC 20550. Telephone: 202/357-7474
Purpose of subpanel: To provide advice and recommendations concerning support for research in Cell Biology
Agency: To review and evaluate research proposals as part of the selection process of awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979

M. R. Winkler,
Committee Management Coordinator.
September 13, 1982.
[FR Doc. 82-25533 Filed 9-15-82; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cellular Physiology of the Advisory Panel for Physiological, Cellular and Molecular Biology
Date and time: October 6, 7, and 8, 1982—8:30 a.m. to 5 p.m. each day
Place: Room 523, National Science Foundation, 1800 G St., NW, Washington, DC 20550
Type of meeting: Closed
Contact person: Dr. Barbara K. Zain, Assistant Program Director, Cellular Physiology Program (202) 357-7377, Room 332, National Science Foundation, Washington, DC 20550
Purpose of subpanel: To provide advice and recommendations concerning support for research in Cellular Physiology
Agenda: To review and evaluate research proposals and projects as part of the selection process of awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979

M. Rebecca Winkler,
Committee Management Coordinator.
September 13, 1982.
[FR Doc. 82-25527 Filed 9-15-82; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Subpanel on Developmental Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology
Date and time: October 7, 8, 9, 1982, starting at 9:00 A.M., to 5:00 P.M.
Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed
Contact person: Dr. Susan V. Bryant, Program Director, Developmental Biology Program, Room 332-E, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7989
Purpose of subpanel: To provide advice and recommendations concerning support of research in developmental biology
Agenda: To review and evaluate research proposals as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of a propietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25532 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecology of the Advisory Panel for Environmental Biology.
Date and Time: October 7 & 8, 1982—8:30 a.m. to 5:00 p.m. each day.
Place: Room 1240, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.
Type of meeting: Part Open. Open 10/08/82, 11:00 a.m. to 12:00 noon. Closed 10/07/82, 8:30 a.m. to 5:00 p.m. and 10/08/82, 8:30 a.m. to 11:00 a.m. and 1:00 p.m. to 5:00 p.m.
Contact person: Dr. Gary W. Barrett, Program Director, Ecology (202) 357-9734, Room 1140, National Science Foundation, Washington, D.C. 20550.
Purpose of meeting: To provide advice and recommendations concerning support for research in ecology.
Agenda: Closed: To review and evaluate research proposals and projects as part of the selection process of awards. Open: 10/08/82, 11:00 a.m. to 12:00 noon. Discussion to include long-range planning in ecology.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25528 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Ecosystem Studies; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Ecosystem Studies of the Advisory Panel for Environmental Biology.
Date and time: October 7 & 8, 1982—8:30 a.m. to 5:00 p.m. each day.
Place: Room 1140, National Science Foundation, 1800 G St., N.W., Wahington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr Robert G. Woodmansee, Program Director, Ecosystem Studies (202) 357-9596, Room 1140, National Science Foundation, Washington, D.C. 20550.
Purpose of meeting: To provide advice and recommendations concerning support for research in ecosystem studies.
Agenda: To review and evaluate research proposals and projects as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25529 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory panel for Physiology, Cellular and Molecular Biology.
Date and time: October 14-16, 1982 9:00 AM-5:30 PM
Place: Room 523, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. DeLill Nasser, program Director, Genetic Biology Program, Room 329. National Science Foundation, Washington, D.C. 20550, telephone (202)357-9687.
Purpose of subpanel: To provide advice and recommendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Panel Management Coordinator.

September 13, 1982.

[FR Doc. 82-25535 Filed 915-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Neurobiology Group "C" Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behaviroal and Neural Sciencies
Date and time: October 14 and 15, 1982: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed
Contact person: Dr. Michael Oberdorfer, Staff Associate, Sensory Physiology and Perception Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7428

Purpose of panel: To provide advice and recommendations concerning support for research in developmental neurosciences.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salares; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25534 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Population Biology and Physiological Ecology; meeting

In accordance with the Fedral Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Population Biology and Physiological Ecology of the Advisory Panel for Environmental Biology.

Date and time: October 14 & 15, 1982—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550

Type of meeting: Part Open. Open 10/15/82, 11:00 a.m. to 12:00 noon. Closed 10/14/82, 8:30 a.m. to 5:00 p.m. and 10/15/82, 8:30 a.m. to 11:00 a.m. and 1:00 p.m. to 5:00 p.m.

Contact person: Dr. Robert Cook, Program Director, Population Biology and Physiological Ecology (202) 357-9728, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of meeting: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: Closed: To review and evaluate research proposals and projects as part of the selection process of awards. Open: 10/15, 11:00 a.m. to 12:00 noon. Discussion to include long-range planning in population biology and physiological ecology.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25536 Filed 9-15-82; 8:45am]

BILLING CODE 7555-01-M

Subpanel on Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Regulatory Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology

Date and time: October 4, 5, 6, 1982 (8:30 a.m. to 5:00 p.m.)

Place: Conference Room 338, National Science Foundation; 1800 G Street, NW; Washington, DC 20550

Type of meeting: Closed

Contact person: Dr. Bruce L. Umminger, Program Director, Regulatory Biology, Room 332, National Science Foundation, Washington, DC 20550, Telephone 202/357-7975

Purpose of subpanel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25525 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Systematic Biology of the Advisory Panel for Environmental Biology.

Date and time: October 4 and 5, 1982—8:30 a.m. to 5:00 p.m. each day. October 6, 1982—8:30 a.m. to 1:00 p.m.

Place: Room 1141, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of meeting: Part Open. Open 10/06/82, 11:00 a.m. to 12:00 noon. Closed 10/04/82, 10/05/82, 8:30 a.m. to 5:00 p.m. and 10/06/82, 8:30 a.m. to 11:00 a.m.

Contact person: Dr. Wallace E. LaBerge, Program Director, Systematic Biology (202) 357-9588, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Closed: To review and evaluate research proposals and projects as part of the selection process of awards. Open: 10/06/82, 11:00 a.m. to 12:00 noon. Discussion to include long-range planning in Systematic Biology.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 13, 1982.

[FR Doc. 82-25528 Filed 9-15-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment modifies the ANO-1 TSs to allow the extension of Cycle 5 from 435±10 Effective Full Power Days (EFPD) to 455±10 EFPD and operation from 400±10 EFPD to end of cycle with the Axial Power Shaping Rods fully inserted.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated July 15, 1982, (2) Amendment No. 68 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of September 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-25487 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co. and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment removes the accuracy requirement for control rod position indication for modes 3, 4 and 5.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 11, 1982, as supplemented June 16 and August 18, 1982, (2) Amendment No. 57 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of September, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

FR Doc. 82-25488 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment permits operation in Modes 2 and 3 with one Safety Injection pump inoperable for seven days beginning when the Unit enters Mode 3 during startup from the 1982 refueling outage. In addition, the previous footnote to Specification 3.5.2 added under Amendment No. 55 has been deleted as it is no longer valid.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 7, 1982, (2) Amendment No. 58 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th of September, 1982.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-25489 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-58, and Amendment No. 42 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to reflect installation or replacement of specified containment isolation valves to promote improved operation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 13, 1982, (2) Amendment Nos. 59 and 42 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Maude Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of September 1982.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-25490 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-58, and Amendment No. 43 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to reflect installation of a new Radiation Monitoring System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 20, 1982, (2) Amendment Nos. 60 and 43 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of September, 1982.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-25491 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Exemption

I

The Nebraska Public Power District (the licensee) is the holder of Facility Operating License No. DPR-46 (the licensee) which authorizes operation of the Cooper Nuclear Station located in Nemaha County, Nebraska, at steady state reactor core power levels not in excess of 2381 megawatts thermal (rated power). 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 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975; each licensee was requested to review the extent to which each facility met the requirements.

On September 10, 1975 the licensee submitted its evaluation for the Cooper Nuclear Station. The submittal was supplemented by a letter on October 30, 1978. These submittals requested an exemption from the requirements of Appendix J pertaining to the containment airlock door testing interval and the test pressure. Since the licensee submitted its request, Section III.D.2 of Appendix J has been revised, effective October 22, 1980. The revised rule required testing of the air locks as follows:

1. Every six months at a pressure of not less than Pa (and after periods when the airlock is opened and containment integrity is not required).

2. Within three days of opening (or every three days during periods of

frequent opening) when containment integrity is required, at a pressure of Pa or at a reduced pressure as stated in the Technical Specifications.

The evaluation performed by our contractor, Franklin Research Center, concluded that the licensee's exemption request was not in conformance with the regulation and, therefore, was unacceptable. However, subsequent discussions with the licensee regarding test methodology and additional evaluation by us of airlock degradation causal factors and operating history have resulted in a reevaluation of our position. The staff agrees with the licensee that without this exemption from the Appendix J requirements, the plant would have to be shut down and the equipment hatch opened in order to install a strongback on the inner airlock door to perform the test, and subsequent door and hatch openings to remove it. This would result in an outage of several days for the licensee, the cost of replacement power to the public, and could subject operating personnel to additional radiation exposures. In addition, the additional openings of the equipment hatch and airlock provide additional opportunities for inadvertent seal degradation.

As a result, the staff has reevaluated the six-month test requirement and has developed a revised position which is believed to meet the objectives of Appendix J requirements for containment airlock door tests. This revised position still requires the containment airlock to be tested at six-month intervals at a pressure of Pa in accordance with Appendix J, except that this test interval may be extended up to the next refueling outage (up to a maximum interval between Pa tests of 24 months) if there have been no airlock openings since the last successful test at Pa. The intent of the Appendix J requirement is to assure that the airlock door seal integrity is maintained and no degradation has occurred as a result of opening of the airlock doors between testing intervals at Pa. Since there is an inadequate basis to conclude that no airlock seal degradation occurs if the airlock doors have not been opened between extended testing intervals at Pa, we believe that a reduced pressure test or testing between seals every six months should be performed to assure that the airlock door seal integrity is maintained between the extended testing intervals at Pa. We believe this position satisfies the objectives of the requirements. The licensee will be requested to propose appropriate modifications to the Technical Specifications.

Therefore, the exemption from the airlock testing frequency requirement of Appendix J requested by the licensee should be granted provided the licensee complies with the staff's revised position on airlock testing.

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 following exemption request:

Exemption is granted from the requirements of Section III.D.2 of Appendix J pertaining to the test frequency for conducting Type B tests at six-months intervals at a test pressure of not less than Pa. The test interval may be extended to the next refueling outage, but in no case shall exceed 24 months from the last test at Pa, provided that there have been no airlock openings since the last successful test at Pa. A reduced pressure test or testing between seals every six months shall be performed to assure that airlock door seal integrity is maintained between extended testing intervals at Pa.

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 3rd day of September 1982.

For the Nuclear Regulatory Commission

Robert A. Purple,

Acting Director Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-25492 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 57 and 51 to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Appendix A Technical Specifications to permit waiving the turbine stop and governor valve testing at the end of cycle.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 6, 1982, (2) Amendment Nos. 57 and 51 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of September, 1982.

For the Nuclear Regulatory Commission.

R. A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-25493 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[General License (10 CFR 40.22)]

Orian Chemical Co.; Order To Show Cause and Order Temporarily Suspending License Effective Immediately

I

Orian Chemical Company, 3853 North Sherwood Drive, Provo, Utah 84604 (the "licensee") is the holder of a general license granted by the Nuclear Regulatory Commission (the

"Commission") pursuant to 10 CFR 40.22. The general license authorizes the use or transfer of not more than 15 pounds of source material at one time and the receipt of not more than 150 pounds of source material in any one calendar year.

II

The results of an inspection of the licensee's premises at Orem, Utah, conducted on August 23, 1982 by a representative of the NRC Region IV Office, indicated that the licensee had conducted licensed activities in violation of Commission requirements as enumerated below:

1. 10 CFR 40.22(a) grants a general license authorizing commercial and industrial firms to use and transfer not more than 15 pounds of source material at one time.

Contrary to this authorization, the licensee had more than 15 pounds of source material at one time during August 1982.

2. 10 CFR 40.62(b) requires each licensee to make available to the Commission for inspection, upon reasonable notice, records of transfer of licensed material kept pursuant to the regulations in Title 10, Code of Federal Regulations.

Contrary to this requirement, on August 23, 1982, the licensee refused to make available to an NRC inspector those records of transfer of source material that 10 CFR 40.61(a) requires to be maintained.

3. 10 CFR 40.22 grants a general license authorizing commercial and industrial firms to use and transfer small quantities of source material. Disposal of source material is to be made by transfer pursuant to 10 CFR 40.51.

Contrary to those requirements, the inspector observed contamination in areas outside of the licensee's business premises that apparently resulted from unauthorized disposal of compounds containing depleted uranium.

4. 10 CFR 40.61(a) requires, in part, that each person who receives source material shall keep records showing the receipt of such material.

Contrary to this requirement, such records of receipt were incomplete at the time of the inspection on August 23, 1982.

III

The violations enumerated in section II of this Order indicate a careless disregard by the licensee of Commission requirements. Violations 3 and 4 were identified during a previous inspection on November 2, 1979, and were the subject of a Notice of Violation dated July 22, 1980. These earlier violations were also discussed between the licensee and Mr. Jerry Everett of NRC Region IV Office on December 11, 1979, at which time the licensee agreed to cease unauthorized disposal and to decontaminate areas outside of the licensee's laboratory within 30 days. In further discussion on July 17, 1980 between the licensee and Mr. W. E. Vetter of the NRC Region IV Office, the licensee reaffirmed its commitment to cease unauthorized disposal of source material and agreed to decontaminate an area adjacent to the licensee's facility and to ensure maintenance of required records. Despite these commitments the violation recurred.

Moreover, the licensee's handling of more than 15 pounds of source material at any one time and the licensee's refusal to honor an NRC inspector's reasonable request for inspection of records required to be kept by the NRC also reflect the licensee's careless disregard for compliance with NRC requirements. Accordingly, the Director of the Office of Inspection and Enforcement has determined pursuant to 10 CFR 2.202(f) that, in view of the willful nature of the licensee's violations, the licensee's authorization to receive and use source material under the general license should be suspended, effective immediately, pending further order.

IV

In view of the foregoing, pursuant to sections 62, 63, 161b, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 40, it is hereby ordered that:

A. Effective immediately, the licensee shall not receive or use source material, except as permitted in Condition B below;

B. Effective immediately, the licensee shall place all source material in its possession in locked storage or transfer such material to a person authorized to receive the material;

C. Effective immediately, the licensee shall make available within 24 hours of receipt of this order all records required to be kept in accordance with the general license for inspection by NRC inspectors; and

D. The licensee shall show cause, in the manner hereinafter provided, why its authorization under the general license in 10 CFR Part 40 to receive and use source material should not remain permanently suspended.

V

The Licensee may, within twenty-five days of the date of this Order, show cause by filing a written answer to this Order under oath or affirmation. The licensee may also request a hearing within the said twenty-five day period. Any answer to this order or request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the answer or request for hearing shall also be sent to the Executive Legal Director, USNRC, Washington. D.C. 20555. Any answer to this Order shall specifically admit or deny each alleged violation described in Section II above, and may set forth the matters of fact and law upon which the licensee relies. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. An answer or request for hearing shall not stay the temporary effectiveness of this order.

In the event a hearing is held, the issues to be considered at such a hearing shall be:

A. Whether the licensee was in violation of the Commission's regulations and the conditions of its general license as specified in section II, and

B. Whether the Order should be sustained.

Dated at Bethesda, Maryland, this 3rd day of September 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-25494 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric & Gas Co., Philadelphia Electric Co., Delmarva Power & Light Co., and Atlantic City Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-70 and Amendment No. 11 to Facility Operating License No. 75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments modify the Technical Specifications pertaining to administrative controls, specifically,

composition of shift crews, overtime limitations and qualifications of a shift technical advisor.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 23, 1981, (2) Amendment Nos. 46 and 11 to License Nos. DPR-70 and DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of September, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-25495 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 21-00215-04 EA 82-51]

University of Michigan; Order Imposing a Civil Penalty

I

The University of Michigan, Ann Arbor, Michigan 48109 (the "licensee") is the holder of Byproduct Material License No. 21-00215-04 (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to conduct medical research, diagnosis, and therapy. The license was issued on February 15, 1957 and has an expiration date of November 30, 1982.

II

A special inspection was conducted at the University of Michigan on January 20, 1982, and February 2 and 3, 1982. This inspection was conducted to review the unplanned release of iodine-131 to an unrestricted area in excess of 10 CFR Part 20 limits. As a result of this inspection, a Notice of Violation was served upon the licensee by letter dated April 12, 1982 which identified two apparent items of noncompliance, including the inadequate evaluation of radiation hazards and the release of iodine-131 in concentrations in excess of Part 20 limits. Based on these findings, it appears the licensee has not conducted its activities in full compliance with the Commission's requirements.

A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated April 12, 1982. This Notice stated the nature of the violations, the provisions of the Commission's regulations which had been violated, and the proposed amount of civil penalty. Answers to the Notice of Violation and Proposed Imposition of Civil Penalties were received from the licensee on May 24, 1982.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for remission, mitigation or cancellation contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for Violation A as designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, PL 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of One Thousand Five Hundred Dollars within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

IV

The licensee may, within thirty days of the date of this Order, request a hearing. A request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, DC 20555. A copy of the hearing request shall be sent to the Executive Legal Director, USNRC, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

a. Whether the licensee violated a Commission regulation as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties dated April 12, 1982; and

b. Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland this 9th day of September 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix.—Evaluations and Conclusions

For each item of noncompliance and associated civil penalty identified in the Notice of Violation (dated April 12, 1982) the original item of noncompliance is restated, pertinent statements in the licensee's response are stated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response (dated May 19, 1982) to each item is presented.

Violation A.—Statement of Noncompliance

10 CFR 20.201(b) requires that each licensee shall make or cause to be made such surveys as may be necessary for the licensee to comply with the regulations in this part. Section 20.201(a) defines "survey" as an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials and equipment, and measurements of radioactive material present.

Contrary to the above, the licensee failed to make an adequate evaluation of the concentration of iodine-131 that was released to an unrestricted area

from a hood in the nuclear pharmacy. Specifically, although the production of ^{131}I-iodocholesterol (NP-59) was started in 1975 and the procedure had been repeated at two-week intervals until February 3, 1982, no measurements were made until February 3, 1982 of airborne concentrations of iodine-131 released to an unrestricted area.

This is a Severity Level III violation (Supplement IV) (Civil Penalty—$1,500).

Pertinent Statements in Licensee's Response

The licensee's response stated:

a. The University of Michigan does not dispute the mathematical facts as cited in the Notice of Violation nor in the Inspection Report. However, we do not agree with some of the conclusions drawn.

b. Your Inspection Report states on page 5, "Dr. Ice, at the time of approval, was a Nuclear Pharmacist and Certified Health Physicist. Based solely upon Dr. Ice's professional experience and verbal assurance that no I-131 would be released, the Committee approved the protocol and required no monitoring for airborne I-131. Considering the volatility of iodine compounds . . . measurements of release concentrations would have been appropriate."

c. In fact, there was written documentation in the 1975 application for radioisotope procurement by Mr. James Carey, Radiation Health Physicist, for the clinical protocol of Dr. William Beierwaltes, Chief of Nuclear Medicine. That application states "The radiochemical, chemical, and radionuclide purity of the compound has been established for the compound during animal studies. The product is stable as formulated.

d. It was from this written record, at the time of the initial evaluation in 1975 by Radiation Control Service, that the conclusion was drawn that the chemical compound was in fact stable and not volatile.

Evaluation of Licensee's Response

In its response, the licensee stated that it had relied upon the technical determination that the NP-59 compound was stable in concluding that further evaluation of iodine-131 releases was not necessary. That determination was based upon a statement in the 1975 application by James Carey, the licensee's Radiation Health Physicist, for procurement of the radioisotope to be used pursuant to the clinical protocol of Dr. Willian Beierwaltes, the licensee's Chief of Nuclear Medicine. The application stated, "The radiochemical, chemical and radionuclide purity of the compound has been established for the compound during animal studies. The *product* is stable *as formulated*." (Emphasis added.) The licensee also denies the allegation in the Inspection Report that it relied solely on the opinion of Dr. Rodney Ice that no radionuclides would be released in concluding that no effluent monitoring be done. Finally, the licensee states that during the first two years the effluent concentrations were within regulatory limits, as was acknowleged in the Inspection Report, thus justifying the decision not to conduct effluent monitoring.

The 1975 application by Mr. Carey, referring to the *"product"* (emphasis added), concerns the clinical use of NP-59 for adrenal cortex imaging. That application refers to the end product and does not address the formulation process, the volatility of NP-59 precursors, nor health physics considerations during production. Consequently, the licensee's reliance upon the stability of the NP-59 compound was misplaced.

The licensee's reliance on Dr. Ice's professional opinion in deciding to omit effluent monitoring was evidenced by statements by licensee representative during the February 1982 special inspection, and by the following statement in an internal memorandum of the licensee:

When installation of the laminar flow hood was initially proposed, Dr. Rodney Ice represented that no radioactive material would be released to the atmosphere from operations conducted in it. Based on this representation, routine effluent monitoring was not conducted. Memorandum, Solari to Beierwaltes, January 13, 1982.

Finally, the satisfactory effluent emissions for the first two years of operation were, as the Inspection Report noted, due to use of smaller quantities of radioactive materials in those years. The facts indicate that for an extended period, seven years, the licensee was not conducting sufficient surveys to meet the requirements of 10 CFR 20.201(b), and that for the last five of those years there were excessive emissions of radioactivity.

It must be noted that licensee personnel were aware of the survey deficiencies and the possibility of iodine-131 releases as early as October 1981. Nonetheless, no monitoring was conducted during October 1981, or during NP-59 synthesizing runs on November 3 and 17 and December 7 and 16, 1981. No work-area monitoring was conducted until January 11, 1982, and actual exhaust monitoring was not conducted until February 3, 1982, during the course of the special inspection. Good health physics practice, considering the volatility of iodine-labeled compounds in general, and the large quantities of iodine-131 used by the licensee (up to 375.0 millicuries per synthesis), would dictate the use of air monitoring to adequately evaluate the radiation hazards incident to the production and use of NP-59.

In its response to the Notice of Violation and Proposed Imposition of Civil Penalty, the licensee protested application of the NRC Enforcement Policy, 47 FR 9987 (March 9, 1982) in this case. The licensee stated that under NRC Manual Chapters MC 0535 and 0800, which guided NRC's enforcement activities prior to October 7, 1980 (when the Interim Enforcement Policy, a preliminary version of the current Enforcement Policy, was published in the **Federal Register**), it is unlikely that there would have been any penalties imposed. The licensee states in effect that NRC inspections on April 10-13, 1978 and June 19, 1979 should have detected the violations. Therefore, the violations should be treated as they would have been in 1978 and 1979.

The licensee cannot exonerate itself by citing NRC's failure to observe the violation at an earlier date. The function of NRC inspections is to *audit* a licensee's compliance with the Commission's requirements. It is the licensee's responsibility to assure compliance with regulatory requirements, and the licensee cannot rely upon the NRC to achieve this end. In addition, the violation continued in existence for an extended period after the Interim Enforcement Policy was published. Therefore, even if the period of noncompliance were to be bifurcated, and the period of noncompliance prior to October 7, 1980 is not considered for penalty, there remains a period of over one year of noncompliance for which a civil penalty is appropriate under the Interim Enforcement Policy. (Application of the Interim Enforcement Policy does not lead to a significantly different result than would the later Enforcement Policy. This was acknowledged in the licensee's response.)

The licensee further states that the violations cited in the April 12, 1982 Notice met the NRC's criteria for *not* issuing a Notice of Violation. Reference was made to criteria contained in Part IV(A), of the Enforcement Policy, 47 FR 9987, 9991 (March 9, 1982). For this case, the critical criterion in the Enforcement Policy, Part IV(A) concerning non-issuance of a Notice of Violation, is the severity level of the violations in question here. The licensee argues that

no Severity Level III violation occurred and consequently a Notice of Violation should not have been issued. We disagree.

Failure to survey as required in Part 20 of the NRC regulations must be seen as "cause for significant concern," Enforcement Policy, 47 FR 9987, 9990 (March 9, 1982), thereby meeting the fundamental characteristic of a Severity Level III violation. This is because failure to survey can lead to emissions or exposures that exceed regulatory limits, as happened here. That the release here was only moderately in excess of regulatory limits is fortunate from a health and safety perspective, but fortuitous. Failure to monitor emissions over a seven-year period could obviously have had much more serious consequences. *See* Paragraph C.4. of Supplement IV of the Enforcement Policy, 47 FR 9994 (March 9, 1982), where "Substantial *potential* for an exposure or release in excess of 10 CFR Part 20 whether or not such exposure or release occurs" (emphasis added) is given as an example of a Severity Level III violation. Therefore, under the NRC Enforcement Policy, the noncompliance at issue was properly characterized as a Severity Level III violation, and the issuance of a Notice of Violation was appropriate.

Conclusion

We conclude that Violation A occurred as stated in the Notice of Violation and Proposed Imposition of Civil Penalty issued on April 12, 1982. The licensee's response has not stated a basis for mitigation or remission of the civil penalty proposed therein.

Violation B.—Statement of Noncompliance

10 CFR 20.106(a) requires that the licensee shall not possess, use, or transfer licensed material so as to release to an unrestricted area radioactive material in concentrations which exceed the limits specified in Appendix B, Table II of 10 CFR Part 20. The concentrations may be averaged over a period not greater than one year.

Contrary to the above, the licensee's bi-weekly production of ^{131}I-iodocholesterol (NP-59) resulted in releases of iodine-131 to unrestricted areas that were slightly in excess of the maximum permissible concentration.

This is a Severity Level III violation (Supplement IV) (Civil Penalty—$500).

Pertinent Statements in Licensee's Response

The licensee's response stated:

a. While we do not dispute the accuracy of the data collected and summarized in the Inspection Report, we have severe objections to their use as raw data to support the conclusions of the Inspection Report.

b. For an individual to be exposed to this 1.87-fold MPC (maximum permissible concentration), that person would have to have been magically suspended precisely in mid-plume, 18 feet above the ground at the edge of the building, for a period of one year with his nose at the outlet on the wall of the building.

c. The air sampler used was physically located within the hood exhaust ductwork, about 18 inches in from the wall, and not at the physical point of release. Thus, any air sample taken at that location will *overestimate* the actual release since some radioactivity will impact on the fan housing, the inside of the exhaust louvers . . . without actually being released from the exhaust system. . . .

d. Annual exhaust concentrations do not exceed applicable limits when employing a 10-foot extension (hemispherical bubble) of the restricted area outside the exhaust duct. It was pointed out during the enforcement conference on February 18, 1982 that the concentration limits of Part 20 must be met at the point of discharge (vent) unless otherwise authorized by specific license condition.

Evaluation of Licensee Response

The licensee points out that the emission release was from a point 18 feet above the ground, more than 10 feet from any air conditioners or other air intake, and consequently it was unlikely that any individual would be exposed to emissions in excess of regulatory limits. The licensee goes on to set forth what are, in effect, preposterous assumptions which would need to be fulfilled to conclude that any individual was exposed to releases exceeding the maximum permissible concentration of radioactivity.

The licensee proposes to evaluate the emission concentration based upon the assumption of a 10-foot "bubble" around the point of discharge. At this 10-foot bubble boundary, concertrations are claimed to be within regulatory limits. The response refers to the licensee's February 15, 1982 report for the supporting computations.

The licensee also states that the air sampler used in the inspection was within the hood exhaust ductwork, about 18 inches in from the wall, and not at the actural point of release. This is stated to result in an overestimate of the release of radioactivity, since some radioactivity would "impact" the inside of the louvers, the fan housing "and other items without actually being released from the exhaust system to any point outside the building."

It is not NRC's contention that any individual was or may have been exposed to iodine-131 concentrations in excess of applicable limits. The item of noncompliance addresses the *release* of radioactive material to an unrestricted area in concentrations which exceeded the limits specified in the regulations. The location of the exhaust vent makes the 10-foot bubble concept relevant to an assessment of the health and safety implications of the emissions. These were minor. However, the 10-foot bubble was not a restricted zone and was not controlled as such. Consequently it does not establish the point at which emission concentrations must be evaluated in determining whether or not the violation occurred. The correct point is the point of discharge into an unrestricted area.

The determination of monitoring point locations and actual sampling and counting (quantifications) were performed by licensee representatives using licensee equipment. The licensee has not presented any quantitative information to support its assertion that released iodine-131 concentrations were less than stated in the Notice of Violation or did not exceed regulatory limits. Therefore, we accept as fact those numbers (concentrations) submitted by the licensee.

It should be noted that the item of noncompliance is based on a single-run sampling conducted on February 3, 1982 which utilized 116.5 millicuries of NP-59 stock solution. The average quantity used per run from 1977 through 1981 was 131.28 millicuries, with single runs as high as 375.0 millicuries. The 1.87 MPC concentrations may actually underestimate average releases since 1977.

Conclusion

The licensee has not demonstrated that Violation B did not occur as stated. However, the licensee's response does lead to the conclusion that although the emissions exceeded regulatory limits, the emissions were not of significant health and safety concern. Accordingly, this violation has been recategorized to Severity Level IV, and the proposed penalty of $500 is remitted.

[FR Doc. 82-25496 Filed 9-15-82; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of

a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 048-4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.38, "Nondestructive Assay of High-Enrichment Uranium Fuel Plates by Gamma Ray Spectrometry." The guide is being developed to describe features of a gamma ray spectrometry system acceptable to the NRC staff for nondestructive assay of high-enrichment uranium fuel plates or fuel plate core compacts. This nondestructive assay is used in the inventory of special nuclear materials required by the Commission's regulations.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by November 18, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 10th day of September 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-25497 Filed 9-15-82; 8:45 am]

BILLING CODE 7590-01-M

Guidelines for the Preparation of Emergency Operating Procedures: Resolution of Comments on NUREG-0799; Availability of NUGEG-0899

AGENCY: Nulclear Regulatory Commission.

ACTION: Notice of Availability of NUREG-0899, "Guidelines for the Preparation of Emergency Operating Procedures: Resolution of Comments on NUREG-0799".

SUMMARY: On July 2, 1981, the Nuclear Regulatory Commission's Office of Nuclear Reactor Regulation requested public comments on NUREG-0799, "Draft Criteria for the Preparation of Emergency Operating Procedures" [46 FR 34735]. This document provided detailed human factors guidance to the industry on preparation of emergency operating procedures (EOPs). A period of 45 days was allowed for receipt of public comments; the comment period expired on August 17, 1981. Based upon the large number of comments received expressing concern over the prescriptive nature of NUREG-0799, and as a result of substantial industry progress in the development of programs for upgrading EOPs, the staff revised its approach to allow for greater industry participation in the development of guidance.

NUGEG-0899, which represents resolution of comments on NUREG-0799, was published in August, 1982. NUGEG-0899 identifies the elements necessary to prepare and implement EOPs that will assist the operator in mitigating the consequences of a broad range of initiating events and multiple equipment failures. NUREG-0899 provides general guidance and objectives for upgrading EOPs and supersedes NUGEG-0799. The guidance in NUREG-0899 will be used by the NRC in evaluating whether applicants and licensees meet the requirements for EOPs as specified in Title 10 *Code of Federal Regulations* (CFR), Part 50.34(b)(6)(ii). It does not replace the requirements in 10 CFR 50.34(b)(6)(ii), and compliance is not required. However, the use of guidance different from that presented in NUREG-0899 will be acceptable only if it provides a basis for determining that the requirements of 10 CFR 50.34(b)(6)(ii) have been met.

NUREG-documents are available for public inspection and copying for a fee in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. Copies of NUREG documents may be obtained from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regualtory Commission, Washington DC 20555 and the National Technical Information Service, Springfield, VA 22161. For further information contact Brent Clayton, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555. Telephone (301) 492-7843.

Dated at Bethesda, Maryland, this 10th day of September 1982.

Dennis L. Ziemann,

Chief, Procedures and Test Review Branch, Division of Human Factors Safety.

[FR Doc. 82-25498 Filed 9-15-82; 8:45 a.m.]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Additional Articles Being Considered For Possible Temporary Duty Modification.

Correction

In FR Doc. 82-25027, appearing at page 40284, in the issue of Monday, September 13, 1982, make the following changes:

On page 40285, in the Annex, the second entry in the first column should read "121.62".

BILLING CODE 1505-01-M

[Docket No. 301-24]

Tanners' Council of America, Inc.; Announcement of Hearing on Proposed Action

Pursuant to sections 304(b)(1) and 125(f) of the Trade Act of 1974, as amended, the United States Trade Representative (USTR) by this notice

requests interested parties to present their views on a proposed recommendation to the President concerning termination of a 1979 agreement between the United States and Argentina regarding exports of cattle hides (TIAS9976). This recommendation is made in response to a petition filed under section 301 of the Trade Act of 1974, (19 U.S.C. 2411) on October 9, 1981, on behalf of the Tanners' Council of America, Inc. (see 46 FR 59353).

Under section 301(a) of the Trade Act of 1974, the President is required to take all appropriate and feasible action within his power to obtain the elimination of any act, policy or practice of a foreign government which is determined to be unjustifiable, unreasonable or discriminatory and which burdens or restricts U.S. commerce. The U.S. Trade Representative, after considering the advice of the interagency section 301 Committee, has decided to advise the President to promptly terminate the 1979 United States/Argentine agreement concerning exports of cattle hides.

Because the 1979 agreement contained provisions regarding import duties, the USTR is considering recommending that the President increase the import duty on bovine leather (TSUS 121.61) from 1 percent to 5 percent, which is the level at which it would be but for the agreement; and to retain the import duty on corned beef (TSUS 107.48) at its current level of 3 percent for one year after the date of such termination, at which time that duty would be restored to the pre-agreement level of 7.5 percent.

A hearing has been scheduled for Wednesday, October 6, 1982 at 9:30 a.m. in Room 403, the Winder Building, 600 17th Street, N.W. Washington, D.C. to allow interested parties to submit their views on this proposed recommendation, to submit suggestions for other recommendations, and to comment on any other aspect of this case.

Requests to testify orally should be received no later than September 29, 1982 and shall conform to the requirements of § 2006.9 of Title 15 of the Code of Federal Regulations. The brief accompanying such oral testimony should be submitted no later than October 1, 1982 and should conform to the requirements of 15 CFR 2006.8(b).

Those interested parties who do not wish to testify orally but who wish to submit written written briefs must do so no later than October 5, 1982. Those briefs must meet the requirements of 15 CFR 2006.8(b).

Rebuttal briefs must conform to the requirements of 15 CFR 2006.8(c) and must be submitted no later than October 13, 1982.

All requests and written briefs should be sent to the attention of the Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street, N.W., Washington, D.C. 20506.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 82-25485 Filed 9-15-82; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12649; 812-5248]

Municipal Fund for Temporary Investment; Filing of an Application

September 9, 1982.

Notice is hereby given that Municipal Fund for Temporary Investment ("Applicant") Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, DE 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, managment investment company, filed an appplication on July 19, 1982, seeking an order of the Commission, pursuant to Section 6(c) of the Act, to amend a previous order of the Commission by including in that order a new series, designated "InterMuni-Fund," proposed to be offered by Applicant, which order exempted Applicant from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire rights ("Standby Commitments") to sell portfolio securities to brokers or dealers and from the provisions of Section 2(a)(41) of the Act anf Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit it to value Standby Commitments acquired from banks, brokers or dealers in the manner described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

According to the application, Applicant is organized as a trust under Pennsylvania law and presently offers units of beneficial interest ("shares") in one investment portfolio designated "MuniFund." MuniFund's investment objective is to provide as high a level of current interest income exempt from Federal income taxes as is consistent with relative stability of principal. MuniFund seeks to maintain a $1.00 constant net assed value per share and a relatively stable daily divided rate by keeping its average weighted portfolio maturity under 120 days, by excluding realized and unrealized gains and losses from dividends, and by calculating its net asset value per share by using the amortized cost method of portfolio valuation. Applicant states that pursuant to an order received from the Commission (Investment Company Act Release No. 11867, July 21, 1981), it is exempt from Section 12(d)(3) of the Act to the extent necessary to permit it to acquire, on behalf of its MuniFund portfolio, rights to sell its portfolio securities to brokers or dealers and is exempt from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extend necessary to permit it to value such rights in the manner described in its application for such order (the "Prior Order").

Applicant states that it now proposes to issue a second series of shares in a separate investment portfolio, designated "InterMuni-Fund." According to the application, InterMuni-Fund's investment objective is to provide institutional investors with a high level of current income which is exempt from Federal income taxes while maintaining a price for its shares which is less volatile than the price fluctuations normally associated with a portfolio consisting principally of longer-term (more than three years) tax exempt obligations. The net asset value of InterMuni-Fund's shares will fluctuate as the value of its portfolio changes in response to changing market rates of interest and other factors. Applicant states that InterMuni-Fund intends to meet its investment objective by investing substantially all of its assets in tax-exempt obligations by investing substantially all of its assets in tax-exempt obligations. During defensive periods or when suitable tax-exempt obligations are unavailable, it may hold univested cash reserves. Applicant further states that InterMuni-Fund does not seek profits through short-term trading but intends to hold its portfolio securities to maturity.

Applicant states that InterMuni-Fund is designed to meet the cash requirements of its institutional investors by providing for the payment of redemption proceeds the first business day following reciept of the redemption order. According to the application, the maturities of short-term tax-exempt obligations are not negotiable. Applicant states that although InterMuni-Fund intends to hold its portfolio securities to maturity, the maturity dates of available obligations are sufficiently infrequent that Inter-Muni Fund cannot rely from day-to-day on scheduled maturities to meet net redemptions. In order to maintain its

redemption policy, InterMuni-Fund must obtain the cash needed to meet net redemptions within one business day after receipt of a redemption request and such cash must be obtained from maturing portfolio securites or settlements arranged within one business day on sales of securities. Applicant asserts that regular settlement is five business days. Unless prior arrangements assuring immediate liquidity have been made, the negotiation on one-day settlements on sales of portfolio securities within the brief time available is frequently impossible or may require InterMuni-Fund to receive a less favorable execution price on the sale even though the securities sold have a short remaining maturity (e.g., less than 30 days). Other investment techniques used by taxable "money-market" funds to obtain liquidity are not as freely available to InterMuni-Fund because they are prohibitively expensive (borrowing) or would produce taxable income (repurchase agreements) in contravention of InterMuni-Fund's investment objectives.

Applicant states that the requested amendment to the Prior Order will enable Applicant to adopt policies for InterMuni-Fund which would assure settlements on its portfolio securities within one business day and would thereby facilitate the payment of redemption proceeds in federal funds on the first business day following receipt of a redemption order.

Applicant proposes to improve InterMuni-Fund's portfolio liquidity by adopting policies for InterMuni-Fund similar to those described for its MuniFund portfolio in the Prior Order permitting the acquisition of Standby Commitments. A Standby Commitment is a right of a fund, when it purchases a municipal bond from a broker, dealer or other financial institution, to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price. Standby Commitments are also known as "puts." Applicant states that InterMuni-Fund's investment policies will permit the acquisition of Standby Commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a Standby Commitment will not affect the valuation or assumed maturity of InterMuni-Fund's underlying portfolio securities. Under the Prior Order, Applicant agreed that Standby Commitments would not become exerciseable by it until the period commencing 60 days prior to the maturity of the underlying security. Such undertaking is not made with respect to InterMuni-Fund series.

Applicant states that the Standby Commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) Applicant's rights to exercise them will be unconditional and unqualified; (3) they will be entered into only with dealers, banks and broker-dealers who in the investment adviser's opinion present a minimal risk of default; (4) although Standby Commitments will not be transferable, municipal securities purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (5) the exercise price of a Standby Commitment will be (i) the acquisition cost of the municipal securities which are subject to the commitment (excluding any accrued interest which InterMuni-Fund paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period InterMuni-Fund owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by InterMuni-Fund.

According to the application, Applicant expects that Standby Commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary or advisable, Applicant states that it will pay for Standby Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding Standby Commitments held in its InterMuni-Fund portfolio will not exceed ½ of 1 percent of the value of InterMuni-Fund's total assets calculated immediately after any Standby Commitments is acquired.

As stated in the application, it is difficult to evaluate the likelihood of use or the potential benefit to InterMuni-Fund of a Standby Commitment. Therefore, Applicant states that its trustees will determine that Standby Commitments held by InterMuni-Fund have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. Where Applicant has paid for a Standby Commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that although the exercise price of a Standby Commitment may be higher than the value of the underlying security, Applicant believes that valuing InterMuni-Fund's Standby Commitment at zero would be appropriate since Applicant expects that it would refrain from exercising the commitments to avoid imposing a loss on a dealer and jeopardizing the business relationship. Such valuation procedures may conflict with Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act.

In relevant part, Section 2(a)(41) of the Act defines value to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security, and no principal underwriter thereof, shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of tender of the security. Rule 2a-4 under the Act provides, in relevant part, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made in accordance with the provisions of the rule and that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker or dealer.

Applicant requests an amendment to its Prior Order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act

and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value the Standby Commitments held in its InterMuni-Fund portfolio as proposed, and an amendment to its Prior Order exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit InterMuni-Fund to acquire Standby Commitments from brokers or dealers.

Applicant asserts that the requested relief is appropriate, is in the public interest, and is consistent with the protection of investors. Applicant submits that the proposed acquisition of Standby Commitments will not affect the calculation of InterMuni-Fund's net asset value per share and will not pose new investment risks, but rather will improve InterMuni-Fund's liquidity and ability to pay redemption roceeds in federal funds on the first business day following receipt of an order. In addition, Applicant submits that its reliance upon the credit of dealers, banks and brokers from which it purchases commitments will be secured to the extent of the value of the underlying municipal securities which are subject to the commitment.

Applicant asserts that the risk of a broker or dealer failing to settle under a Standby Commitment is not qualitatively different from the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Moreover, Applicant represents that its investment adviser intends to evaluate periodically the credit of institutions issuing Standby Commitments. For that reason and in light of the fact that Standby Commitments will not be ascribed value for purposes of determining Applicant's net asset value, Applicant asserts that the acquisition of such commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25563 Filed 9-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12651; 812-5259]

New York Tax-Free Trust; Filing of Application

September 9, 1982.

Notice is hereby given that New York Tax-Free Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 29, 1982, and an amendment thereto on August 17, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it is a "money market" fund organized as a Massachusetts business trust and that Federated Asset Management Corp., a wholly-owned subsidiary of Federated Investors, Inc., serves as investment adviser to Applicant. It further states that Applicant is designed as an investment vehicle for assets held by banks and other institutions on behalf of individuals, trusts, estates or partnerships. Applicant's investment objective is to provide current income exempt from Federal income taxes and personal income taxes imposed by New York State and municipalities consistent with stability of principal. Its portfolio may be invested in a diversified portfolio of New York Municipal Securities—obligations issued by or on behalf of New York State, its political subdivisions or agencies or debt obligations or any other State, a Territory or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia, the interest from which is, in the opinion of bond counsel for the issuers or pursuant to Federal law, exempt from Federal income taxes and personal income taxes imposed by New York State and New York municipalities ("New York Municipal Securities").

Except for temporary investments for defensive purposes, all of Applicant's investment assets will consist of New York Municipal Securities, and cash. Applicant will invest only in New York Municipal Securities, including industrial revenue bonds (a) which were originally issued for a term of more than one year, if at the time of purchase there is one year or less remaining to maturity, and the securities are rated within the two highest rating for Municipal Securities by Moody's Investors Services ("Moody's")—Aaa or Aa—or by Standard & Poor's Corporation, Inc. ("S&P")—AAA or AA; or (b) which at the time of purchase carry a guarantee by the United States Government as to the payment or principal and interest, such as tax-exempt project notes; or (c) which were originally issued for a term of one year or less and which are at the time or purchase (1) rated within Moody's short-term mumicipal obligations highest rating of MIG or S&P highest municipal commerical paper rating of A1, or (2) unrated (where the issuer has not sought such a rating) if the board of trustees determines prior to the purchase thereof that such New York Municipal Securities are of "high quality."

Applicant may purchase and sell short-term New York Municipal Securities on a when-issued or delayed delivery basis. Some of the New York Municipal Securities purchased by Applicant may carry variable interest rates ("Variable rate Munis"). Applicant states that may Variable Rate Munis which it may purchase are subject to payment of principal on demand by Applicant (usually in not more than five business days). The application states that certain dealers have indicated a willingness to sell Variable Rate Munis to Applicant accompanied by a

commitment ("standby commitments") of such dealer to repurchase the securities, at Applicant's option, prior to maturity at the amortized cost thereof. Applicant states that standby commitments would not be used to protect against changes in the market value of the securities to which they are attached but would only be used to help provide liquidity for Applicant. Standby commitments, however would not be intended to be used by Applicant until it has received an exemptive order from the Commission under the Act. Upon purchase by applicant of variable rate or floating note obligations or foward delivery obligations, the maturities of such obligations will be determined in accordance with the procedures set forth in proposed Rule 2a-7 under the Act, or if the Rule should ultimately be adopted, in accordance with the procedures set forth in the Rule as adopted.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that Rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant states that experience indicates that two features are necessary in a "money market" fund: (1) Certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term money market instruments valued at amortized cost it can provide these features to investors. Applicant represents that its board of trustees ("the Board") has determined in good faith under the provisions of the Act to value the portfolio of Applicant by use of the amortized cost method and that this method is in the best interest of its shareholders. Applicant further represents that: (1) its Board has determined in good faith, in light of the characteristics of Applicant, that the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market based valuation method, and (2) its Board has further determined to monitor continuously the valuaton indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors. Accordingly, Applicant requests exemptions from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the entent necessary to permit its assets to be valued as set forth in the application and as described above, whether or not market quotations are available.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of person, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board will promptly consider what action, if any, should be initiated by the Board.

(c) Where the Board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimate of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

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average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Rel. No. 12650; 812-5070]

OTF Equities, Inc.; Filing of an Application

September 9, 1982.

Notice is hereby given that OTF Equities, Inc. ("Applicant") 1450 Buhl Building, Detroit, Michigan, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on December 31, 1981, and amendments thereto on May 3, 1982, May 27, 1982, and August 9, 1982, requesting an order of the Commission pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act a proposed exchange of shares of Applicant's stock for shares of stock of Comp-U-Check, Inc. ("Comp-U-Check"), a Michigan corporation, owned by David T. Marantette, David T. Marantette, III, and Laura F. Marantette ("the Marantettes"). As a result of the proposed transaction, Applicant's holdings would increase from 4.792% to 51.78% of the total outstanding shares of Comp-U-Check, and the Marantettes' holdings would increase from 41.488% to 81.395% of the total outstanding shares of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

According to the application, Applicant was organized under Delaware law in November, 1967, and until March, 1975, was known as Ocean Technology Fund, Inc. From its inception through March, 1975, Applicant was an open-end, non-diversified management investment company. Since March, 1975, Applicant has been a closed-end, non-diversified management investment company. Since July, 1980, Applicant has also engaged in the business of providing computer services and investment research to a single broker-dealer client, Wm. C. Roney & Co, in Detroit, Michigan.

David T. Marantette is a director of Applicant, and the father of David T. Marantette, III. David T. Marantette, III is a former Director and former President of Applicant. He is presently employed as a registered representative and branch manager of Wm. C. Roney & Co. Mr. Marantette is also the Chairman and Chief Executive Officer of Comp-U-Check. Laura F. Marantette is the wife of David T. Marantette, III, and daughter-in-law of David T. Marantette.

The application states that as of April 15, 1982, David T. Marantette owned 27,721 shares (13.85%) of Applicant's common stock, David T. Marantette, III, owned 21,691 shares (10.84%) of Applicant's stock, and Mrs. Marantette owned 17,207 shares (8.60%) of Applicant's common stock. David T. Marantette, III, and his wife jointly own, and Mr. Marantette owns as custodian for his children 10,500 (5.25%) and 5,909 (2.95%) shares of Applicant's common stock, respectively.

The application states that Comp-U-Check is a corporation organized under the laws of Michigan in November, 1967, and engaged primarily in servicing retail and other businesses by the guarantee, verification and collection of bad checks written by their customers. Applicant owns 18,000, or 4.792%, of the total outstanding shares of Comp-U-Check stock. As of April 15, 1982, the Marantettes' owned 176,499 shares of the common stock of Comp-U-Check, representing 46.99% of the 375,624 shares outstanding.

According to the application, in 1980 Applicant's Board of Directors determined that it would be in the best interest of Applicant and its shareholders for Applicant to become engaged in business activities other than those of an investment company. Accordingly, in July, 1980 Applicant's shareholders voted to, among other things, authorize Applicant to take action resulting in the Applicant's having less than 40% of its total assets invested in investment securities. Applicant states that the proposed exchange of stock is designed to accomplish this objective. After the proposed exchange of stock, Comp-U-Check would be a "majority-owned subsidiary" or Applicant as that term is defined in Section 2(a)(24) of the Act. Thus, the shares of Comp-U-Check owned by Applicant would not be "investment securities" as that term is defined in Section 3(a)(3) of the Act. As

a result, after the exchange, the investment securities owned by Applicant will have a value of less than 40% of the value of Applicant's total assets. After the exchange of stock, Applicant intends to apply to the Commission for an order pursuant to Section 8(f) of the Act declaring that Applicant's registration as an investment company is no longer in effect. It is represented that certain other methods of deregistration have been considered by the Applicant.

The terms of the proposed exchange of stock, as set forth in the original application, are as follows: Applicant will issue 397,121 shares of its stock to the Marantettes in exchange for the Marantettes' 176,499 shares of Comp-U-Check Stock, pursuant to a stock purchase agreement dated December 30, 1981.[1] The application represents that all costs and expenses of the proposed exchange of shares shall be paid for by the Applicant and that it is estimated those costs and expenses will be approximately $50,000. After the consummation of the proposed exchange, the Marantettes, with the other Marantette family members, would hold 81.395% of the outstanding voting securities of Applicant, and Applicant would hold 51.78% of the outstanding voting securities of Comp-U-Check.

According to the application, Applicant, Applicant's shareholders, and the Marantettes will not recognize any gain or loss, for federal tax purposes, relating to the exchange of stock. Applicant's management, after the exchange of stock, intends to follow a strategy that it believes will preclude Applicant from satisfying the income test of personal holding company status under the federal tax law. In the event that Applicant is treated as a personal holding company for tax purposes, it intends to make appropriate distributions of its personal holding company income in order to avoid a penalty tax.

Section 17(a) of the Act, in pertinent part, makes it unlawful for any affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, knowingly to sell any security or other property to, or knowingly purchase any security or other property from, such registered company. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act. The application states that the Marantettes are each "affiliated persons" of the Applicant as that term is defined by Section 2(a)(3) of the Act.

The application asserts that the terms of the proposed transaction are fair and reasonable and do not involve overreaching. Applicant states that, based on the quoted bid and asked prices over the last three years for the Applicant and Comp-U-Check,[2] the per share net asset value of the Applicant ($3.18 as of April 23, 1982), and the opportunity to obtain a controlling interest in Comp-U-Check, it believes that the exchange ratio is reasonable and fair to Applicant's public shareholders and does not involve overreaching. In addition, Applicant has obtained an investment opinion from The Ohio Company that the exchange of shares is fair, from a financial point of view, to Applicant and to Applicant's stockholders. Applicant anticipates that the proposed exchange of stock will be beneficial to its stockholders other than the Marantettes because: (1) It will allow Applicant to control a successful growing company in an expanding industry, (2) it will increase Applicant's asset base to support Applicant's operations, and thus increased the potential ability of Applicant to acquire other operating companies, and (3) it will enhance Applicant's ability to attract qualified personnel to hasten the development of its present stock trading systems and customer computer investment services.

Applicant represents that the proposed transaction is consistent with its policies as reflected in the changes authorized by vote of its shareholders on July 23, 1980, and in its amended registration statement on file with the Commission. Applicant also represents that, based on its history, its stockholders' determination to change the nature of its business so as to cause Applicant to cease to be an investment company, The Ohio Company's opinion, and its net asset value, it believes that the granting of the requested order of exemption is consistent with the protection of investors and the policies and purposes of the Act.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[1] On May 10, 1982, according to the application, Comp-U-Check stock split 3 shares for 2 shares. While it is alleged that the stock split will have no impact on the substance of the proposed exchange of shares or the present or prospective ownership percentages, the numbers relating to Comp-U-Check shares and the exchange ratio are different than those originally represented in the application. After the stock split: (1) the total number of outstanding shares of Comp-U-Check is 563,436; (2) the total number of shares of Comp-U-Check owned by the Marantettes is 264,749; and (3) the exchange ratio is 1.5. The exchange ratio was originally stated to be 2.25 shares of Applicant's stock for each share of Comp-U-Check.

[2] As of the end of each quarter for the last three fiscal years, Applicant's per share bid price in the over-the-counter market has been $3.50 and the asked price has been $4.50 except for two periods in 1979 when it was $4.25. Comp-U-Check's over-the-counter market bid prices for the same period have ranged from a $1.25, bid price on January 31, 1979, to as low as $.75 bid at October 31, 1979, and up to $8.00 at April 15, 1982. For the same dates the asked price was $1.75, $1.25, and $9.00, respectively. On May 25, 1982, after the stock split, the bid price per share for Comp-U-Check stock was $5.50 and the asked price was $6.50. The application states that Applicant's management attributed a rise in the market value of Comp-U-Check's stock during the last half of 1981 to its continued improvement in earnings and other factors. The application further states that the stock of both Applicant and Comp-U-Check are traded infrequently in the over-the-counter market in the Detroit, Michigan area.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25564 Filed 9-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19042; File No. SR-NASD-82-14]

National Association of Securities Dealers, Inc.; Proposed Rule Change; Self-Regulatory Organizations

Relating to the Definition of Employee in the Fidelity Bonding Rule Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 20, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Proposed paragraph (e) of Appendix C of Article III, Section 32 of the Association's Rules of Fair Practice will define employees for purposes of fidelity bonding as all persons associated with a member except sole proprietors, sole stockholders and directors or trustees who are not performing acts coming within the scope of the usual duties of an officer or employee.

II. Self-Regulatory Organization's Statements regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed new paragraph will expand the definition of "employee" for purposes of fidelity bonding to include co-owners, partners and so-called "independent contractor" registered representatives, thereby increasing the number of persons that must be covered under a member's fidelity bond.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nine comment letters were received in response to publication of the proposed rule change. After due consideration of the comments, the Board of Governors determined that no revisions of the proposed rule were required.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450—5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450—5th Street, NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25562 File 9-15-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 04/B-0029]

First Western SBLC, Inc.; Filing of Application for Eligibility Determination as a Small Business Lending Company

An Application for Eligibility Determination as a Small Business Lending Company has been filed by First Western SBLC, Inc., Commercial Bank Building, 12550 Biscayne Boulevard, North Miami, Florida 33181, with the Small Business Administration pursuant to Section 120.4(b) of the SBA Regulations (13 CFR 120.4(b) (1982)), promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under Subsection (b) mentioned above, the Applicant will be engaged solely in the making of loans to small business concerns, in participation with SBA, and in accordance with applicable SBA Regulations. It will be subject to supervision and examination by the SBA.

The Applicant is incorporated under the laws of the State of Florida and will commence operation with capitalization of $500,000. It intends to initially conduct its operation in the area serviced by SBA's Miami District Office.

The Officers and Directors of the Applicant are:

Name and Title

Fredric M. Rosemore, 19707 Turnberry Way, North Miami Beach, Florida 33180; President and Director

Lance B. Rosemore, 20505 E. Country Club Drive, North Miami Beach, Florida 33180; Executive Vice President and Director

Marion Rosemore, 19707 Turnberry Way, North Miami Beach, Florida 33180; Secretary and Director

Martha R. Greenberg, Box 1177, Russellville, Alabama 35653; Treasurer and Director

The Applicant is a wholly owned subsidiary of Western Capital Corporation, Commercial Bank Building, 12550 Biscayne Boulevard, North Miami, Florida 33181. Western Capital is also the parent of the following two wholly owned subsidiaries, each of which is located at the same address as Western Capital.

(1) Western Financial Capital Corporation, which is licensed by the SBA under the Small Business Investment Act of 1958, as amended; (2) Professional Services Plus, Inc. which provides management and consulting services and acts as a broker for the purchase and sale of health care practices. The holders of ten (10) or more percent of the common stock of the parent are:

Fredric M. Rosemore
Martha Rosemore Greenberg and Sydney Greenberg
Andrew S. Rosemore

Matters involved in SPA's consideration of the Application include the general business reputation and character of managment, and the probability of successful operation of the corporation under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than 15 days from the date of publication of this Notice, submit to SBA written comments on the proposed Applicant and/or its management. Any such communication should be addressed to: Wayne S. Foren, Director, Office of Lender Relations and Certification, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in North Miami, Florida, as well as in the Eastern Regional Edition of the *Wall Street Journal.*

(Catalogue of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Dated: September 3, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-25571 Filed 9-15-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 824]

Bureau of Oceans and International Environmental and Scientific Affairs

AGENCY: State Department.

ACTION: Notice of availability of draft programmatic environmental impact statement.

SUMMARY: The Department has prepared a draft programmatic environmental impact statement (DPEIS) on the possible health implications in the United States associated with herbicide spraying on marijuana in Western Hemisphere countries other than the United States. The purpose of the program under consideration would be to eradicate marijuana cultivation at the source of production. It is anticipated that the eradication action will eliminate or significantly reduce marijuana importation from Western Hemisphere countries to the United States.

The DPEIS reviews alternatives to spraying and alternative herbicides and methods of application, as well as health effects in the U.S. associated with spraying.

Requests for copies of the DPEIS should be addressed to Ms. Irene E. Friedrichs, Office of Environment and Health, Department of State, Room 7820, Washington, D.C. 20520 (202) 632-2311. The formal comment period for the DPEIS ends on October 25, 1982.

Dated: September 10, 1982.

Mary Rose Hughes,

Deputy Assistant Secretary for Environment, Health and Natural Resources.

[FR Doc. 82-25475 Filed 9-15-82; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice 820]

Determination To Authorize Continued Assistance for El Salvador

August 10, 1982.

Pursuant to Sections 728(b), (d) and (e) of the International Security and Development Cooperation Act of 1981, as amended, and the authority delegated to me by the President, I hereby determine that the Government of El Salvador has made good faith efforts since the first certification was made to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders, and has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.

I hereby amend my certification of July 27, 1982, to include this determination.

This determination together with the justification therefor shall be reported to the Congress immediately.

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

George P. Schultz,

Secretary of State.

[FR Doc. 82-25506 Filed 9-15-82; 8:45 am]

BILLING CODE 4710-15-M

State Department Performance Review Board Members

In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95-454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register, and in so doing amends accordingly Department of State Public Notice No. 703 (45 FR 6877-6878, January 30, 1980), effective September 1, 1981.

A. Diane Graham, Assistant Director for Affirmative Employment Programs, Office of Personnel Management;
Kristine M. Marcy, Deputy Director of Budget, Department of Interior;
James N. Purcell, Jr., Deputy Assistant Secretary for Budget and Programs, Bureau for Refugee Programs;
John B. Rhinelander, Attorney, Shaw, Pittman, Potts & Trowbridge;
David H. Small, Assistant Legal Adviser, Office of the Legal Adviser; and
James W. Spain, Foreign Affairs Fellow, Carnegie Endowment for International Peace.

The following names as announced in Department of State Public Notice No. 703 (45 FR 6877-6878, January 30, 1980) and Public Notice No. 754 (46 FR 25746-25747, May 8, 1981) are removed from the Department of State Performance Review Board Register:

Carol Baumann, Deputy Director for Programming, Bureau of Intelligence and Research; and
J. Brian Atwood, Dean of Academic Affairs, Foreign Service Institute.

Dated: September 1, 1982.

Joan M. Clark,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 82-25505 Filed 9-15-82; 8:45 am]

BILLING CODE 4710-15-M

[Public Notice 823]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1982 have been received from the Governments of the People's Republic of Bulgaria, Portugal and Japan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634–7432).

Dated: September 9, 1982.

J. K. Davis,

Acting Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico and Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks.	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Portugal:			
M/V Brites Stern Trawler	PO–82–0018	NWA	2
This joint venture between Portugal and Warren Lund, Lund's Fisheries, 997 Ocean Drive, Cape May, New Jersey 08204 is for the harvesting and processing of 400 metric tons of Illex Squid from August 1, 1982 to December 31, 1982.			
Elisabeth Large Stern Trawler.	PO–82–0015	NWA	1, 2
This joint venture between Portugal and William Quinby, President, Joint Trawlers (North America), Ltd., P.O. Box 1209, Gloucester, Massachusetts 01930 is for the harvesting and processing of 1,000 metric tons of Illex Squid from August 1, 1982 to December 31, 1982.			
Luis Ferreira De Carvalho. 2Stern Trawler	PO–82–0005	NWA	1, 2
This joint venture between Portugal and William Quinby, President, Joint Trawlers (North America), Ltd., P.O. Box 1209, Gloucester, Massachusetts 01930 is for the harvesting and processing of 1,000 metric tons of Illex Squid from August 1, 1982 to December 31, 1982.			
Praia Amelia Stern Trawler	PO–82–0017	NWA	1, 2
Japan:			
Tenyo Maru Large Stern Trawler.	JA–82–0352	BSA, GOA.	1, 2, 3
This is a joint venture between Japan and United States vessels that will be targeting in on Pollock, Pacific Cod and incidental catch. These vessels expect to operate during the earliest month possible in 1982 after reaching agreement with owners/operators of vessels of the United States. Name and address of company within the United States who will be the principal contact with owners/operators of vessels of the United States is the Western Alaska Fisheries Inc., Suite 1210, 1111, 3rd Avenue Bldg., Seattle, Washington 98101.			
Koei Maru No. 28.	JA–82–1561	ABS	1
Bulgaria:			
Kiten	BU–82–0010	WOC	3
This is a support vessel that wishes to enter the USFCZ solely for the purpose of receiving processed fish from four Bulgarian processing vessels, operating pursuant to a joint venture agreement with American fishing vessels. This vessel is expected to make contact with the processing ships on August 20, 1982.			

[FR Doc. 82–25570 Filed 9–15–82; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82–090]

Ship Structure Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ship Structure Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1, section 10(a)(2)).

DATE: October 14, 1982, 9:00 a.m. to 1:00 p.m.

ADDRESS: American Bureau of Shipping, Second Floor Committee Room, 65 Broadway, New York, New York.

FOR FURTHER INFORMATION CONTACT: LCDR D. B. Anderson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters (G–MTH–4), Washington, D.C. 20593, 202–426–2197.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is as follows: To review the business and research projects of the Committee. Various ideas and concepts for the research program for FY 84 will be discussed and developed. Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify LCDR D. B. Anderson, Secretary, Ship Structure Committee, not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: September 8, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82–25542 Filed 9–15–82; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–82–18]

Petitions For Exemption; Summary of Petitions Received, 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), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of

information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 6, 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 CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination 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 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23240	Royale Airlines	14 CFR 135.169(b)(6)	To permit petitioner to operate the Embraer EMB-110 P1 and P2, "Bandierante" airplanes under the provisions of Part 135 at a maximum take-off gross weight of 13,007 pounds, without accomplishing all the modifications required by SFAR 41.
21061	Air Methods, Inc	14 CFR 135.261	Amendment and extension of Exemption No. 3105 to permit petitioner to operate a helicopter in helicopter hospital emergency medical evacuation service without complying with the duty-time limitations.
23268	Aero Union Corp	14 CFR 21.197	To permit petitioner to operate certain aircraft under Part 91 with one engine inoperative for the purpose of ferry flights without obtaining special flight authorization.
23274	Butler Int'l, Inc	14 CFR 91.191(a)(4)	To permit petitioner to operate its Hawker Siddeley HS-125-400A aircraft in extended overwater operations with only one Omega (long range) navigation radio system.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22998	Lockheed-California Company	14 CFR 21.19(b)(1)	To permit petitioner to apply for a supplemental type certification of a design change from three engines to two engines on the Boeing Model 727-200 airplane. *Granted 8/31/82.*
23260	Icelandair, S.A	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate and maintain one U.S.-registered DC-8-63 aircraft, Registration No. N907CL, leased from Capital Air, Inc., using a FAA-approved master minimum equipment list (MMEL). *Granted 8/31/82.*
22567	Altair Airlines, Inc	14 CFR 121.311(f)	Extension of Exemption No. 3481 to permit petitioner to continue operating its aircraft without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements. *Granted 8/30/82.*
12464	Air France	14 CFR Portions of Parts 21 and 91	Amendment of Exemption No. 1690 to permit petitioner to operate six B-747 U.S.-registered aircraft leased from certain American institutions, utilizing a FAA-approved continuous airworthiness maintenance program and the B-747 minimum equipment list. *Granted 8/31/82.*
23214	Cargolux Airlines International, S.A	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate and maintain one U.S.-registered 747-200 aircraft, leased from the Boeing Company, using the FAA-approved MMEL. *Granted 8/26/82.*
23139	Wylie Aircraft Corp	14 CFR 91.31(a)	To permit petitioner to operate its DC-6B cargo aircraft at a 5 percent increase in zero fuel and landing weight. *Granted 8/26/82.*
22896	Liberty Airlines	14 CFR 121.61(a)(2)	To permit Michael D. Simmons, to serve as Director of Operations for petitioner without meeting the 3 years of experience requirements as Director of Operations of an operation using large aircraft, or a position of comparable responsibility. *Withdrawn 8/19/82.*
22997	Consulting Aerospace Engineers, Inc	14 CFR 21.19(b)(1)	To permit petitioner to apply for supplemental type certification of a design change from three Pratt & Whitney JT-8D engines to two Rolls Royce RB211-535C engines on the Boeing Model 727-200 airplane. *Granted 9/1/82.*
23059	Imperial Airlines, Inc	14 CFR 61.31(a)(1)	To allow petitioner's pilots, without possessing the required type rating, to operate its aircraft which have been manufactured in accordance with SFAR 41. *Granted 8/31/82.*
23261	Atlantic Richfield Co	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate four leased B-727 aircraft using an FAA-approved minimum equipment list. *Granted 9/1/82.*
18855	Helicopter Assoc., Int'l	14 CFR Portions of Part 135	Extension of Exemption No. 2695D to permit operations without performing certain aircraft modifications, hiring additional required pilots, and without complying with certain performance, operational, and maintenance requirements. *Granted 8/31/82.*
22775	Space Services, Inc., of America	14 CFR 101.23	Relief from the prohibition of rocket launches within five miles of an airport boundary. The relief would cover the launch of a Conestoga Rocket from Matagorda Island, Texas, in a suborbital test flight of 167 miles high and 279 miles downrange. *Granted 9/1/82.*
23269	Air National, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 DC-9: N1305T. *Granted 9/1/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22437	Trans World Airlines	14 CFR 25.853(b)	To permit the installation of foam material, which does not meet applicable flammability requirements, in bottom cushions of flightcrew seats of B-747 and L-1011 airplanes. The crew seats are for the captain, first officer, and flight engineer positions in the airplanes. *Granted 9/7/82.*

[FR Doc. 82-25386 Filed 9-15-82; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 150—Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on October 6-7, 1982 in Conference Rooms 9A-B-C, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on June 24-25, 1982; (3) Review of Working Group Reports on System Performance Requirements, Altimetry System Errors, and Flight Technical Errors; (4) Working Groups Meet in Separate Sessions; (5) Committee Plenary Session; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., 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 September 7, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-25387 Filed 9-15-82; 8:45 am]
BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-6 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: Low and high altitude en route IFR charts will be reviewed to simplify and improve depiction of information needed for IFR operation in the National Airspace System.

DATE: Beginning October 12, 1982, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 8 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by Ocotber 5, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washingtom, D.C. on September 8, 1982.

L. Lane Speck,

Acting Program Manager, National Airspace Review Advisory Committee.

[FR Doc. 82-25272 Filed 9-15-82; 8:45 am]
BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of control zones, airport traffic areas, and transition areas around airports which would result in the elimination of redundancies and overlaps and to identify a simplified airspace concept.

DATE: Beginning October 4, 1982, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration conference room 6 A/B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by September 27, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on September 7, 1982.

Willard H. Reazin,

Program Manager, NARAC.

[FR Doc. 82-25273 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Draft Supplemental Environmental Impact Statement; Windham and Tolland Counties, Connecticut

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement will be prepared for a proposed highway project in Tolland and Windham Counties, Connecticut.

FOR FURTHER INFORMATION CONTACT: David R. Billings, Environmental Engineer, Federal Highway Administration, 1 Hartford Square West, South Building, Hartford, Connecticut 06106-1989, Telephone (203) 244-2437 or James F. Sullivan, Director, Office of Environmental Planning, Connecticut Department of Transportation, 24 Wolcott Hill Road, Wethersfield, Connecticut 06109, Telephone (203) 566-5704.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Connecticut Department of Transportation, will prepare a supplemental environmental impact statement (SEIS) on a proposal to construct Interstate 84 in Windham and Tolland Counties, Connecticut.

The 1979 FEIS considered the following alternatives: (1) Do Nothing, (2) Improve Existing Facilities, (3) Mass Transit, and (4) Various Expressway Locations. Therefore, the SEIS will not address alternative to the proposed action.

The purpose of the SEIS is to analyze environmental impacts which may occur as a result of changes in the project scope since the FEIS was approved in 1979.

The proposed construction will begin in the vicinity of the existing Interstate 84/Connecticut Route 85 interchange at the Manchester/Bolton town line and will extend easterly 1.5 miles on existing alignment. From this point, the corridor will continue south easterly on new location for 11.1 miles through the towns of Bolton, Coventry and Andover to another completed section of I-84 west of U.S. Route 6 in the town of Windham. From the end of the completed section of I-84 at its junction with Route 6 in Windhand the proposed corridor would continue easterly on new location for a distance of 17.8 mile terminating at Connecticut Route 52 in Killingly. This section of the proposed project traverses the towns of Windham, Scotland, Hampton, Canterbury, Brooklyn, Plainfield and Killingly.

This proposal has an extensive history of coordination with Federal, State, local and regional agencies and organizations. In addition, a series of public hearings concerning traffic, engineering, environmental, social, economic, and land use issues were held in 1972, 1975 and 1981.

Since the full range of issues relating to this project have been identified, scoping meetings are not deemed necessary at this time.

Agencies, organizations and individuals interested in submitting comments or questions on the proposed action should contact the FHWA or Connecticut Department of Transportation at the address provided above before October 1, 1982.

Issued: on September 8, 1982.

James J. Barakos,

Division Administrator, Hartford, Connecticut.

[FR Doc. 82-25335 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. 82-8]

Historic Bridges: Draft Nationwide Section 4(f) Evaluation and Proposed Determination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has prepared and solicits comments on a proposed evaluation for certain federally assisted highway projects affecting bridges which are on or eligible for inclusion on the National Register of Historic Places.

DATE: Comments must be received on or before November 15, 1982.

ADDRESS: To obtain copies of the draft nationwide Section 4(f) evaluation and proposed determination, contact either of the individuals named below. Submit written comments, preferably in triplicate, to Federal Highway Administration, FHWA Docket No. 82-8, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Gatz, Office of Environmental Policy, Room 3232, 202/426-0106; Ms. Deborah Dull, Office of the Chief Counsel, Right-of-Way and Environmental Law Division, Room 4230, 202/426-0791, FHWA, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

DESCRIPTION OF PROPOSED ACTION: The replacement of historic bridges is subject to Section 4(f) of the DOT Act, which provides special protection to historic sites proposed for use by transportation projects. This proposed nationwide determination would assure full compliance with the requirements of Section 4(f) and, at the same time, reduce the administrative delays for necessary projects to replace and/or rehabilitate deficient structures.

This nationwide determination should streamline the environmental processing of highway projects where historic bridges are to be replaced. This streamlining would shorten the required processing time by 3-6 months for each such project. Division Administrators will be able to apply this determination to the replacement of any historic bridge by testing the proposed replacement against applicability, alternatives, and mitigation criteria provided by this nationwide finding. The procedure is completed by documenting in the project file that the above criteria apply to the project.

(49 U.S.C. 1653(f); 23 U.S.C. 138; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provision of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: September 9, 1982.

R. A Barnhart,

Federal Highway Administrator.

[FR Doc. 82-25338 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82-17; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequentiality

General Motors Corp. of Warren, Michigan ("GM" herein), 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 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims for Passenger Cars,* 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.

Approximately 23,428 1982 model Oldsmobile Toronado passenger cars equipped with front bench seats may carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the front seating capacity is two persons when the correct capacity is three, that the occupant capacity is five when actually it is six, and that the total vehicle capacity weight is 920 pounds when it is 1070 pounds.

GM argues that the incorrect seating capacity noncompliance is inconsequential because it is obvious to anyone comparing the tire pacard to the actual front seating accommodations that the placard must be in error. Further, even if the vehicle were loaded with an additional 150 pounds beyond that specified on the placard, its tire load limits would not be exceeded, because the vehicle would be loaded to the design capacity proper for six-passenger Toronados. The error has now been corrected.

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, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will be 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 primarily responsible for this notice are P. L. Moore and Taylor Vinson, respectively.

Comment closing date: October 15, 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 September 8, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-25285 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Availability of the Federal Radionavigation Plan

AGENCY: Department of Transportation (DOT), Research and Special Programs Administration (RSPA).

ACTION: Notice of Availability for Comment.

SUMMARY: The Federal Radionavigation Plan is undergoing its next update process. The Federal Radionavigation Plan is a joint Department of Defense (DOD)/Department of Transportation (DOT) management planning document for those radionavigation systems that are used in common by the military and civil communities. It supports planning, programming, and implementation of air, maritime and terrestial radionavigation systems. The Plan is the official source of common civil/military radionavigation policy and planning for both the DOD and the DOT. It will also contain the joint DOD/DOT recommendation, developed in 1983, on the future radionavigation system mix. This notice invites interested parties to comment on the current version of the Plan which is dated March 1982. All comments which are received by February 1, 1983, will be considered in preparing the revised Federal Radionavigation Plan to be issued in early 1984.

DATE: Comments must be received by February 1, 1983.

ADDRESS: Comments for consideration by the DOT Navigation Working Group should be forwarded to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, 20590. Comments should be submitted in two copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: David Scull, Office of Budget and Programs, Research and Special Programs Administration, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-9520.

SUPPLEMENTARY INFORMATION: A copy of the Federal Radionavigation Plan is available for inspection in the Dockets Branch.

Additionally, copies are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, and only from that source. Stock numbers and prices are as follows:

Vol. 1, ADA 116468, $10.50, Radionavigation Plans and Policies
Vol. 2, ADA 116469, $7.50, Requirements
Vol. 3, ADA 116470, $7.50, Radionavigation System Characteristics
Vol. 4, ADA 116471, $7.50, Radionavigation Research, Engineering and Development

Issued in Washington, D.C. on August 31, 1982.

Howard Dugoff,

Administrator.

[FR Doc. 82-25300 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application To Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the

suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes October 1, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

Application No.	Applicant	Renewal of exemption
868-X	U.S. Department of Defense, Washington, DC.	868
970-X	U.S. Department of Defense, Washington, DC.	970
2708-X	Union Carbide Corporation, Danbury, CT (See Footnote 1).	2708
2913-X	U.S. Department of Energy, Washington, DC.	2913
3128-X	Walter Kidde, Belleville, NJ	3128
3941-X	Pacific Engineering & Production Company of Nevada, Henderson, NV.	3941
4039-X	Airco Industrial Gases, Murray Hill, NJ.	4039
4282-X	Hercules, Incorporated, Wilmington, DE.	4282
4490-X	Air Products and Chemicals, Inc., Allentown, PA.	4490
4707-X	Armstrong Laboratories Inc., West Roxbury, MA.	4607
4612-X	Aldrich Chemical Company, Incorporated, Milwaukee, WI.	4612
4717-X	Union Carbide Corporation, Danbury, CT.	4717
4844-X	BAJ Vickers Ltd., Avon, England.	4844
5315-X	U.S. Department of Defense, Washington, DC.	5315
5403-X	Halliburton Services, Incorporated, Duncan, OK.	5403
5493-X	Montana Sulphur & Chemical Company, Billings, MT.	5493
5704-X	Hercules, Incorporated, Wilmington, DE.	5704
5704-X	Trojan Corporation, Spanish Fork, UT.	5704
5704-X	U.S. Department of Defense, Washington, DC.	5704
5792-X	El Paso Products Company, Odessa, TX.	5792
5959-X	Ethyl Corporation, Baton Rouge, LA.	5959
6334-X	U.S. Department of Defense, Washington, DC.	6334
6442-X	U.S. Department of Defense, Washington, DC.	6442
6530-X	MG Burdett Gas Products Company, Norristown, PA.	6530
6607-X	Bio-Lab, Incorporated, Conyers, GA (See Footnote 2).	6607
6610-X	ARCO Chemical Company, Pasadena, TX.	6610
6611-X	Air Products and Chemicals, Incorporated, Allentown, PA.	6611
6651-X	Enthone, Incorporated, New Haven, CT.	6651
6653-X	Shell Oil Company, Houston, TX.	6653
6668-X	Union Carbide Corporation, Danbury, CT.	6668
6694-X	Eurotainer, Paris, France	6694
6695-X	Eurotainer, Paris, France	6695
6724-X	U.S. Department of Defense, Washington, DC.	6724
6806-X	Transfresh Corporation, Salinas, CA.	6806
6816-X	McDonnell Douglas Astronautics Company, St. Louis, MO.	6816
6844-X	American Cyanamid Company, Wayne, NJ.	6844
6858-X	GCS Container Service SA, Perth Amboy, NJ.	6858
6890-X	U.S. Department of Defense, Washington, DC.	6890
6904-X	Aldrich Chemical Company, Incorporated, Milwaukee, WI.	6904
6932-X	Eurotainer, Paris, France	6932
6944-X	U.S. Department of Defense, Washington, DC.	6944
6971-X	Chem Service, Inc., West Chester, PA.	6971
6984-X	Ireco Chemicals, Salt Lake City, UT.	6984
7005-X	Stolt Tank Containers formerly United Tank, Dallas TX.	7005
7005-X	GCS Container Service SA, Chiasso, Switzerland.	7005
7023-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	7023
7041-X	Ethyl Corporation, Baton Rouge, LA.	7041
7046-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	7046
7060-X	Cheshire Airways, Inc., Keene, NH.	7060
7063-X	Occidental Chemical Corp., Hooker Industrial Spec., Niagara Falls, NY.	7063
7275-X	Express Airways, Inc., Sanford, FL.	7275
7516-X	GCS Container Service SA, Chiasso, Switzerland.	7516
7517-X	Trinity Industries, Inc., Dallas, TX.	7517
7574-X	Remmers-Tomkins Flight Service, Inc., Burlington, IA.	7574
7741-X	Propellant Explosive & Rocket Motors Establishment, Aylesbury, England.	7741
7752-X	Eurotainer, Paris, France	7752
7765-X	Carleton Controls Corporation, East Aurora, NY.	7765
7777-X	Lang Engineering Co., Inc., Rochester, WI.	7777
7778-X	Schenley Distillers, Inc., New York, NY.	7778
7820-X	GCS Container Service SA, Chiasso, Switzerland.	7820
7823-X	Allied Chemical Company, Morristown, NJ.	7823
7897-X	GCS Container Service SA, Chiasso, Switzerland.	7897
7938-X	GCS Container Service SA, Chiasso, Switzerland.	7938
7943-X	Georgia Pacific Corporation, Montebello, CA.	7943
7951-X	Avoset Food Corporation, Oakland, CA.	7951
8002-X	GCS Container Service SA, Chiasso, Switzerland.	8002
8013-X	Air Products and Chemicals, Incorporated, Allentown, PA.	8013
8017-X	Air Products and Chemicals, Incorporated, Allentown, PA.	8017
8053-X	Eastman Kodak Company, Rochester, NY.	8053
8059-X	Acurex Corporation, Mountain View, CA (See Footnote 3).	8059
8067-X	Container Corporation of America, Wilmington, DE.	8067
8079-X	Container Corporation of America, Wilmington, DE.	8079
8084-X	Ireco Chemicals, Salt Lake City, UT.	8084
8091-X	Western Electric Company, Greensboro, NC.	8091
8110-X	GCS Container Service SA, Chiasso, Switzerland.	8110
8111-X	U.S. Department of Energy, Washington, DC.	8111
8144-X	ICI Americas Inc., Wilmington, DE (See Footnote 4).	8144
8156-X	Air Products and Chemicals, Incorporated, Allentown, PA (See Footnote 5).	8156
8225-X	Hoover Universal, Inc., Beatrice, NB (See Footnote 6).	8225
8237-X	Sanders Associates, Inc., Nashua, NH (See Footnote 7).	8237
8271-X	John Brown Engineers and Constructors Ltd., Hampshire, England.	8271
8288-X	Alaska Explosives Limited, Anchorage, AK (See Footnote 8).	8288
8360-X	Graycо Specialist Tank Manufacturing, Fort Worth, TX.	8360
8372-X	GCS Container Service SA, Chiasso, Switzerland.	8372
8378-X	Worthington Diagnostics Systems, Inc., Freehold, NJ.	8378
8431-X	Dow Chemical Company, Midland, MI.	8431
8463-X	Ethyl Corporation, Baton Rouge, LA.	8463
8467-X	ANF-Industrie, Paris, France	8467
8467-X	Societe Auxiliaire de Transports et d'Industries, Paris, France.	8467
8472-X	Ohmart Corporation, Cincinnati, OH.	8472
8473-X	Degussa, Frankfurt, Germany.	8473
8475-X	Chemical & Metal Industries, Inc., Denver, CO.	8475
8477-X	Mobay Chemical Corporation, Pittsburgh, PA.	8477
8489-X	Degussa Corporation, Teterboro, NJ.	8489
8498-X	Hunter Drums Limited, Burlington, Ontario.	8498
8572-X	AMEX, Inc., Hayden Lake, ID.	8572
8691-X	Aluminum Company of America, Palestine, TX (See Footnote 9).	8691
8723-X	Ireco Chemicals, Salt Lake City, UT.	8723

[1] To authorize an additional cargo tank designed by Richmond Lox Equipment for shipment of liquefied hydrogen.

[2] To authorize an additional type packaging configuration for shipment of Trichloro-s-triazinetrione, classed as an oxidizer.

[3] To renew; to authorize hydrogen, methane, natural gas, classed as flammable gases and to modify retest provisions.

[4] To authorize cargo vessel and cargo-only aircraft as additional mode of transportation.

[5] To renew and to authorize an addition DOT Specification 39 cylinder manufactured by Lif-O-Gen for shipment of hydrogen and deuterium.

[6] To authorize cargo vessel as an additional mode of transportation and to add various flammable liquids as additional commodities.

[7] To authorize an additional device containing lithium batteries.

[8] To authorize M/V Island Trader as an additional carrier under the terms of the exemption.

[9] To authorize a PVC coated polyester bag, not to exceed 4,000 pounds as additional container for shipment of aluminum chloride contaminated with phosgene, corrosive solid.

Application	Applicant	Parties to exemption
3128-P	Valcor Engineering Corporation, Springfield, NJ.	3128
3992-P	Ethyl Corporation Baton Rouge, LA.	3992

Application	Applicant	Parties to exemption
4453-P	Ireco Chemicals, Salt Lake City, UT.	4453
4600-P	Great Lakes Chemical Corporation, West Lafayette, IN.	4600
5243-P	Angus Chemical Company, Northbrook, IL.	5243
5778-P	Liquid Air Corporation, Cambridge, MD.	5778
6296-P	Rhone-Poulenc Inc., Monmouth Junction, NJ.	6296
6305-P	Angus Chemical Company, Northbrook, IL.	6305
6434-P	Rhone-Poulenc Inc., Monmouth Junction, NJ.	6434
6563-P	S.L.O. Health Products, Inc., Baywood Park, CA.	6563
6651-P	Mitchell Bradford Chemical Co., Inc., Milford, CT.	6651
6762-P	Chemical Sales Co., Denver, CO.	6762
6762-P	Kellermeyer Chemical Company, Toledo, OH.	6762
6800-P	Petro-Chem Drum Corporation, Houston, TX.	6800
6984-P	Angus Chemical Company, Northbrook, IL.	6984
7060-P	Central Skyport Inc., Columbus, OH.	7060
8129-P	Findly Chemical Disposal, Inc., Riverside, CA.	8129
8390-P	Mircro Image, Inc., Orange, CT.	8390
8390-P	J.T. Baker Chemical Co., Phillipsburg, NJ.	8390
8445-P	Atlantic Coast Environmental, Inc., Dover, DE.	8445
8451-P	Unidynamics/Phoenx, Inc., Phoenix, AZ.	8451
8490-P	Union Carbide Corporation, Danbury, CT.	8490
8526-P	PPG Industries, Inc., Pittsburgh, PA.	8526
8685-P	Nitram, Incorporated, Tampa, FL.	8685
8799-P	Ethyl Corporation, Baton Rouge, LA.	8799

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 8, 1982.

J. R. Grothe,

Chief Exemptions Branch Office of Hazardous Materials Regulation Materials Transportation Bureau.

[FR Doc. 82-25297 Filed 9-15-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes October 18, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8893-N	Trojan Corporation, Salt Lake City, UT	49 CFR 173.119	To authorize shipment of a liquid formulation containing a liquid explosive ingredient described as flammable liquid, n.o.s., in various DOT and non-DOT specification metal drums authorized in DOT-E 5704. (Mode 1.)
8894-N	Process Engineering Inc., Plaistow, NH	49 CFR 173.315(a)	To manufacture, mark and sell non-DOT specification portable tanks of 660 gallon capacity for shipment of liquefied argon, nitrogen and oxygen classed as nonflammable gas. (Mode 1.)
8895-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.353(a)(3)	To authorize shipment of methyl bromide, Class B poison, in DOT Specification 4B, 4BA and 4BW cylinders, equipped with welded-on headbands with protective dome covers in lieu of the required screw-on metal caps. (Modes 1, 2, 3.)
8896-N	Kerrco Inc., Hastings, NE	49 CFR Part 173, Subpart F	To manufacture, mark and sell non-DOT specification 55 gallon polyethylene drums comparable to DOT Specification 34 for shipment of those corrosive liquids presently authorized in DOT Specification 34. (Modes 1, 2.)
8897-N	Kerreo Inc., Hastings, NE	49 CFR Part 173, Subpart F	To manufacture, mark and sell non-DOT Specification 300 gallon polyethylene portable tanks for shipment of those corrosive materials presently authorized in a DOT Specification 34 container and DOT Specification 57 portable tank. (Modes 1, 2.)
8898-N	Petrolane Gas, Inc., Seattle, WA	49 CFR 173.315	To authorize shipment of propane, classed as flammable gas, in non-DOT specification 6,600 gallon capacity steel portable tanks previously authorized under U.S. Coast Guard Special Permit 12-73. (Mode 3.)
8899-N	DIA, Inc., d.b.a. Dauphin Island Airways, Mobile, AL.	49 CFR 172.101, 172.204(e)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of various A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8900-N	Cylinder Technology, Inc., Chanute, KS	49 CFR 173.302(a)	To manufacture, mark and sell non-DOT specification cylinders comparable to DOT Specification 3HT, for shipment of nitrogen, classed as a nonflammable gas. (Modes 1, 2.)
8901-N	Soweco, Inc., Amarillo, TX	49 CFR 173.357	To authorize shipment of chloropierin, Class B poison, in non-DOT specification plastic bottles of up to 1 gallon capacity overpacked in a triple-wall fiberboard box not exceeding 60 pounds gross weight. (Mode 1.)
8902-N	Thiokol Corporation, Elkton, MD	49 CFR 173.92(a)(4), (b)	To authorize shipment of a rocket motor, Class B explosive with igniters installed, in specially designed outside packaging. (Mode 1.)
8903-N	Teledyne McCormick SELPH, Hollinser, CA	49 CFR 172.101	To authorize shipment of a new initiating explosive, Class A, wetted with methanol packed in inside plastic containers overpacked in DOT Specification 5, 5B or 17H drums. (Mode 1.)
8904-N	Keith Huber, Inc., Gulfport, MS	49 CFR 173.119(a)(17), 173.245(a) (30) (31), 173.346(a)(12), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations and certain other features for transportation of flammable, corrosive or poisonous waste liquids or semi-solids. (Mode 1.)
8905-N	Durotainer S.A., Paris, France	49 CFR 173.119	To authorize shipment of various flammable liquids, n.o.s., in non-DOT specification IMCO Type 5 portable tanks. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8906-N	FMC Corporation, Middleport, NY	49 CFR 173.365	To authorize shipment of empty containers with residual amounts of carbofuran, Poison B, packed in large fiberboard boxes lined with polyethylene, secured on wooden pallets with sealed closed package wrapped with stretch wrap, for disposal, (Mode 1.)
8908-N	Diamond Shamrock Corporation, Irving, TX	49 CFR 173.164	To authorize shipment of chromic acid, classed as an oxidizer, in non-DOT specification 2,000 pound capacity polyethylene lined polypropylene bags. (Mode 1.)
8909-N	Johnson Controls, Inc., Globe Battery Division, Milwaukee, WI.	49 CFR 172.202	To authorize use of shipping papers which deviate from the proper format required for the description of hazardous materials being shipped. (Mode 1.)
8910-N	Canbar Products Limited, Waterloo, Ontario, Canada.	49 CFR Part 173 Subpart F	To authorize use of non-DOT specification 300 gallon polyethylene portable tanks for shipment of those corrosive liquids presently authorized in a DOT Specification 34. (Modes 1, 2.)
8911-N	Olin Corporation, East Alton, IL	49 CFR 173.101	To authorize shipment of small arms ammunition, Class C, loosely packed in closed top wooden crates in trunk load lots, to an incinerator for disposal. (Mode 1.)
8912-N	Schonung, West Germany	49 CFR 178.116-6(a)	To manufacture, mark and sell non-DOT Specification metal drums of triple seam construction similar to DOT Specification 17E except for decrease in head thickness to 1mm for shipment of those commodities presently authorized in 17E drums having 18 gauage heads and 20 gauage body. (Modes 1, 2, 3.)
8913-N	Eurotainer S.A., Paris, France	49 CFR 173.119	To authorize use of non-DOT specification IMCO Type 5 portable tanks for shipment of those flammable liquids presently authorized in DOT Specification IM-101 portable tanks. (Modes 1, 2, 3.)
8914-N	Amerijet International, Fort Lauderdale, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize shipment of various class A, B and C explosives not permitted air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8915-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.301(d), 173.302(a)((3)	To authorize shipment of various flammable and non-flammable compressed gases in DOT Specifications 3A, 3AA, 3AX, 3AAX and 3T cylinders, manifolded and mounted in tube trailer configuration or in an ISO frame on flat-bed trailers. (Mode 1.)
8916-N	Thiokol Corporation, Huntsville, AL	49 CFR 173.92(a)(4), (b)	To authorize shipment of a rocket motor, class B explosive, with igniter installed in specially designed outside packaging. (Mode 1.)
8917-N	Morrison-Knudsen Company, Inc., Burlingame, CA.	49 CFR 173.182	To authorize shipment of ammonium nitrate (prills) classed as an oxidizer, packed in ridig steel containers of twenty-five ton capacity lined with a waterproof polyethylene disposable liner. (Modes 1, 2, 3.)
8918-N	The Protectoseal Company Bensenville, IL	49 CFR 173.119, 178.69	To manufacture, mark and sell non-DOT specification one gallon containers comparable to DOT Specification 5L except they are constructed of stainless steel, for shipment of various flammable liquids. (Mode 1.)
8919-N	Upjohn Company, Kalamazoo, MI	49 CFR Parts 100-199	To ship ethyl alcohol in one ml ampules, not exceeding 50 ml, cushioned and packed in dry ice within a corrugated outside fiberboard box, as a nonregulated material. (Modes 1, 4, 5.)
8920-N	Applied Environments Corporation, Woodland Hills, CA.	49 CFR 173.302(a) (4) 175.3	To manufacture, mark and sell non-DOT specification nonreusable welded steel cylinders comparable to DOT Specification 39 for shipment of various nonflammable gases. (Modes 1, 2, 4.)
8921-N	Hoover Universal, Inc., Betrice, NE	49 CFR Part 173, Subpart F	To manufacture, mark and sell nonreusable, 275-gallon capacity, steel/polyethylene composite portable tanks for shipment of various corrosive liquids. (Modes 1, 2.)
8922-N	PepsiCo, Inc., Purchase, NY	49 CFR Parts 100-199	To ship as essentially non-regulated a flammable liquid consisting of citrus oil and approximately 65 percent food grade ethanol in four one-gallon jars packed in a DOT Specification 12A80 fiberboard box. (Modes 1, 2, 3.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulations Materials Transportation Bureau.

[FR Doc. 82-25298 Filed 9-15-82;8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 424]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of Section 841(d) of Title 18, United States Code, and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco, and Firearms, must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This Chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code.

Accordingly, the following is the 1981 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the **Federal Register** and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is *not* all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in Section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated September 1, 1981 (46 FR 43915).

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.

Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX]
Cycloto.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM
Dipicryl sulfone.
Dipicrylamine.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixture containing oxygen releasing inorganic salts and hydrocarbons
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitro form).
Explosive nitro compounds of aromatice hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders

F

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene-2,4,6,8,-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Minol-2 [40% TNT, 40% ammonium Nitrate, 20% aluminum].
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol (ethylene glycol dinitrate, EGDN)
Nitroguanidine explosives.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [RDX and plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (explosive grade).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.

Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.Styphnic acid.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a-tetrazapentalene].
TATB [triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).

X

Xanthamonas hydrophilic colloid explosive mixture.

FOR FURTHER INFORMATION CONTACT: Explosives Technology Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7087).

Signed: September 8, 1982.

Stephen E. Higgins,

Acting Director.

[FR Doc. 82-25480 Filed 9-15-82; 8:45 am]

BILLING CODE 4810-31-M

VETERANS ADMINISTRATION

Clinical Addition and Alterations, VAMC, Clarksburg, West Virginia; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of a Clinical Addition and Alterations at the Veterans Administration Medical Center (VAMC) at Clarksburg, West Virginia. The project is design and construction of a clinical addition and alterations to existing hospital space. New construction will be a wing addition to the south of the hospital, infill between two existing hospital wings on the east side, and a wing addition to the south end of the west side (front) of the hospital. All this will total approximately 87,000 gsf. Approximately 32,000 gsf of the existing hospital will be renovated.

Development of the project will have impacts on the human and natural environment as it affects the local work force and area traffic through an increase of the equivalent of 213 full time employees. Additionally, construction noise, fumes, dust, odors, and visual impacts will exist during the construction of the project.

Mitigation of onsite traffic and parking will be by new traffic circulation design and application of Veterans Administration parking analysis requirements. Temporary construction impacts will be mitigated by standard Veterans Administration Environmental Protection Specifications and conformance with Federal, State and Local Regulations.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P. E., Director, Environmental Affairs Staff (005B), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C., (202-389-3316). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Staff (005B), 811 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: September 9, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-25381 Filed 9-15-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 180
Thursday, September 16, 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

	Items
Federal Election Commission	1
Federal Home Loan Bank Board	2
Federal Maritime Commission	3
National Transportation Safety Board	4

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, September 21, 1982, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation, Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, September 23, 1982, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C, (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1982-49; Charles A. Muessel, Treasurer, Weicker '82 Committee
Draft AO 1982-51: Dr. Benjamin Ichinose, Treasurer, Hayakawa for U.S. Senate
Procedures for the determination of insolvency and other criteria for termination
Revision of FEC-FCC joint public notice on sponsorship identification and candidate authorization notices
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public information officer; telephone: 202-523-4065.

Marjorie W. Eamons,
Secretary of the Commission.

[S-1326-82 Filed 9-14-82; 3:55 pm]
BILLING CODE 6715-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 40522, September 14, 1982.

PLACE: 1700 G Street, N.W., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the meeting scheduled for September 17, 1982:

Data processing activities of Federal Associations (proposed)

[No. 61. September 14, 1982]

[S-62-1324 Filed 9-14-82; 11:53 am]
BILLING CODE 6720-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., September 22, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to delegated authority.
2. Report on Notation Items disposed of during August 1982.
3. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during August 1982.
4. Report of the Secretary on Applications for Admission to Practice approved during August 1982.
5. Agreements Nos. 7770-23 and 9214-30: Modifications of the North Atlantic French Atlantic Freight Conference Agreement and the North Atlantic Continental Freight Conference Agreement, respectively, to revise the voting procedures on intermodal rate matters.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1327-82 File 9-14-82; 3:55 pm]
BILLING CODE 6730-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-22]

TIME AND DATE: 9 a.m., Wedneseday, September 22, 1982.

PLACE: NTSB Board Room, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first five items will be open to the public; the last three will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Empire Airlines Flight 141, Piper PA-31, N546BA, Ithaca, New York, January 5, 1982.
2. *Highway Accident Report:* Pattison Head Start Center School Van Run-off Bridge and Fire, near Hermanville, Mississippi, December 17, 1981, and proposed recommendation letters.
3. *Recommendation* to the Association of American Railroads regarding removal of D-28 wheels from railroad service.
4. *Recommendation* to the Federal Aviation Administration of flight crew training in general aviation turbojet aircraft.
5. *Aircraft Accident Report:* Sky Train Air, Inc., Gates Learjet 24, N44CJ, Felt, Oklahoma, October 1, 1981.
6. *Opinion and Order:* Petition of Allanson, Dkt. SM-2915; disposition of petitioner's appeal.
7. *Order:* Administrator v. Powell, Dkt. SE-5496; disposition of respondent's motion to dismiss appeal.
8. *Opinion and Order:* Petition of Bergquist, Dkt. SM-2827; disposition of the Administrator's appeal.

[S 82-1325 Filed 9-14-82; 2:06 pm]
BILLING CODE 4910-58-M

federal register

Thursday
September 16, 1982

Part II

Federal Communications Commission

Private Land Mobile Radio Services; Final Rules and Orders Consolidating Proceedings

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket 79-191; RM-3380; PR Docket No. 79-334; RM-3691; PR Docket No. 79-107; PR Docket No. 81-703 FCC 82-338]

Private Land Mobile Radio Services; Amendment of the Commission's Rules To Release Spectrum in Certain MHz Bands and To Adopt Rules and Regulations Which Govern Their Use; and Amendment of the Commission's Rules To Facilitate Authorization of Wide-Area Mobile Radio Communications Systems; and Action Concerning the Multiple Licensing of 800 MHz Radio Systems ("Community Repeaters"); and Amendment of the Commission's Rules To Allow Transmission of Non-Voice Signals at 800 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a Second Report and Order releasing reserved radio spectrum in the 806–821/851–866 MHz bands for Private Land Mobile Radio Service use. The rules adopted provide enhanced flexibility in radio system design and user options. The action is necessary to satisfy land mobile spectrum needs across the country.

EFFECTIVE DATE: Effective October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Albert J. Catalano or Stephanie Spernak, Private Radio Bureau, Washington, D.C. 20554, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land transportation radio services, Private land mobile radio services, Public safety radio services, Radiolocation radio service.

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

Adopted: July 22, 1982.

Released: August 16, 1982.

I. Introduction

1. The 800 MHz spectrum is essential to the future expansion of private land mobile systems. This proceeding concerns release of the remaining frequencies in the 806–821 MHz and 851–866 MHz private land mobile bands, as well as a review of the rules governing the frequencies in these bands. Because so many proceedings have contributed to and become intertwined in the decisions involved in this docket, we believe it will be helpful to set forth their constituent elements and the evolution of the circumstances which lead us to the decisions made herein.

A. Docket No. 18262

2. The present proceeding [2] had its origin in the Commission's determination in Docket No. 18262 to reallocate 115 MHz of spectrum in the 806–947 MHz band to land mobile use.[3] [4]

3. After making the initial allocation decision in its *First Report and Order*, the Commission, in its *Second Report and Order*, decided, in the interest of spectrum efficiency, to depart from its traditional approach of authorizing spectrum to private land mobile service users. Therefore, of the 600 channels in the private land mobile bands, it allocated the first 300 channels according to the type of technology which was to be employed (*i.e.*, the "systems" approach) rather than by the category of user who was to employ the spectrum, which had been the traditional method of private land mobile allocation (*i.e.*, the "block" approach.) [5] The Commission expected the "systems" approach would provide a more effective means of assuring that spectrum was used efficiently, since under this format actual applicant demand was to determine the use of the spectrum.

4. Of the 300 channels, 200 were designated for trunked systems, and 100 for conventional systems.[6] [7] The Commission decided not to release all of the spectrum at once, in consideration of likely user-demand and because the Commission wanted to gain some experience with this new approach before releasing all of the channels.

5. Another motivation for this new regulatory scheme was a desire to speed the development and employment of new private land mobile technologies, especially trunked systems. It was felt that this technology was more efficient than existing conventional technology, in that it enabled greater numbers of mobiles to be accommodated on a given number of channels, particularly if a substantial number of frequency pairs were involved. However, while the Commission felt trunked systems would enable large numbers of small business users to satisfy their communications requirements at 800 MHz, it was concerned that these small business users would not have access to the new trunked technology because of the large sums of money required to build these systems.

6. The Commission determined that its goals of maximizing the use of spectrum through the "systems" approach and through the employment of trunking technology could be accomplished best in a competitive market place environment. To help promote this competition, the Commission created a new entity, the Specialized Mobile Radio System (SMRS) licensee. These SMRS licensees were to be commercial entities who would be eligible in the private services. They would assume the financial risks and obligations of

[1] The titles of the various proceedings that have been consolidated into this document have been shortened for brevity purposes only.

[1a] Commisioner Quello concurring in part.

[2] *Further Notice of Proposed Rule Making*, Docket No. 79–191, 46 FR 37927 (July 23, 1981).

[3] *First Report and Order and Second Notice of Inquiry*, Docket No. 18262, 35 FR 8644 (June 4, 1970).

[4] In the second phase of Docket No. 18262 the Commission allocated 30 MHz of spectrum in the 806–821 MHz and 851–866 MHz bands to private land mobile use. As discussed *infra*, some of the frequencies in these bands were released from 1975 to the present. The Commission also allocated 40 MHz of spectrum (825–845 MHz and 870–890 MHz) for the development of high capacity common carrier mobile communications systems (*i.e.*, cellular systems). Lastly, the Commission held in reserve 45 MHz of spectrum for future land mobile communication needs. *See Second Report and Order*, Docket No. 18262, 46 F.C.C. 2d 752 (1974), *reconsidered, Memorandum Opinion and Order*, Docket No. 18262, 51 F.C.C. 2d 945 (1975).

[5] *Second Report and Order*, Docket No. 18262, *supra, reconsidered, Memorandum Opinion and Order*, Docket No. 18262, *supra*.

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

[7] Under the rules adopted for both trunked and conventional systems, mobile transmitting frequencies are selected from those available in the 806–821 MHz band and base station transmitting frequencies are selected from those allocated in the 851–866 MHz band. There is uniform 25 KHz channeling and the spacing between associated mobile and base station frequencies is 45 MHz. *Second Report and Order*, Docket No. 18262, *supra*, at para. 61.

building the expensive 800 MHz systems and would be authorized to provide communications service to private services eligibles on a for-profit basis.[8] To encourage numerous entities to enter the SMRS market and to prevent radio equipment manufacturers from gaining initial dominance, the Commission limited the authorization of manufacturers to only one trunked system nationwide.[9] [10]

7. With regard to the release of frequencies themselves, under the rules established in Docket No. 18262, applicants, including SMRS operators, were authorized to apply in a given geographic location or "market" for trunked systems in 5, 10, 15 or 20 channel blocks.[11] Applicants could also apply for up to 5 conventional channels in a market area.[12] However, no more than five frequency pairs would be assigned to any person proposing to operate one or more conventional radio systems to provide facilities for use by more than a single entity if there was any overlap of the 40 dBu contours of any stations authorized to that person or to any person or entity in which that person had a direct or indirect interest.[13]

8. To provide a higher quality of service for both trunked and conventional systems than had existed in the private land mobile frequency bands below 800 MHz, fixed maximum mobile station loading and co-channel mileage separation standards were established.[14] [15] To prevent spectrum from lying fallow, the Commission established minimum loading criteria for trunked systems and for the unshared use of conventional channels.[16] [17] [18]

9. Also, a licensee was required to load a system to 90% of its capacity before additional frequencies would be assigned to that licensee in the same market area. Further, the allocation plan provided for channels to be assigned by the Commission rather than selected by the licensee. This was to occur sequentially with conventional channels essentially to be loaded vertically (*i.e.*, one channel at a time).[19] Due to the strict technical standards established in the rules, including co-channel separation, loading requirements and sequential assignment, the Commission believed that frequency coordination was unnecessary. Instead, the Commission assigned the channels.[20] Finally the Commission stated that it would revisit these decisions based on its actual operating experience.[21]

B. Reconsideration of Docket No. 18262

10. After the Commission's 800 MHz approach was adopted as modified on reconsideration, *Memorandum Opinion and Order*, Docket 18262, *supra*, there was uncertainty on the part of some parties as to whether multiple licensing of transmitters would be authorized at 800 MHz.[22] Accordingly, the Commission issued a further order and specifically determined that community repeater operation would be permitted above 800 MHz.[23]

C. Docket No. 79-107

11. Following this decision, some parties expressed their view that multiple licensing of "community repeaters" at 800 MHz was not in the public interest.[24] To collect information on this claim and on other issues regarding community repeater licensing at 800 MHz, the Commission initiated the proceeding in PR Docket No. 79-107.[25] Because the comments received in the proceeding in Docket No. 79-107 bear directly on 800 MHz regulation, we have by separate Order consolidated that proceeding with this one, and are addressing here the issue of community repeater operation at 800 MHz.

D. Docket No. 79-334

12. In 1976, following disposition of the reconsideration of Docket No. 18262 on appeal, the Commission began assigning the original 300 channel pairs. Certain inherent problems immediately became evident. For example, the rules governing licensing and operation of radio systems at 800 MHz were primarily designed for systems operating from a single transmitter site and providing radio service in a circumscribed area defined by a 20 mile radius. However, the needs of some users, such as power companies, law enforcement agencies, and pipe line companies, did not fit the single

[8] For a discussion of the Commission's authority to create such a private carrier, see, *NARUC* v. *FCC*, 525 F. 2d 630 (D.C. Cir. 1976), *cert. denied*,, 425 U.S. 992 (1976).

[9] Radio equipment manufacturer as used in this context means a business engaged in the manufacture of radio frequency ("RF") equipment type accepted to operate in 800 MHz land mobile communication systems.

[10] Originally the Commission decided to limit equipment manufacturers to one trunked system per market with no more than 15 nationwide. *Second Report and Order*, Docket No. 18262, *supra*, at para. 106. However, on reconsideration the Commission lowered the limit on manufacturers to one "model" trunked system nationwide. This was done to assure that the equipment manufacturers did not gain a competitive advantage *ab initio* that would preclude the development of competition in the offering of SMRS service. *Memorandum Opinion and Order*, Docket No. 18262, *supra*, at para. 6.

[11] Within a market, a second group of frequenies for trunked use would not be authorized until the first group of frequencies was loaded. 47 CFR 90.371.

[12] A "market area" was defined as the area around the transmitter site within which the received signal would be 40 dBu or higher. The Commission estimated this to be a 32 km. (20 mi.) radius for an "average" facility. The market concept was not based on a desire to protect an area of operation for the licensee. Its function was to assure that a licensee would not get additional frequencies to serve a given location until it had loaded the channels already authorized.

[13] 47 CFR 90.367.

[14] The maximum loading rules were based on what the Commission believed actual operating conditions would demand. These were considered to be interim loading parameters, which, if necessary, would be modified to conform with the needs of actual operating conditions. *Second Report and Order*, *supra*, at para. 94.

[15] Generally, the separation between co-channel trunked systems is 70 miles; in California certain exceptions exist. For a complete discussion of co-channel mileage separation, see *Second Report and Order*, Docket No. 18262, *supra*, at paras. 74-83, and *Memorandum Opinion and Order*, Docket No. 18262, *supra*, at para. 124.

[16] A licensee of a 5 channel trunked system must build the system within one year and load it to 70% of capacity within 5 years. Licensees of more than 5 channels may elect to build the entire system within a year of licensing, and load it to 70% within 5 years of licensing, or may elect to build it in stages. If the licensee elects to build in stages, the 1st stage (*i.e.*, 5 channels) must be built within one year of licensing and must be loaded to 70% of its five channel capacity within 2 years of licensing. The remaining channels must be built and loaded to 70% of total system capacity within 5 years of licensing.

[17] A licensee will be given exclusive use of a conventional channel if within 8 months of being licensed the licensee has placed in operation 70% of the number of mobiles requested in the license application and that number is 70% of the channel's maximum loading level.

[18] Each application must limit its request for mobile transmitters to those installed immediately after authorization and to those for which purchase orders have been signed and which will be in use 8 months after the date of operation. 47 CFR 90.127.

[19] See § 90.369 of the Commission's Rules for a complete list of criteria used by the Commission in loading a particular channel.

[20] Below 800 MHz the applicant must select the frequency desired and advise the Commission of probable interference to other stations on the frequency. The applicant may do this by an independent field study or through the recommendation of a private frequency coordinating committee as to the frequency with the least probable likelihood of interference. 47 CFR 90.175.

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

[22] Multiple licensing is a practice by which several eligibles apply and are authorized for the use of a single transmitter. Usually, a third party equipment vendor provides the facility to the licensees for a profit. The FCC does not regulate any aspect of the unlicensed third party's activities. Above 800 MHz, some conventional channels are currently utilized in this fashion. For a discussion of multiple licensing, see *Report and Order*, Docket No. 18921, 89 F.C.C. 2d 766 (April 13, 1982), *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, Docket No. 18921, 24 FCC 2d 510 (1970).

[23] *Memorandum Opinion and Order*, Docket No. 18262, 55 FCC 2d 771, 773 (1975).

[24] The term "community repeater" is often used to described a multiple licensed facility.

[25] See *Notice of Inquiry*, PR Docket No. 79-107, FCC 79-283 (May 11, 1979), where the Commission asked for comments on economic issues, spectrum efficiency, user satisfaction and administrative and enforcement procedures.

transmitter configuration. Some activities require "wide area" operations, "ribbon" configurations, or state-wide or regional communications systems. These needs cannot be accommodated adequately by radio systems employing a single transmitter.[26]

13. In Docket No. 18262, the Commission determined that it would consider applications for such configurations on a case-by-case basis.[27] However, review of each such application included special processing and engineering by the Commission staff. This proved to be burdensome, especially as the demand for these operational configurations increased. Accordingly, the Commission initiated the proceeding in Docket No. 79-334 to address the issue of "wide area" and "ribbon configurations" on a rule making basis.[28] As indicated in the Further Notice, the proceeding in Docket No. 79-334 has also been consolidated with the current one because the issue assigning and loading frequencies is so closely tied to this proceeding. The issues of "wide area" and "ribbon" configurations are, therefore, also before us here.[29]

E. Docket No. 79-106

14. The 100 channels designated for use by conventional systems were all assigned in major metropolitan areas by 1978. To alleviate the spectrum shortage which resulted from this situation, the Commission issued an Order in August of that year which released for conventional use 50 of the remaining 300 channels.[30] However, the shortage of conventional channels continued in many of the nation's larger urban areas despite this release. Therefore, in October, 1979, in order to ease this continuing shortage without depleting the remaining channels, the Commission modified its rules to increase the mobile loading standards for conventional channels in the top 25 urban areas of the country.[31] However, this did not eliminate increasing user demands for spectrum.

15. Moreover, by late 1979, it had become apparent that the popularity of trunking technology was beginning to result in a shortage of trunking channels in the country's largest urban areas. In this year waiting lists of applicants seeking spectrum for both trunked and conventional systems began developing. These lists continue to exist to the present day, as will be discussed further, *infra.*[32]

F. Docket No. 79-191

16. In light of the exhaustion in some geographic areas of these 350 channels, the Commission received petitions from representatives of various radio services complaining that their constituents had not been able to secure 800 MHz frequencies.[33] Some wanted all the remaining channels in the 806-821 MHz and 851-866 MHz bands released immediately, with priority given to fully loaded trunked systems on the waiting lists. Others wanted more conventional channels. Still others wanted the remaining spectrum to be divided between trunked and conventional systems on a "first-come, first served basis." Finally, some requested that the Commission return to its traditional approach to spectrum allocation and release the remaining channels to generic classes of users. These parties were most concerned that public service users would be disadvantaged by any general release of spectrum. They contended that for a number of reasons, including financial inability to build and operate their systems immediately, these "slow growth" users could not effectively compete for channels with Business Radio Service and SMRS licensees, who could plan and implement their systems quickly. These petitioners contended that the public interest was not served by failing to set aside some frequencies for the communication needs of such highly important sectors of the economy as police and public utilities.

17. In response to the "slow growth" arguments, the Commission instituted the proceeding in Docket No. 79-191. There, it proposed to set aside some channels for public safety and public utility "slow growth" systems.[34] [35] In the comments received on the Commission's proposal, while there was support for the concept of a slow growth set-aside, many other groups, including petroleum companies and special industrial users, also contended that they needed some suquestering of channels. They noted the importance to the country of energy exploration and production, and stated that they too had been disadvantaged by our existing procedures. After considering the comments, the Commission determined to allocate 50 of the remaining 250 channels in the 806-821 MHz and 851-866 MHz bands to local government systems only, and not to reserve any channels for commerical or industrial "slow growth" systems (*e.g.,* those of power companies, petroleum companies, etc.). The Commission concluded that local governmental systems were the only systems in which "true external constraints on immediate system implementation existed." Other than local governments, the Commission found that the method of funding and implementing communications systems was essentially a business decision, and that it was not possbile for it to prioritize among these licensees. It concluded, moreover, that any further setting aside of frequencies on a service by service basis was inconsistent with the "systems" approach of Docket No. 18262.[36] This decision created a great deal of controversy. Following this "slow growth" allocation, the Commission received several petitions for reconsideration as well as additional subsequent pleadings.[37]

G. Reconsideration of Docket No. 79-191

18. On the same day the Commission adopted the slow growth decision, it considered, but did not adopt, a recommendation from the staff as to how the remaining 800 MHz spectrum should be released. In response to the

[26] See paras. 140 thorugh 151 for a discussion of these terms.

[27] *Memorandum Opinion and Order,* Docket No. 18262, *supra,* at para. 114, fn. 3.

[28] *Notice of Proposed Rule Making,* PR Docket No. 79-334, FCC 79-855 (January 3, 1980).

[29] *Further Notice of Proposed Rule Making,* PR Docket No. 79-191, *supra.*

[30] *Order,* FCC 78-654, adopted August 1, 1978, 43 FR 35394 (August 9, 1978).

[31] *Memorandum Opinion and Order,* Docket No. 79-106, adopted September 25, 1979, 45 FR 59634 (October 25, 1979). In that proceeding, the Commission also reduced the mileage separation between base stations on the same channel in those situations where the channel is assigned for the exclusive use of a single user or shared conventional station at a s single site.

[32] There are waiting lists for conventional systems in Los Angeles, New York, Chicago and Houston. There are waiting lists for trunked systems in Los Angeles, New York, Chicago, San Francisco, Washington, D.C., Dallas, Houston, Atlanta, Miami, Phoenix and Tampa.

[33] The Commission recognized that of the 350 channels already allocated, most were assigned to Business Radio Service licensees and SMRS's.

[34] *Notice of Proposed Rule Making,* PR Docket No. 79-191 (FCC 79-476), 44 FR 50876 (August 30, 1979).

[35] Many of these complaints were from public safety organizations or public utilities who maintained that the public interest was not served by the original allocation approach. This prevented them from securing channels to construct systems which benefitted the country as a whole. They maintained that third party provider systems were not adequate for their requirements. They requested that the Commission take steps to assure that their needs were met when the reserve channels were released.

[36] *Report and Order,* PR Docket No. 79-191, (FCC 80-663), 45 FR 81204 (December 10 1980).

[37] Parties filing petitions for reconsideration were UTC, API and SIRSA. An oppposition to the petitions for reconsideration was filed by APCO. Replies to the opposition were submitted by MST, API, and SIRSA. [For an explanation of these acronyms, see footnote 41, *infra.*]

staff proposal, the Land Mobile Communications Council (LMCC)[38] submitted an alterative plan. In the petitions for reconsideration of the "slow growth" allocation, it was argued that the Commission had been "arbitrary" in "artifically distinguishing" between local government requirements and the requirements of non-government concerns. Additionally the petitions argued that the Commission had failed to recognize the public interest in assuring that frequencies were available to persons other than small business entities and commercial providers. Also, all the petitioners made reference to the LMCC proposal. Generally, they agreed with this proposal, which was to release all remaining channels by broad service categories (*e.g.*, public safety, industrial, business, and commercial). They argued that this was a superior allocation plan to the one followed by the Commission presently, in that it would assure that all categories of eligibles had the opportunity to build 800 MHz systems. The petitioners contended that the LMCC allocation plan would satisfy their slow growth requirements and would also satisfy their needs for additional spectrum. In its opposition to the petitions for reconsideration, APCO argued that while it generally supported the LMCC approach, allocating additional frequencies at this time would unreasonably delay the ability of local government systems to access the 50 channels already allocated to them for "slow growth" systems, which were now the subject of reconsideration before the Commission.

19. In response to the LMCC Plan, an alternative plan was also submitted by the General Electric Co. (GE). In essence, GE urged the Commission to continue with the Docket No. 18262 approach and to reject the LMCC plan. It stated that the existing approach had worked and should be continued. It said that to the extent private systems could not be built because frequencies were not available, these entities should employ SMR systems. Also pending before the Commission for consideration was a petition from the National Mobile Radio Association (NMRA)[39] setting forth its proposal regarding how 800 MHz reserve frequencies should be released to existing licensees on the waiting lists who had loaded their systems.

20. After careful consideration of the comments and all of these proposals, the Commission determined, on reconsideration of its action in Docket No. 79-191, to issue a *Further Notice of Rule Making*. The Commission concluded that the time was right for a release of all the remaining channels in the 806-821 MHz and 851-866 MHz bands on a nationwide basis. The Commission also concluded that there was some merit to considering regulatory alternatives which would eliminate some of the problems which has surfaced since 1975. The Commission decided to make the fifty channels it had originally allocated in its *Report and Order* in PR Docket No. 79-191 to public safety slow growth systems subject to the outcome of this further proceeding.

21. Accordingly, the Commission proposed rules which introduced certain modifications to address those problems with Docket No. 18262 which had been identified in the years since 1975. Many issues related to these bands were addressed in the *Further Notice*. A major feature of the proposal was the grouping of the remaining channels into four categories. These categories were: Public Safety/Special Emergency (herein, Public Safety), Industrial/Land Transportation (herein Industrial), Business, and SMRS/Community repeaters. It proposed to allow the user to select the technology to be employed on any particular frequency. The Commission also proposed to modify the existing loading standards, to introduce frequency coordination, to allow technical flexibility, to allow manufacturers to operate on more than one trunked system, and to apply these rules to already authorized systems operating on previously released frequencies.

II. Summary of Comments

22. In this Section is a synopsis of comments addressing the major proposals set forth in the Further Notice. These comments, as well as comments on our additional proposals, are also discussed in the decisional sections of this document.[40]

A. Release of the 800 MHz Reserve Spectrum: Category Allocation Plan

23. The vast majority of the parties who filed comments in this proceeding supported our proposals to release all of the remaining channels in the 806-821 and 851-866 MHz bands, and distribute the new channels among four categories of "pools" of eligible users. Those organizations representing the various user groups within the Private Land Mobile Radio Services (PLMRS) expressed unanimous support for these proposals. A few parties objected, however, to releasing all of the 800 MHz reserve channels, and urged that additional channel allocations are necessary only in the largest metropolitan areas where current demand for 800 MHz service exceeds available spectrum.[41] Some parties also objected to the frequency pool concept and characterized it as a return to the block allocation approach. According to these parties, this method of spectrum release is inequitable and inefficient in that it can result in a geographic area having unused channels in one pool, while applicants eligible in another pool in the same geographic area are denied access to frequencies because of excess channel demand. They recommended the Commission continue with the current approach of assigning channels to applicants on a "first-come, first-served" basis, and stated that if certain types of users, including public service licensees, cannot secure frequencies under this method of spectrum release,

[38] LMCC is a non-profit association whose membership represents a broad base of land mobile users, providers of land mobile service and manufacturers of land mobile equipment. It includes representatives of both private and common carrier systems. Submissions of the association represent the unanimous view of its constituent membership.

[39] NMRA represents some small businesses engaged in the sale, maintenance, and operation of land mobile radio communications equipment and systems. Some NMRA members are SMRS licensees.

[40] The following organizations representing broad constituencies in the private land mobile radio community filed comments: The Land Mobile Communications Council (LMCC); the Utilities Telecommunications Council (UTC); the Central Committee on Telecommunications of the American Petroleum Institute (API); the Associated Public Safety Communications Officers, Inc. (APCO); the International Association of Chiefs of Police (IACP); the California Public Safety Radio Association, Inc. (CPRA); the American Hospital Association (AHA); the Land Mobile Communications Section, Communications Division, Electronic Industries Association (EIA); the National Association of Business and Educational Radio, Inc. (NABER); the Special Industrial Radio Service Association, Inc. (SIRSA); the Manufacturers Radio Frequency Advisory Committee, Inc. (MRFAC); the National Mobile Radio Association (NMRA); and Telocator Network of America (TNA). The following manufacturers of land mobile radio equipment commented in this proceeding: Motorola, Inc. (Motorola); the General Electric Company (GE); the E.F. Johnson Company (E.F. Johnson); TACTEC Systems, Inc. (TACTEC); Kokusai Electric Company of America, Inc. (Kokusai); and M/A-COM, Inc. (M/A-Com). In addition to these parties, we received hundreds of individual comments and replies. The Small Business Administration, Office of Advocacy (SBA), also filed comments in connection with its responsibility to monitor agency compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

[41] GE stated that there is no need for an additional channel release on a nationwide basis because channel congestion appears to exist at this time only in New York, Los Angeles and Chicago. A number of SMRS licensees expressed a similar view and argued that there was insufficient demand for 800 MHz service in their smaller market areas to fill the channels now authorized to them. They argued there was no need for additional systems in these areas.

they should look to SMRS's to satisfy their requirements.[42]

24. Among those parties who supported allocation by pools, some disagreed with the number of channels we proposed to allocate to each of the categories. Generally, these comments stated that this or that pool deserved more channels than the Commission had proposed or that a different distribution of frequencies among categories would more accurately reflect demand.[43]

24a. With regard to the specific issue of the allocation of slow growth channels, the majority of parties supported our proposal to provide for slow growth systems in the Public Safety and the Industrial Radio Services categories.[44] Some parties disagreed with our proposal not to include radio common carrier (RCC) operation on the channels allocated to the Commercial pool, and stated that RCC's should be eligible for Commercial pool frequencies, and that private systems eligibles should have this option of service.

25. There was also strong disagreement in the comments with our proposal to limit the eligibility of multiple-licensed systems (community repeaters) to the Commercial pool frequencies. These comments pointed out that multiple licensing was an operational characteristic, not a factor establishing user eligibility. They contended that eligibles for frequencies in the three non-commercial pools should have the multiple licensing option available to them because it is a valuable user option employed by many private users.[45]

B. Duration of the Pools

26. Because the concept of user categories is a departure from the allocation approach we had adopted in Docket No. 18262, we proposed that the sequestering of frequencies by categories of eligibility would end after three years, once all categories of eligibles had a reasonable opportunity to apply for the frequencies they needed. We also proposed to allow inter-pool sharing in the meanwhile. Although most parties [46] agreed that the category barriers should not remain impenetrable, they disagreed as to what this should mean and when it should occur. The LMCC, speaking for its membership, felt that there should be no sharing of frequencies between the commercial and non-commercial pools. Among the non-commercial pools, however, it felt there should be cross pool sharing after eighteen months. Others felt on the one hand that the pool barriers should never fall, or on the other hand that the period should be longer than three years. Some parties believed that the barriers should not fall automatically at the end of the time period adopted, but rather that this matter should be decided based on the actual circumstances which then pertained.

C. Frequency Use

27. The frequency use policy adopted for the original 350 channels favored trunking technology by limiting the number of frequencies available for conventional systems.[47] In the *Further Notice* we departed from this policy with our proposal to make the reserve channels available for any technological approach users wished. We concluded that the public interest was better served by allowing users to determine whether trunked or conventional systems best meet their needs. The majority of comments were strongly in favor of this proposal.[48] On the other hand, many of the manufacturers of 800 MHz radio equipment were opposed to the user option proposal and argued that the Commission should continue with a frequency policy that requires trunked system operations because of the inherent efficiency of this technology.[49]

28. Although we proposed to defer to the market and not earmark certain channels for specific technologies, we were mindful in the *Further Notice* of the efficiencies of trunking. Therefore, we proposed to assign a maximum of two channels to users selecting conventional operation. Users who applied for more than two channels were to be required to operate trunked systems unless they could demonstrate a justifiable need for more conventional

[42] GE and NMRA, among others, oppose the frequency pool allocation plan.

[43] In devising our proposals in the NPRM for the release of the reserve 800 MHz channels, we relied for guidance on the plan submitted by the LMCC because it represented the largest cross-section of private land mobile users, service providers and equipment manufacturers. We deviated from LMCC's recommendations with certain proposals, however. For example, LMCC suggested the following categories and channel allocations:

70 channels for Commercial use by SMRS's and common carriers

60 channels for Business (including community repeaters)

60 channels for Industrial Services other than Business, and for Land Transportation

60 channels for Public Safety

In our Further Notice, however, we proposed:

70 channels for SMRS's and community repeaters

50 channels for Business (excluding community repeaters)

70 channels for Industrial Services and Land Transportation

60 channels for Public Safety and Special Emergency Radio Services.

[44] UTC stated that our proposal in the *Further Notice* (para. 41) to provide for longer implementation time for slow growth type systems upon a showing of need was not incorporated into the proposed rules. UTC recommended that this language be included in the rules adopted. TACTEC believed that slow growth systems would be better accommodated by an exclusive allocation in the lower frequency bands that would provide the larger geographic coverage necessary to suit the needs of these systems.

[45] LMCC expressed particularly strong objection to the inclusion of community repeaters in the SMRS pool. LMCC stated that it had proposed to the Commission in its suggested plan for allocation of the 800 MHz reserve that multiple licensed facilities should be an option for eligible users in the three non-commercial pools. LMCC asserted that our proposal to permit SMRS's and community repeaters users to compete for the assignment of the new channels would result in the unavailability of multiple licensed facilities in major urban areas. Such a result, charged LMCC, "would be in clear derogation of the public interest of private land mobile users, and is not supported by the Commission's reasoning set forth in this proceeding, or in Docket No. 18262, nor by actual experience of licensing at 800 MHz to date."

[46] APCO opposed generalized sharing of the channels allocated to the Public Service/Special Emergency Radio Services pool. APCO argued that if these channels were shared by incompatible users it would destroy the benefits sought to be achieved by making special provisions for slow growth systems. Furthermore, APCO stated that sharing of the Public Safety and Special Emergency channels in the 800 MHz frequency band would be inconsistent with the action taken in PR Docket No. 81-110, 46 FR 55701, November 12, 1981, where the Commission precluded inter-service sharing of the public safety channels in the 150-174 and 450 MHz frequency bands. However, APCO apparently modified its view in that it agreed with the LMCC approach, which provided for inter-category sharing after 18 months under established procedures. CPRA, AHA, and IACP stated that some channels should be preserved permanently for public safety and special emergency use.

[47] In Docket No. 18262, *Second Report and Order, supra*, 100 channels were designated for conventional operation and 250 channels were designated for trunked operation. We believed that this approach would encourage implementation of the more spectrally efficient trunked technology. However, in the *Further Notice, supra*, we recognized that users expressed no clear preference, and selected one type of system over another depending on their mobile radio communication needs. Therefore, we believed that a change in the frequency use policy for the new channels was necessary to give licensees maximum flexibility in designing and implementing systems.

[48] LMCC, UTC, API, APCO, NABER, SIRSA, and MRFAC all supported allowing the user to decide whether to operate a trunked or conventional system on the assigned frequencies. UTC stated that it supported this proposal because "energy utilities" must have maximum flexibility to use trunked, conventional or even "hybrid" trunked and conventional systems to best meet the particular requirements of a given utility. Other comments expressed similar views that users were in the best position to determine what type of system will serve their mobile radio communication needs.

[49] GE stated: "Without a specific allocation of frequencies to trunked systems . . . it is predictable that conventional users or operators will apply for all the frequencies in a given pool in a very short period of time. To that extent, the Commission and the industry would lose the benefits of trunked systems whose spectrum efficiency has been demonstrated, and which have been developed at substantial cost." Comments from Motorola and EIA, however, support the user option proposal.

channels. There was widespread opposition to this proposal. Many maintained that there were no operational benefits to three channel trunked systems over three channel conventional systems.[50] Those parties who supported the mandatory trunking proposal did so because they believed the spectrum efficiency resulting from trunked operation should be extended to small systems.[51]

D. Frequency Authorization

29. We also proposed to limit each applicant's initial assignment of trunked channels to no more than five channels at a time in order to assure that channels were loaded by those to whom they were assigned. This proposal differed from our current scheme in that trunked system applicants now may be assigned up to twenty channels at a time. Our experience had been that applicants applied for more channels than they could load within 5 years. This in turn meant that assigned channels were unused while subsequent applicants were denied frequencies. The views expressed in the comments on this proposal were split. While some parties supported limiting trunked channel assignments for SMRS licensees to 5 channels, they recommended that large private users should be assigned as many channels as needed.[52] Others, such as TNA, asserted that the Commission should encourage large trunked systems instead of proliferation of 5 channel systems because of the greater efficiencies of large trunked systems.

E. Licensing of Equipment Manufacturers

30. In the *Further Notice,* we also proposed to remove the current restriction limiting equipment manufacturers to the operation of only one SMR trunked system in the country. We asked for comment on two proposal: (1) To allow equipment manufacturers to operate one trunked system in a market area, or, (2) to impose no limit on the number of systems equipment manufacturers could operate. The views expressed on this issue were mixed. Some parties favored unlimited entry for equipment manufacturers; others supported our one-to-a-market proposal; still others urged the Commission to retain its current restriction limiting equipment manufacturers to the operation of only one SMRS trunked system. Existing SMRS licensees were strongly opposed to removing the current restriction on equipment manufacturers. They argued that they would be unable to continue to provide 800 MHz trunked service if they were forced to compete in the same market with the large equipment manufacturers.[53] Two equipment manufacturers, GE and E.F. Johnson, argued that it would be manifestly unfair for the Commission to now license equipment manufacturers when SMRS entrepreneurs entered the 800 MHz trunked service market in reliance on the Commission's initial decision to protect them from this form of competition.

31. Only two parties, TACTEC and API, specifically supported our proposal to allow equipment manufacturers to operate one system per market area. TACTEC argued that there is sufficient competition in the 800 MHz trunked service market, and, therefore, fears of market dominance by large equipment manufacturers are no longer reasonable. TACTEC also contended that the public would be deprived of the benefits of research and development that the greater participation by equipment manufacturers in the 800 MHz service market would be likely to provide.[54]

32. Our alternative proposal to eliminate all limitations on the entry of equipment manufacturers into the trunked SMRS market was specifically endorsed by LMCC, NABER, Motorola, and a number of SMRS end-users. LMCC stated that there was no valid reason to restrict the licensing of equipment manufacturers for trunked SMR systems, and manufacturers should be eligible to operate SMR trunked systems on the same basis as any other entrepreneur. LMCC argued that it is unlikely that equipment manufacturers could achieve market dominance at this time because the initial 200 trunked channels in the major urban areas have all been assigned. Moreover, LMCC pointed out, no manufacturers are on the waiting lists for the reserved channels.[55] Finally, LMCC stated that the end users will benefit from unlimited manufacturer entry into the trunked service market because manufacturers will provide "well-managed and well-marketed systems." NABER and Motorola offered similar arguments in support of placing no restrictions on manufacturers. Both argued that the possibility of unfair competition from manufacturers offering trunked service is unlikely and would be precluded by our proposals requiring them to meet our loading standards. Furthermore, Motorola argued that only large equipment manufacturers may be willing to establish trunked SMR systems in smaller urban centers where service demand is low and there is little possibility for short-term profit.

F. Loading Standards

33. With regard to channel loading, the Commission proposed changes for both conventional and trunked systems operated within 75 miles of the 25 largest urban areas. First, in order to obtain an unshared conventional channel assignment we proposed to raise the minimum mobile station loading level from 70 percent to 90 percent. Second, we proposed to raise conventional channel mobile loading levels. Third, we proposed to reduce the implementation period for the construction and loading of trunked systems from 5 years to 2 years. Fourth, we proposed to raise the trunked system loading levels from 70% to 90%. These new loading standards would have been applied to new systems and to currently authorized 800 MHz systems operating in the 25 largest markets. Finally we proposed to eliminate the loading ceiling for all conventional and trunked

[50] LMCC, for example, contended that "nowhere in the *Further Notice* is there a rationale justifying the conversion requirement at three channels." LMCC argued that mandatory trunking of three channel systems is "at odds with the Commission's stated goals in this *Notice* of user choice flexibility and spectrum efficiency." APCO stated that "lowering the maximum number of conventional channels to two, intolerably aggravates what is already a financial hardship for many small, non-complex communications systems." APCO also argued that trunking is not always more efficient for public safety systems. Motorola stated that three channel trunked systems are less spectrally efficient than three channel conventional systems.

[51] GE, TACTEC and E. F. Johnson were the major supporters of the mandatory trunking proposal.

[52] Most applicants for trunked channels, to date, have been SMRS's.

[53] NMRA, on behalf of its members who are SMRS licensees and small equipment dealers, submitted extensive comments in opposition to changing the current restriction. Generally, NMRA argued that if equipment manufacturers were licensed to provided both equipment and trunked service, then small business SMRS licensees would be unable to compete with these large companies in the same markets and would be driven out of business. Those seeking 800 MHz trunked service would then be forced to obtain it from only one source. NMRA asserted that the Commission is obligated to consider whether its action would have a potential anti-competitive impact and to preserve competition in the 800 MHz trunked service market.

[54] While API supported the one-to-a-market proposal, it expressed concern that this approach could result in a continuation of the "present under-utilization of assigned spectrum."

[55] E.F. Johnson pointed out, however, that if the Commission allows manufacturers into the 800 MHz service market there would be nothing to prevent them from buying out current SMRS licensees in any market. Furthermore, E.F. Johnson stated that the arguments advanced by some parties that loading standards would limit the ability of a manufacturer to dominate a given market ignored the possibility that a manufacturer licensed to operate an SMR system could merely load its own facilities and may have no business incentive to provide equipment to customers of other SMR systems in the same market which employ the same manufacturer's mobile radio equipment.

systems, including single users, community repeaters and SMR systems.

34. Virtually all of the parties commenting on this point were opposed to our proposal to raise the loading levels for conventional systems and the percentages necessary to obtain an unshared channel. Most comments suggested that current loading levels for conventional systems be retained for those systems located within the 25 largest urban areas, and should be reduced in areas outside the major markets, where there is less demand.[56]

35. There was substantial support expressed in the comments, however, for our proposals to change loading standards for trunked systems. Many parties agreed that the current 5 year implementation timetable for trunked SMR systems is too long and contributes to under-utilization of these channels.[57] Several commenters, however, favored retention of the 70 percent standard for obtaining channel exclusivity.

36. Many parties were opposed to our proposal to apply new loading standards to currently authorized licensees. These commentors recommended that existing licensees should be held to the standards in effect when they received their licenses. Many did feel, however, that at renewal time the new loading standards should apply.

37. A number of parties also opposed our proposal to eliminate across the board regulations imposing maximum loading levels and requiring users who share systems to obtain the consent of all users before exceeding the limits. They believed that maximum loading levels should be eliminated only for single user and SMR systems but not for systems which shared channels on a non-exclusive basis.

G. Frequency Coordination

38. We proposed to change our procedures for assigning the remaining 800 MHz frequencies by requiring applicants to employ frequency coordination procedures to select their own frequencies either through the use of frequency coordination committees or by doing their own field studies. The large majority of comments expressed enthusiastic support for the introduction of freqency coordination in the 800 MHz band. Most parties agreed that frequency coordination would result in more flexible and therefore more efficient use of the allocated frequencies. LMCC stated that it, through recognized frequency coordinating committees, would be responsible for the establishment and operation of the data base necessary for frequency recommendations.

III. Decision

Summary

39. In Docket No. 18262 we clearly indicated our intention to revisit the rules we were adopting, and to modify them to the extent it was deemed appropriate. After reviewing the submissions in this and related proceedings, we conclude that the remaining 250 channels in the 806–821/851–866 MHz private land mobile reserve should be allocated immediately nationwide.

40. We conclude that there is merit to sequestering of frequencies by categories of eligibility.

41. We conclude that applicants should be allowed to choose the technology which best suits their operational requirements.

42. We conclude that it is appropriate to revise our present channel authorization and loading rules, as well as to clarify the sanctions that we will apply if these rules are not met. In this regard, we find that minimum conventional channel loading standards can be increased in some services without any appreciable degradation of the quality of service. We also conclude that it is desirable to increase the number of mobile stations which must be loaded on a channel to assure channel exclusivity.

43. With regard to trunked systems, we conclude that while the minimum number of mobile stations which must be accommodated on a system should not be increased at this time, it is appropriate to alter the time frame within which certain channel loading benchmarks must be reached, particularly in areas where waiting lists for frequencies exist.

44. We find that the public interest is served by removal of limitations on the number of trunked systems that manufacturers can operate.

45. Also, we are allowing any number of channels to be trunked, and are requiring that an applicant who requests more than five channels must trunk them, absent a compelling reason to the contrary.

46. With regard to the selection and assignment of frequencies, we conclude that applicants, rather than the Commission, should select the frequencies on which they operate, and we conclude the public interest is served by permitting frequency coordinating committees to assist them in this process.

47. Moreover, we find that the public interest is served by continuing to authorize multiple licensing at 800 MHz; by enhancing the technical flexibility and operational configurations permitted; and by conforming the rules at 800 MHz for all systems.

IV. Discussion

A. Release of Spectrum

48. There was significant support in the comments for a general release of frequencies and for an allocation by pools and we are adopting both of these proposals. We find that a uniform release is more administratively efficient than a piecemeal approach and assures that applicants can implement systems in a more expeditious fashion. If we proceed with the release on a city-by-city approach, as some have suggested, we will be involved in numerous rule makings over the next several years. Such an approach would delay applicants' abilities in these cities to implement their communications systems until each rule making is completed. We therefore conclude this is a less desirable approach both administratively and from a public service point of view than a general release.

49. We also conclude that a limited sequestering of frequencies will encourage the larger and more effective use of radio in the public interest. By grouping eligibles into categories of like users who are operationally compatible,[58] and by setting aside some frequencies for each broad category eligibility, we assure that all classes of private land mobile eligibles will have an opportunity to maximize their options in selecting how they wish to satisfy their communications requirements through the construction of private facilities, cooperative sharing, multiple licensing or service from a provider of SMRS service, and will have the time necessary to apply for and implement their systems. This is consistent with our objectives in Docket No. 18262 of providing:

[56] LMCC and other user groups stated that an increase in conventional loading standards is not necessary and would destroy our basic goal of providing users with high quality private land mobile service.

[57] TACTEC and TNA recommended a 3 year implementation period. API, Motorola and EIA agreed that our 2 year proposal was a reasonable amount of time for an entrepreneur to construct and load a 5 channel trunked SMR system. NMRA suggested that SMRS licensees load to a 10 percent standard within 2 years and achieve 70 percent loading at the end of 5 years.

[58] Operationally compatible users are users having common operational procedures or functional characteristics which enable them to share a channel in the same geographic area without unduly imposing upon the radio communications of others.

"A maximum number of ways under which a maximum number of qualified persons may at the earliest date possible, with the least administrative delay and under minimum procedural restraints, provide themselves with the means of radio communications they may require to enable them to conduct their affairs in an efficient and effective manner." 46 F.C.C. 2d 752, 766.

50. Further, after considering the comments, we agree that multiple licensing is a type of operation and not a class of eligibility. We acknowledged that there are eligibles in the public safety, industrial, and land transportation categories, as well as business, operating below 800 MHz who have employed the multiple licensing approach. In consideration of this we are not mandating that multiple licensing occur only in the SMRS Category. It will be permitted "across-the-board."

B. Pools

51. Turning now to the number of frequencies which are being allocated to each pool, we proposed in our *Further Notice* 60 channels for Public Safety, 70 channels for Industrial, 50 channels for Business and 70 channels for SMRS's. LMCC disputed this apportionment, as did others. The comments offered little substantive data or growth projections to justify the allocations favored by commenters. We have examined the growth that has occurred in the private land mobile services over time. Much of the recent growth has been in the use of SMR trunked systems. This is true both in those areas where conventional channels are not available, and in areas where eligibles are free to elect between private, multiple licensed or SMR systems. In the last 6 months, there has been a fifty percent increase in the number of applicants for 800 MHz trunked systems and private users seeking service from SMRS operators. However, we also recognize that there are significant requirements in the Public Safety and other categories. In light of this, we have decided to apportion the 250 channels as follows:

Public Safety/Special Emergency Radio Services, 70 Channels
Industrial/Land Transportation Radio Services, 50 Channels
Business Radio Service, 50 Channels
SMRS, 80 Channels

52. This will allow for the necessary growth of SMR systems while at the same time assuring an ample complement of frequencies for Public Safety eligibles. After eighteen months, if the Public Safety frequencies are not being used, they will be available, under the inter-category sharing approach discussed *infra*, to all eligibles other than those in the SMRS category. At the end of three years the entire matter will be reviewed. We feel based on our records that this division of the remaining reserve most accurately reflects the likely channel needs of private land mobile eligibles as systems are implemented over the next several years. We conclude, therefore, that this grouping is most appropriate to assure that user spectrum demands are met and that the public interest will be best served.

53. The original LMCC allocation plan proposed to include radio common carriers (RCC's) as eligibles to share frequencies within a "commercial" category. LMCC argued that allowing RCC's spectrum in this category would provide an additional option for users and would lead to greater technological development of trunked and conventional systems. We rejected inclusion of RCC's in a Commercial Category in our *Further Notice* because we felt it was inappropriate to authorize common carrier service in spectrum that was allocated to the private services in Docket No. 18262.[59]

54. In response to our *Further Notice*, LMCC reiterated its original position. TNA, Motorola and other parties endorsed the LMCC position. On the other hand SIRSA, which generally supported the LMCC proposal for spectrum allocation, argued that there is insufficient need for a common carrier allocation in the frequency bands 806–821 MHz and 851–866 MHz. SIRSA pointed out that RCC's are already eligible to become SMRS licensees on the same basis as any other entrepreneur and, in fact, many RCC's are currently operating as SMRS licensees.

55. After consideration of the comments as well as of our decision in Docket No. 18262, we affirm our earlier conclusion not to allow RCC's to access the frequencies available to SMRS's. We concluded in Docket 18262 that the preferable way to make commercial communication service available to private services eligibles was through SMRS's.[60] Nothing has been presented in the comments to dissuade us from this conclusion. To the extent that users wish to secure service from radio common carriers, we have provided 40 MHz of spectrum for public land mobile cellular systems. Additionally, as SERSA pointed out, RCC's already may apply for and operate SMR systems under existing rules as SMRS's. We see no public interest benefit to the extension of common carrier regulation to the private services and we affirm our earlier decision not to create a Commercial Pool in which RCC's may apply for and operate RCC systems.

C. Slow Growth Allocation

56. A key factor in our category allocation plan was the grouping of eligible users with similar communications requirements. Thus, for a limited time, those users whose communications needs require a longer period of time to plan, fund and implement their systems will not have to compete for available frequencies with users whose communications needs can be more quickly implemented. Therefore, we did not believe it was necessary in our *Further Notice* to reserve certain frequencies for a special "slow growth" category. Because we declined to reserve specific channels for slow growth users, we did not propose to require slow growth applicants to submit implementation scheduling reports.

57. There was almost unanimous support for our proposal to provide for slow growth systems within the Public Safety and Industrial Categories. LMCC, however, while supporting our proposal to provide for slow growth systems within these two categories, recommended that the Commission establish standards for such systems and retain a requirement for the submission of annual implementation reports, as is presently required in the rules.

58. After considering the comments we have determined to allow applications for slow growth systems in the Public Safety and Industrial Categories. We are not extending slow growth systems to the other categories because the comments reflect no need for them. We also conclude based on the comments that frequencies allocated to the Public Safety and Industrial Categories are adequate to accomodate the demand within these categories for slow growth systems, and that there is no need for a separate slow growth allocation. Further, in consideration of LMCC's argument that slow growth systems tie up channels to the disadvantage of other applicants and, therefore, that there is a need for these applicants to demonstrate that they are implementing their systems in a diligent and expeditious fashion, we are retaining the requirement that slow growth applicants submit a justification of their request to the frequency coordinating committee for their pool and to the Commission. We are also requiring that they submit annual

[59] *Further Notice, supra*, at para. 33.

[60] *Second Report and Order*, Docket No. 18262, 46 FCC2d 752 (1974), at para. 29, *et seq.*

implementation reports. Any Public Safety or Industrial Category eligible who meets these standards will be given an implementation period of up to three years to complete the system.

59. We are also adopting LMCC's proposal that in order to be classified as a slow growth licensee an applicant must meet one of the following standards:

(i) The proposed system will serve a large fleet (at least two hundred (200) mobile units) and will involve a multiyear cycle for its planning, approval, funding, purchase and construction; or

(ii) The proposed system will require longer than eight months to place in operation because of its purpose, size or complexity; or

(iii) The proposed system is to be a part of a coordinated or integrated area-wide system which will require more than a year to plan, approve, fund and construct; or

(iv) The applicant is a local governmental agency and demonstrates that the government involved is required by law to follow a multiyear cycle for planning, approval, funding and purchasing of the proposed system.

60. Slow growth authorization will be conditional upon a licensee's compliance with the implementation schedule. If a licensee fails to meet that schedule, its authorization for the frequency(s) involved will be void. All slow growth grants are so conditioned.

D. Inter-Category Sharing

61. Our proposal to have inter-category sharing generally received support. APCO, however, argued that the Commission should not allow access to public safty channels by incompatible users. It contended that to allow such access would be inconsistent with our purpose in providing for public safety systems in a separate category. APCO further stated that it would also be inconsistent with our recent decision to preclude similar incompatible commercial sharing with public safety systems operating below 800 MHz.[61]

62. LMCC, on the other hand, took the position that inter-category sharing should occur and should commence after 18 months, rather than the three years we had proposed. It also felt that the standards which should apply to inter-category sharing should generally parallel those previously adopted by the Commission in Docket 81-110. While it did not support excluding the Public Safety Category frequencies from inter-category sharing totally, it did recognize the need that Public Safety eligibles have for operational compatibility. Therefore, LMCC proposed that sharing among the non-SMRS categories should be regulated at follows:

(1) Eligibles for channels in the Commerical Category will not be permitted to access channels in the other three non-commerical category.

(2) Channels in the Public Safety/Special Emergency Pool will be available for inter-category sharing only if eligibles in the Business and Industrial/Land Transportation Pool have exhausted all other inter-category sharing possibilities, and there are no public safety systems authorized on those channels under consideration to be shared.

(3) Any inter-category sharing shall only be among compatible users.

(4) The out-of-pool licensee will operate by the rules applicable to the accessed pool.

63. After considering the comments, we conclude that it is in the public interest to allow interpool sharing 18 months after the effective date of this Report and Order for all eligibles within the three non-SMRS categories. However, we are requiring that sharing be by compatible users. This can be demonstrated by the concurrance of the frequency coordinators for the pools involved or by the consent of co-channel users. The final decision, however, as to whether an out-of-category use may occur will rest with the Commission. Eligibles in the SMRS category will be precluded from sharing channels in the other three categories, and channels allocated to the SMRS pool will not be available for sharing by other eligibles for the reasons discussed below.

64. The 18 month period during which there will be no inter-pool sharing is to assure that all types of eligibles have an opportunity to implement 800 MHz systems. After the 18 months have elapsed we will allow inter-pool sharing with compatible users in other non-SMRS pools. The Commission will make a determination on a case-by-case basis as to whether inter-pool sharing is in the public interest. The applicant requesting a frequency in another pool must show that there are no satisfactory frequencies available within its own category and that the requested frequency is either: (a) Unoccupied or (b) occupied by compatible users. The applicant must also show that harmful interference will not result to other licensees in the "out-of-category" pool. All showings may be made either through a field study or through a recommendation submitted by a frequency coordinating committee.[62]

65. In all cases where inter-category sharing is allowed, the "out-of-category" licensee must abide by the essential rules of the category in which that licensee is operating.[63]

E. Phasing Out of Pools

66. For all practical purposes, with the implementation of inter-pool sharing after 18 months, most of what we sought to accomplish by having the walls between the pools dissolve in three years will be accomplished earlier. That is, frequencies assigned to one pool will not remain unused while the needs of other classes of eligibles go unmet. This is assured by both the broad cross section of eligibility within each pool and by the provision of cross pool sharing of frequencies. The only exception to this is the SMRS pool. Here we have decided to retain the barrier during the inter-service sharing period. We do not have extensive experience with the sharing of frequencies by broad categories of users and we are unwilling to have commercial and non-commerical users share frequencies until we do gain some experience in how sharing will be accomplished. This approach also will assure that slow growth and other types of private unshared systems have an opportunity to develop during the period of time that the pools exist. Moreover, since we are allocating 80 channels to the SMRS pool rather than the 70 originially proposed, we conclude that there are adequate frequencies available in this pool to assure that the needs of eligible end-users of SMRS service are met. The question of sharing other pools' frequencies by eligibles in this pool, of course, will be revisited as part of our general review of frequencies used in each pool after three years. It is our predisposition now to have all of the barriers disappear after three years. However, this is a situation which will require monitoring between now and 1985. Consequently we are not adopting any specific rules on this matter at this time.

F. Operational Technology

67. The first 350 channels allocated for the private radio services above 800 MHz were allocated as discrete blocks of frequencies designated for either

[61] *Report and Order*, PR Docket No. 81-110, FCC 81-511, adopted October 22, 1981, released November 5, 1981.

[62] For a complete discussion of frequency coordination, which we adopt in this proceeding, see para. 133, *et seq.*

[63] Of course, some rules are not included in this condition. For example, an out-of-category licensee would continue to be subject to the permissible communications rules of its eligibility service not those of the out-of-category services.

trunked or conventional use. We proposed not to follow this method of allocation for the remaining 250 reserve channels, but, instead, to allow a prospective user to choose whether to apply for a trunked or a conventional system. We proposed that once a channel was assigned in an area to be operated in either a trunked or a conventional mode, it would be assigned in the same area only for operation in the mode chosen. We also proposed to allow a licensee operating a conventional system on exclusive channels to change to operation of a trunked system on the same channels, subject to Commission notification and subject to adherence to all applicable rules pertaining to operation of trunked systems.

68. LMCC, UTC, API, and APCO, NABER, SIRSA and MRFAC all strongly supported our user choice proposal. Manufacturers and existing SMRS licensees, on the other hand, were generally in favor of requiring trunking on certain channels.[64] The frequency coordinating groups (NABER, SIRSA and MRFAC) all strongly endorsed our proposals.

69. We have considered this matter carefully and we conclude that the public interest is best served by allowing the marketplace to determine whether channels will be used for trunked or conventional systems. To continue to allocate channels for trunked or conventional systems artifically restricts user choice. Trunking and conventional technology are now familar to eligibles in the private land mobile community, and it is in the public interest to permit these users to select the technology which best satisfies there particular requirements. Therefore, we are adopting our proposal and are making all new channels allocated in this proceeding available for either technology at the user's option.

G. Loading Standards

70. In our *Further Notice* we proposed to modify the mobile loading levels for both trunked and conventional systems. We identified three major objectives: (1) To increase the level of loading per channel for conventional systems (*i.e.*, the number of mobile stations); (2) to raise the loading threshold necessary to assure that a conventional channel was not assigned to another licensee on a shared basis; and (3) to decrease the time within which trunked channels must be loaded.

1. *Conventional Systems.* a. *Loading.*

71. The current loading levels for conventional systems vary by both radio service and geographic area. The loading levels necessary to obtain a second channel are set forth in our rules by categories of eligibles. We have one loading level for eligibles within 75 miles of the top 25 urban markets and another loading level for eligibles in all other areas of the country.[65] [66]

73. In our *Further Notice* we proposed to increase loading levels for certain eligibles operating conventional systems within seventy-five miles of these 25 urban areas. Our proposal was as follows:

	From: mobiles/portables	To: mobiles/portables[67] [68]
Police & fire	50/100	70/140
Business	90/180	110/220
Taxicab	150	150
Motor carrier[69]	150/200	150/200
Other services	70/140	90/180
Mixed service group	70/140	70/140

[67] There currently is pending before us a rule making that would eliminate the loading distinction between mobile and portable stations. *Notice of Proposed Rule Making*, PR Docket No. 82-82, FCC 82-72 (February 23, 1982).

[68] The loading level of conventional SMRS's and multiple licensed facilities (*e.g.*, community repeaters) is determined by the eligibility of the sharing users.

[69] Urban and interurban passenger carriers only.

We did not propose to modify the loading levels for conventional systems operating beyond seventy-five miles of these twenty-five urban centers.

74. The rules currently provide that if a licensee loads a channel to 70% of the specified loading level for its category of eligibility within eight months of the license grant, the channel will not become available for assignment to another licensee. For example, a police or fire entity can have a channel on an unshared basis when it places 35 mobiles on a channel (*i.e.*, 70% of 50). In our *Further Notice* we proposed that in order to obtain a conventional channel on an unshared basis, a licensee within 75 miles of these twenty-five urban areas would have to load to 90% of the specified loading levels within eight months. The net effect of this proposal was to raise the channel exclusivity threshold for police and fire by 28; business and mixed by 36; Taxicab and Motor Carrier by 30; and other categories by 32.[70] Beyond the 75 miles, we also proposed that a licensee must load to 90% of the specified loading level to gain a channel on an unshared basis.

75. With regard to the time that would be allowed for system construction and commencement of operation, the rules presently require that all conventional systems must be constructed and loaded within eight months of the date of license grant. This applies to conventional systems located both within and beyond 75 miles of the above referenced cities. In the *Further Notice* we proposed a dual approach to the time for loading based on system location. Within 75 miles of these cities, the time for construction would remain at eight months, but the level of loading, as noted above, would increase from 70% to 90%. Beyond 75 miles, while the loading threshold necessary to obtain an unshared channel would be increased from 70% to 90%, the time frame to accomplish this would be extended to two years.

76. Additionally, we proposed to apply these loading standards and the other rule provisions relating to conventional system operation to existing systems operating on the 150 conventional frequency pairs already released.

77. The comments on our proposals were voluminous and the positions taken covered the widest range of opinions. With respect to our proposals for modifying conventional channel loading thresholds and increasing the mobile loading per channel, operators of conventional SMR systems and NMRA generally took no position. The consensus of end users of conventional SMR systems who submitted comments, however, opposed the proposed loading increase, arguing that there is already too much congestion under current standards and that higher loading levels were inappropriate.

78. LMCC opposed any increase in conventional loading standards because it would further "degrade the quality of service" and "destroy the basic goal in making the 800 MHz allocations." As an alternative to raising the standards within 75 miles of these cities and leaving them the same elsewhere, LMCC proposed that the current conventional loading standards for the 25 largest metropolitan areas should remain the

[64] TACTEC, GE, E. F. Johnson, and Kokusai all supported trunked allocations.

[65] The top 25 urban markets are as follows: (1) New York City—northeastern New Jersey; (2) Los Angeles—Long Beach, California; (3) Chicago, Illinois; (4) Philadelphia, Pennsylvania—New Jersey; (5) Detroit, Michigan; (6) San Francisco—Oakland, California; (7) Boston, Massachusetts; (8) Washington, D.C.—Maryland—Virginia; (9) Cleveland, Ohio; (10) St. Louis, Missouri—Illinois; (11) Pittsburgh, Pennsylvania; (12) Minneapolis—St. Paul, Minnesota; (13) Houston, Texas; (14) Baltimore, Maryland; (15) Dallas, Texas; (16) Milwaukee, Wisconsin; (17) Seattle—Everett, Washington; (18) Miami, Florida; (19) San Diego, California; (20) Atlanta, Georgia; (21) Cincinnati, Ohio—Kentucky; (22) Kansas City, Missouri—Kansas; (23) Buffalo, New York; (24) Denver, Colorado; (25) San Jose, California.

[66] Also for systems operating outside the top 25 markets, the loading levels vary based on the number of co-channel licensees on the system.

[70] For channels with multiple users, there was a somewhat greater effect, since it was no longer proposed to differentiate between conventional channels with one user and those with several users.

same and that they should be lowered elsewhere.

79. UTC also opposed an increase in conventional loading standards. It argued that the current loading standards and thresholds for unshared channels should be retained to prevent degradation of service. UTC maintained that utility companies must have unshared channel assignments at the current level (*i.e.*, at 70% of the 70 mobile loading level which now exists for Power Radio Service eligibles) if they are to be able to effectively employ their systems in times of emergency.

80. API and IACP had similar objections to an increase in loading of conventional channels. API urged that retaining the current levels was necessary to preserve the quality of service. It asked that the Commission wait until it can evaluate the effects of the increased loading standards adpted "barely three years ago." IACP's opposition was also based upon apprehension that the quality of service would be degraded.

81. APCO, in contrast, did not oppose an increase in the channel loading levels or thresholds in the 25 largest areas, in recognition of the frequency shortage in some areas. However, APCO preferred that loading standards be determined solely by the amount of traffic and air time required to conduct business. It asserted that such considerations are only remotely related to the number of mobile units.

82. The frequency coordinating groups, other than those already mentioned, generally opposed increasing the loading levels. NABER stated that increasing conventional loading levels would degrade service and force users into trunking solely to escape unacceptable channel congestion. SIRSA also opposed an increase in conventional loading, stating that it was not necessary in view of the allocation of additional channels from those being held in reserve.

83. Of the equipment manufacturers who submitted comments on proposed changes in conventional standards, Motorola urged that we retain the existing loading levels for conventional systems in and near the 25 largest cities, while reducing the standards for systems outside the top 25 markets. Motorola claimed that raising the loading levels from 70% to 90% in order to obtain an unshared channel is too harsh. The effect of this dual increase, it noted, would be to required a Business Radio Service eligible to go from 63 mobiles to 99 mobiles to obtain an unshared channel. Increasing the loading minimum, Motorola asserted, would deter what it deems necessary movement from the highly congested 450 MHz band. Moreover, Motorola contended that the loading ceiling for community repeaters should be the same as for a conventional Business Radio Service system. Motorola proposed that outside the 25 largest markets the mobile unit standard should be 60 units, retaining the present eight month, 70% standard for an unshared channel assignment. Motorola supported continuing the 90% level for assignment of a second frequency pair. TACTEC opposed any change in the current standards.

84. In an *ex parte* presentation on the subject of how frequency coordination would be implemented, LMCC, speaking on behalf of all of its membership, stated that it favored a uniform channel loading standard for all services of 60–70 mobile stations to obtain an unshared channel assignment.

85. We have considered all of the comments on this point, and we have decided to modify our conventional loading rules. We feel that some increase is appropriate. We also conclude that there is merit to a uniform standard for all services, particularly in view of the inter-pool sharing we have already discussed. Moreover, the increased levels in most instances do not result in substantially greater numbers of mobile stations per channel, and in the public safety category, where the increases will be greatest, APCO has conceded in its comments that a mobile loading increase is appropriate. Therefore, we are adopting a flat mobile loading minimum of 70 mobile stations as suggested by LMCC. A channel will be assigned to a licensee on an unshared basis when the licensee will operate 70 or more mobile stations on the channel. When the licensee has 70 mobile stations on the channel, the licensee may apply for an additional frequency. Where more than one licensee shares a channel, and 70 or more mobile stations are operating on the channel no new licensees will be added to the channel but existing licensees may add mobiles and, each licensee may apply separately for an additional channel for its own use, or, alternatively, all licensees sharing the channel may jointly apply for an additional channel.

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

87. We stress that there will be no maximum loading levels for conventional channels. If a single licensee wishes to load in excess of 70 mobile stations on a frequency pair, it may do so. Similarly, if a channel is shared by more than one licensee, more than 70 mobiles may be added. No mutual consent between licensees will be required to exceed the 70 mobile levels.

88. With regard to the applicability of these rules to existing systems, we conclude that it is desirable from an administrative point of view as well as for licensee understanding to have a uniform body of regulations at 800 MHz for conventional systems. Furthermore, the rules we are adopting should not have a major impact on existing conventional systems. We therefore conclude that a grandfathering period is unnecessary. All existing and future conventional systems are henceforth subject to the rules described above and set forth in our attached Appendix.

b. *Channel Assignments.*

89. Our current rules allow the licensees of conventional systems to have no more than five channels in a market. We proposed to change these rules to allow a conventional system licensee to have no more than two channels, and to require three or more channels to be trunked.

90. LMCC, joined by a large number of those commenting, opposed mandatory trunking for three or more channels as incompatible with the Commission's goals of user choice and of flexibility.[71] LMCC questioned the efficiency of trunking for three to five channels. NABER argued that trunking systems with less than five channels will significantly increase the costs of operation and create unnecessary technical complexity. SIRSA considered our proposal an unnecessary step backwards, and APCO stated that trunking is not always more efficient for Public Safety systems in which a single dispatcher must simultaneously address large fleets. On the other hand, API stated that for some licensees three to five channel trunking would be as efficient as conventional use. A majority of those commenting, however, agreed that it is more reasonable to expect greater spectrum efficiency with five or more trunked channels than with four or less trunked channels.

[71] Those opposing mandatory trunking included LMCC, UTC, API, APCO, NABER, SIRSA, MRFAC and TNA.

91. We have considered these arguments, and have decided not to adopt the rule we proposed requiring trunking of three or more channels. We will continue to allow licensees to have up to five conventional channels in a market. We believe that this is most consistent with our overall policy of maximizing user options. Of course, nothing herein precludes voluntary trunking of smaller numbers of channels, if that is deemed desirable by the licensee.

c. *Procedures for Applications for Conventional Systems.*

92. As stated, all conventional systems will operate under the rules we are adopting today. This includes existing conventional systems and future conventional systems, wherever they operate in the 806–821 and 851–866 MHz bands. All conventional systems will be governed by the new loading standards, and applicants for conventional systems will have to set out in their applications the frequencies for which they are applying.

93. Applicants on waiting lists for already allocated frequencies on which to operate conventional systems will have their applications returned and will be given an opportunity to modify them by selecting a channel. They will be allowed until November 12, 1982 to modify and re-submit these applications. Applications so returned will keep their place in the processing line for old conventional channels. All applications will be processed on a "first-in, first-processed" basis. If a waiting list applicant wishes to apply for a new channel, a new application must be prepared and may not be resubmitted until November 15, 1982.

2. *Trunked Systems.* a. *Loading.*

94. Under our existing rules an applicant in the initial application for a trunked system may request five, ten, fifteen, or twenty channels. The loading levels vary, depending on the eligibility category of the licensee (in a private system), or on the eligibility category(ies) of the users the SMRS serves;

	5 channels	10 channels	20 channels
Police/fire	300	750	1500
Business	500	1000	2000
Motor carrier	800	1600	2500
Other	400	800	1600
Mixed	500	1000	2000

95. A licensee may elect to build an entire system at once. If the licensee makes this decision it must commence construction of its authorized facilities within six months of the date of grant and must complete construction within one year.[72] If the licensee does this it has five years to load the system to 70% of the prescribed loading limit. If it loads the system to 90% of the prescribed loading limit it may request additional channels.

96. As an alternative to the foregoing, a licensee of a trunked facility assigned more than five channels may elect to construct a system in five channel stages. If the licensee makes this election in its application, it must construct the first five channel group within one year and must load this first five channel group to 70% within two years of the date of the grant with 20 channel mobiles. Within five years the licensee must have constructed all twenty channels and must have loaded the twenty channel system to 70% with 20 channel mobile units. When the system is leaded to 90%, the licensee may seek additional channels. Thus, in either case the mobile loading levels at the end of five years are the same.

97. In our *Further Notice* we proposed to limit applicants for trunked systems to five channels at a time. We also proposed to increase the requisite loading level to 90% for a licensee to keep all of the assigned trunked channels. Furthermore, we proposed to shorten the time necessary to achieve this 90% loading from five years to two years. Once the 90% was reached, the licensee could request additionall channels. At the conclusion of the two-year loading period, if the requisite minimum level had not been achieved, the channels not so loaded would automatically be cancelled.[73]

98. We made these proposals to limit the number of frequencies, to increase the loading levels, and to decrease loading time because the present rules have created a situation in the larger urban areas where significant numbers of trunked channels have been assigned to SMRS's but have not been loaded to capacity.

99. We also proposed to make these channel loading and construction standards for trunked systems operating in and near the largest cities applicable to existing systems operating on presently assigned channels, pointing out the precendent for our action.[74]

100. The comments contained a wide range of views. Most SMRS licensees who submitted comments argued that the present loading requirements for trunked systems should be retained. Others objected only to an increase in the percentage of loading required for trunked systems operating in smaller markets. Still other parties objected only to the shortened loading period (two years instead of five years), but not to the increase from 70% to 90% for retention of a channel block.

101. Some SMRS operator contended that the Commission should not require rapid loading of trunked systems. Others felt this might be appropriate, depending on circumstances. This latter group proposed adoption of flexible loading criteria based upon particular needs of specific market areas. Many SMRS licensees contended that the present state of the economy is the cause of slow loading. They argued that merely changing the loading standards would not increase demand. Many parties claimed that it is impossible for the typical SMRS to load more rapidly than the present requirement of 70% within five years. Others felt a shorter loading period than 5 years to reach 70% was indeed appropriate.

102. NMRA opposed the proposed increase in trunked loading standards and submitted its own plan to solve the frequency "warehousing" problem without "destroying" the economic viability or the efficiency of presently authorized 800 MHz trunked systems. Challenging the need, the fairness and the legal basis for our proposed loading changes, NMRA instead proposed that in the ten largest areas (or elsewhere if channels have been exhausted), systems licensed prior to July 14, 1981, be required to reach 10% of the present loading maximums within two years after completion of construction, and a 70% level at the end of five years. Newer systems must reach the 10% level within one year. The license of any system failing to meet these standards would, under the NMRA plan, be modified to authorize operation on no more than the number of channels for which 10% of the minimum required loading had been

[72] If a licensee is authorized for a 5 channel system, it must build the entire system at once.

[73] For example, if a five-channel SMR system at the end of the two years only served two hundred mobiles rather than the 450 (90% of 500 units) which would have been required by our proposed rules as the minimum for exclusivity, three of the channels would have been "taken back" pursuant to specific provisions in the new rules. These "take-backs" would have occured only when all channels authorized in an area and a waiting list existed. *Further Notice*, at pars. 59–62.

[74] *California Citizens Band Association v. U.S.*, 375 F. 2d 43, 51–52 (1967); *General Telephone Company of Southwest v. U.S.*, 449 F. 2d 846, 863–864 (5th Cir. 1971). *See also U.S. v. Storer Broadcasting Company*, 315 U.S. 192 (1956); *American Airlines v. C.A.B.* 359 F. 2d 624 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 843 (1966); *Air Line Pilots Ass'n v. Quesada*, 276 F. 2d 892 (2nd Cir. 1960); *WBEN, Inc. v. U.S., 396 F2d. 601 (2d Cir. 1968), cert. denied*, 393 U.S. 914 (1968); *Pacific and Southern Company v. FCC*, 405 F. 2d 1371 (1968).

achieved. If the number of channels remaining after such modification was less than five, the authorization would become void.

103. NMRA also alluded to its own loading survey of trunked systems which concluded that a 70% loading level within five years is the appropriate standard for large markets, but is too stringent for systems operating in smaller markets. Arguing that economic conditions have contributed to slow loading and that only a few SMRS licensees are actually "warehousing" frequencies, NMRA suggested that we deal with the few who hoard spectrum without harming SMRS entrepreneurs generally.

104. NMRA also pointed out that end users would be harmed when SMRS base station licensees failed to load to our new levels. NMRA said that substantial costs would be incurred by users if we took back channels, because, due to the incompatibility of different manufacturers' trunked equipment, users would, more often than not, have to change their mobile units when changing systems.

105. Motorola opposed increasing the loading requirements for trunked systems from 70% to 90% in the 25 most populated areas. Motorola did, however, propose a sanction for trunked licensees who fail to meet certain standards. Specifically, it proposed recapture of all channels of any trunked SMRS in the top 25 markets, if the 70% loading level based upon present standards is not met within two years and if there is a waiting list for assignment of channels.[75] Motorola would apply the new standards retroactively, but only to unassigned or recaptured frequency pairs.

106. EIA and TACTEC took an approach very similar to that of Motorola, although TACTEC proposed a three-year period for construction and loading a trunked systems. GE, in contrast, argued in its reply comments that the Motorola and EIA proposals to recoup all of the channels of an SMRS licensee who had failed to load are punitive and would drastically reduce the number of entrepreneurs willing to invest in SMRS systems.

107. TNA, on behalf of its radio common carrier membership, opposed our proposed mobile loading standards. In its place, TNA suggested adopting a "sliding scale" approach for trunked systems because of the greater efficiency which can be achieved with larger trunked systems. TNA proposed a loading level of 470 mobile units (90%) in three years for the typical five channel SMRS. Under the TNA plan, when a trunked system expanded beyond its initial five-channel block, it would be afforded one year to achieve a rate of loading capable of producing 90% loading within three years. TNA suggested that we adopt a channel loading method based on actual system traffic rather than theoretical usage, much like the traffic load studies for common carrier systems long required under Part 22 of our rules.[76]

108. TNA's approach to the loading of trunked systems was opposed by TACTEC, which said that such an approach has never been shown to be feasible for private systems. Kokusai objected to reducing the loading timetable and the new standards. It urged that the new rules should not be retroactively applied. E.F. Johnson urged we retain the present loading standards for two years.

109. As in the case of the loading of conventional channels, the views of the parties commenting varied greatly. The disagreement was not so much what the appropriate level of loading should be for a trunked system, but rather what the time frame should be for the attainment of certain benchmarks. With the exception of TNA, which proposed traffic studies as an alternative to mobile units, most parties seemed to feel that 100 mobiles per channel is an appropriate level of loading for a trunked system. As we have already noted, we proposed to require a system to be 90% loaded within two years of grant. For the typical 5 channel assignment, this would mean that a trunked system would have to load 450 mobile units within two years. This represented a substantial increase over our existing rules which would require the same system to load only to 350 mobile units in five years.

110. The comments therefore split among those who felt the increase in the percentage of mobile unit loading was appropriate, but not the decrease in time; those who felt the percentage of loading should vary from location to location depending on the specific circumstances; those who felt that the existing loading level was appropriate but that a decrease in the time necessary to achieve it was appropriate; and those who supported the existing rules, with or without some variations.

111. We have considered the comments and we conclude that the full-loading level for a trunked system should remain at 100 mobiles/channel. We also conclude that we should not allow spectrum to lie fallow while waiting lists of applicants exist. We have, therefore, decided to adopt a middle course of action. First of all, as we proposed in our *Further Notice*, we will not assign SMRS trunked applicants more than five channels in any market area until the first five are loaded. There was a general consensus in the comments that this was appropriate and equitable. Second, we are adopting a uniform mobile loading standard for all categories of users. Third, we are requiring that a trunked system be loaded to 60 mobile stations per authorized channel in 3 years and to 80 mobile stations per authorized channel in 5 years. Thus, a five channel trunked system must be loaded to 300 mobile stations in 3 years and to 400 mobile stations in 5 years in order to retain its full complement of channels.[77] After 3 years, if there are less than 300 mobile stations on a 5 channel system, a licensee will be permitted to retain one channel for each 100 mobile stations. The same will be true at 5 years.

112. All authorizations issued for trunked systems will be issued on a conditional basis. If the system is not loaded to the levels specified within the designated times and waiting lists exist in the same geographic area, authorization for channels not loaded to 100 mobile stations cancels automatically. There will be no maximum loading levels for trunked systems. However, once a system is 90% loaded the licensee may request additional spectrum.

b. *Existing Trunked Systems.*

113. As we have already noted with respect to conventional channels, we believe it is desirable from an administrative and educative point of view to have a uniform body of regulations at 800 MHz. However, we are mindful of the planning and considerable investment already made by licensees and some applicants. Therefore, we will allow existing trunked systems, as well as applicants for the previously allocated 800 MHz trunked channels, to operate under the rules contained in Subpart M, Part 90 of our Rules, as modified by this proceeding, for a period of five years. Thus, we will continue to process applications for the old 800 MHz channels and will authorize them for

[75] Existing rules give SMRS's five years to meet the 70% loading requirement and our proposal would have required 90% loading in two years. Under our proposal only a proportionate number of channels would have been taken back, not all of them as Motorola has urged.

[76] See, 47 CFR 22.1, *et seq.*

[77] A 10 channel system would have to load to 600 mobiles in 3 years and 800 in 5 years; a 15 channel system would have to load to 900 mobiles in 3 years and 1200 mobiles in 5 years; and a 20 channel system to 1200 mobiles in 3 years and 1600 mobiles in 5 years.

new applicants and for fully loaded existing licensees. Grants, however, to SMRS applicants will be limited to a maximum of 5 channels at a time. Non-SMRS systems of more than 5 channels will be permitted but will no longer be allowed to construct in stages. If an applicant on a waiting list receives channels, the applicant will be removed from the waiting lists. Applicants on waiting lists who have not loaded already authorized channels to prescribed levels will not be authorized additional frequencies and will be removed from the waiting list, if they cannot be authorized frequencies due to a failure to have loaded those already assigned. Licensees of existing trunked systems who have met the established loading levels of Subpart M will have until September 1, 1987 to bring their systems into conformity with Subpart S.[78] They must, however, satisfy all of the requirements of Subpart M as modified by this decision in the interim. No applicant for either old or new frequencies will be authorized additional frequencies until all of the frequencies already authorized to that applicant have been loaded to 90% of the prescribed minimum loading levels. There will be no loading maximum on any existing or future trunked systems.

c. *Procedures for Applications for Trunked Systems.*

114. Applicants on waiting lists for trunked systems may continue to have their frequencies selected by the Commission. These applications will be processed in the order they were received and will be assigned old channels as they become available. They will not processed for new channels. If applicants on waiting lists want new channels, they will have to submit new applications.

115. Applications for new channels will not be accepted by the Commission until November 15, 1982. These applications will be accepted through December 15, 1982. After this no more applications will be accepted until a Public Notice is issued. All applications submitted within this period will be date and time stamped. However, if the applications for frequencies exceed the number of frequencies available, all applications submitted within this period will be treated as if they were received at the same time on the same day.

[78] Existing licensees who have not met the loading standards established in the Rules will lose frequencies as follows. A licensee of a system not loaded to 70% will retain one channel for each 100 mobile stations. The rest of the licensee's frequencies will revert to the Commission and will become available for assignment.

H. Allowing Equipment Manufacturers To Operate Trunked Systems

116. The regulatory structure adopted for the initial release of 800 MHz frequencies limited each equipment manufacturer to the operation of one trunked system nationwide.[79] We imposed this restriction to prevent manufacturers from gaining a dominant position in the new SMRS market and to offer potential competitors the opportunity to enter and become established in this market without substantial competition from equipment manufacturers.[80]

117. In the *Further Notice* we proposed to modify or eliminate this restriction. We found that several factors now exist which make a change in policy timely. First, we noted that a substantial number of entrepreneurs have entered the market and are providing SMRS services. Second, we found that there has been an increase in the number of manufacturers of trunked equipment. Finally, we expressed concern that trunked systems have not been put into use as rapidly as anticipated. Therefore, we solicited comments on two proposals. We asked for comments on whether equipment manufacturers should now be licensed to operate one trunked system per market area as defined by the 40 dBu contour (approximately 20 miles from the transmitter site). We also asked for comments on a proposal to remove all limitations on the number of trunked systems that can be licensed to manufacturers. Under both proposals, manufacturers would be treated just like all other licensees.

118. There was no general agreement expressed by the parties on this issue. Of the equipment manufacturers who commented, Motorola favored an unrestricted entry policy, TACTEC supported our proposal to restrict manufacturers to one trunked system per market area, and GE and E. F. Johnson were opposed to any change in the current limitation. LMCC and NABER supported our proposal to permit unrestricted entry for equipment manufacturers. Many SMRS users stated that they supported our entry proposals because they would prefer to obtain both equipment and service from one source. Current SMRS entrepreneurs and NMRA, however, expressed strong opposition to both entry proposals.

[79] *Memorandum Opinion and Order*, Docket No. 18262, *supra*, at para. six.

[80] *Second Report and Order*, Docket No. 18262, *supra; Memorandum Opinion and Order*, Docket No. 18262, *supra;* 46 F.C.C. 2d 752, 781 (1974); *Further Notice of Proposed Rule Making*, PR Docket No. 79-191, *supra*.

119. LMCC, which raised the issue of elimination of the entry restriction on manufacturers in its proposal for the release of the 800 MHz reserve,[81] as well as NABER and Motorola, took the position in their comments that there is no longer any reasonable basis for restricting entry for equipment manufacturers. These parties contended that any fears of market domination by the equipment manufacturers are groundless because the market is already highly competitive. 200 channels for trunked SMRS systems in major cities are already assigned to SMRS entrepreneurs. LMCC argued that the "entry of equipment manufacturers will come too late to threaten market domination but not too late to provide well-managed and well-marketed systems, thereby assisting the Commission in reaching its primary objective—the utilization of trunked radio systems for the benefit of large numbers of private land mobile users."

120. As further protection against market domination, the parties pointed out "that equipment manufacturers would be held to the same loading standards as other licensees before they would be able to acquire additional channels beyond the initial 5 channel assignment." To the extent that any equipment manufacturer could grow beyond the operation of a 5 channel system, LMCC stated that it could do so "only by virtue of its efficient performance in the marketplace—the same as any other SMRS entrepreneurs."

121. NABER argued that the "ultimate source of any regulation should be market place forces." If the Commission retained a restrictive entry policy for equipment manufacturers, NABER contended that the result would be "an artificial marketplace geared to protect the interests of the SMRS entrepreneurs, while disregarding the potentials for efficient service for the land mobile user." NABER acknowledged, however, that the Commission should recognize the legitimate concerns expressed by independent radio dealers and small SMRS operators about their inability to compete with large equipment manufacturers, and recommended that the Commission not remove its oversight because of the "potential anti-competitive impact which could result from a change in the rule."

122. Motorola stated that manufacturers may be the only parties willing to construct SMRS systems in "small market" areas presently without

[81] *Further Notice*, PR Docket No. 79-191, *supra*, Appendix A.

trunked service. Motorola asserted that the prospect for short term profit in these areas is not promising and that manufacturers are the entities most likely to invest in SMRS systems which may be expected to turn a profit only beyond the immediate future. If an open entry policy is adopted, Motorola indicated that it may concentrate its efforts in smaller markets currently without service.

123. Although TACTEC described the current rule as "anachronistic," and argued that failure to rescind the restriction on equipment manufacturers would be detrimental to the public interest and inconsistent with the Commission's market place regulatory approach, it favored the "one-per-market" proposal.[82] TACTEC pointed out that the Commission has demonstrated its increasing reliance on market place forces in the Common Carrier and Cable Television areas and has removed ownership restrictions that imposed artificial barriers to entry in these industries. This preference for an open entry policy, said TACTEC, is based on the Commission's increasing recognition that ownership restriction is not necessary to foster competition or to protect the public interest. TACTEC further argued that manufacturers' experience with operating trunked SMRS systems will enable them to refine and improve 800 MHz trunked equipment and system design.

124. GE and E. F. Johnson opposed both proposals to change the current restriction on equipment manufacturers. E. F. Johnson recommended that no changes regarding manufacturer entry be made at this time. Instead, E. F. Johnson suggested that the Commission should give existing SMRS base station licensees ten years (one initial license term and one renewal period) "to recoup their investment and amortize their installation and other start-up costs" before permitting entry to the equipment manufacturers. GE argued that the current limitation has worked very effectively to open up the market place to new entrepreneurs. GE stated that manufacturers "could produce equipment, obtain antenna sites, set up base station operations, and sell an integrated package of equipment and service to users . . . (and) readily underprice any part of that package offering in order to compete unfairly with other service providers."

125. NMRA and current SMRS licensees expressed similar concerns and strongly opposed both manufacturer entry proposals. Their chief concern was that small entrepreneurs would not be able to compete with large equipment suppliers in the same SMRS trunked service market. NMRA stated that many existing SMRS operators are small businesses which have made large capital investments in SMRS trunked systems based on the opportunity to enter this service market free from the competition of manufacturers, upon whom they depend for their land mobile radio equipment.

126. After careful consideration, we have decided to remove a regulation which we believe unnecessarily limits the ability of equipment manufacturers to offer SMRS trunked service. With this decision we adopt an unlimited entry policy and allow equipment manufacturers to compete on an equal basis with all other SMRS entrepreneurs.[83] We realize that the action we take today may introduce new competition to some current SMRS operators.[84] [85] However, we stated in our Docket 18262, *supra*, proceeding that the restriction on manufacturers might be revisited. Therefore, no SMRS trunked licensee had any reason to expect that the restriction imposed on equipment manufacturers would never be changed.

127. We originally felt that the trunked technology would best be developed and implemented in a competitive market place. To foster such an environment, we initially restricted equipment manufacturers in the operation of SMRS systems and thus hoped to encourage numerous small entrepreneurs to enter the 800 MHz SMRS trunked market. This plan has been successful in establishing strong competition in the nation's large urban areas, as demonstrated by waiting lists of applicants for SMRS trunked systems in many of these areas. However, it is also true that a significant portion of the 800 MHz trunked allocation is under-utilized. We conclude that entry of equipment manufacturers into the large urban markets now will enhance spectrum utilization. It will also serve to increase competition, thus further benefiting the end user.

128. In taking this action, we are aware of the concern that if manufacturers of radio equipment are permitted to obtain spectrum on the same basis as other applicants, they will extend their current positions in manufacturing to a new market or reinforce their positon in the equipment market. However, we are not persuaded by anything in the record that manufacturers will engage in such conduct as a result of our new licensing policy.[86] On the contrary, it is reasonable to conclude, that manufacturer entry could result in operational efficiency and better service rather than anti-competitive practices. To the extent, however, that anti-competitive practices might occur in the future, complainants have access to forums in which to seek relief.[87]

129. We believe that the public interest will best be served by an open entry policy for equipment manufacturers. This will provide them with the opportunity to enhance competition and promote technological innovation in the provision of 800 MHz trunked service. As an additional benefit, we expect that some equipment manufacturers will enter those market areas where trunked technology is not currently provided.

V. Frequency Coordination [88]

A. Selection of Frequencies

130. In the *Further Notice of Proposed Rule Making* in this proceeding, we

[82] API was the only other party which specifically favored the proposal to allow manufacturers to operate only one trunked system per market.

[83] This parallels our recent cellular decision. *See, An Inquiry Into the Use of the Bands 825–845 MHz and 870–890 MHz for Cellular Communications Systems*, CC Docket No. 79–318, *Report and Order*, 86 F.C.C. 2d 469 (1981) and *Memorandum Opinion and Order on Reconsideration*, 89 F.C.C. 2d 58 (1982). In Docket No. 18262, we originally prohibited wireline cellular system operators from manufacturing mobile station equipment for use on cellular systems. However, in reconsidering this point in the cellular decision we removed the prohibition because we found that it provided unwarranted protection for non-licensee manufacturers of equipment and deprived the public of the potential benefits of competition. We recognized that it was in the public interest to allow system operators to provide cellular service and equipment. We now find that it is in the public interest to permit equipment manufacturers of 800 MHz trunked equipment to also provide trunked service.

[84] Economic harm to competitor is not sufficient reason to deny a license to another applicant. *Federal Communications Commission v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940); *Regents of University of Georgia v. Carroll*, 338 U.S. 586 (1950).

[85] For a more detailed discussion of the possible consequences of our entire decision on small businesses, *see* Regulatory Flexibility, VI, *infra*.

[86] See our discussion concerning the possibility of anti-competitive practices in the operation of community repeaters at 800 MHz, paras. 192–194, *infra*.

[87] *United States v. Radio Corporation of America*, 358 U.S. 334, 351–352 (1958); *National Broadcasting Co., Inc. v. United States*, 319 U.S. 190, 222–226 (1942).

[88] NMRA's June 21, 1982 request to the Chief of the Private Radio Bureau that the Commission delay a discussion on the issue of frequency coordination procedures until it resolves the issues in PR Docket No. 82–226, FCC ——, FR — (198–) is denied. The issues in that proceeding relate solely to add-on users of previously licensed facilities in the 450–470 MHz band. NMRA has presented no reasons which warrant a delay in this proceeding concerning frequency coordination issues.

proposed that applicants could select their own frequencies. We offered them the option of either employing the services of a frequency coordinating committee in selecting their frequencies, or of making their own selection and submitting the necessary field study. As proposed, this would have applied to eligibles in all categories.

131. More specifically, we indicated our intention to allow applicants to request different separation distances between co-channel stations to take into account such special conditions as terrain, antenna height, transmitter power and service area. We also proposed that a letter of concurrence be required from all co-channel licensees closer than the mileage separation now stated in the rules who would be affected by a request for such a decrease from the presently established mileage standards. Additionally, we proposed that applicants in the three non-SMRS categories be permitted to select and request the frequencies for wide-area or ribbon configuration systems.

132. A majority of comments expressed support for the introduction of frequency coordination for the newly released channels at 800 MHz. An exception was existing SMRS's licensees, who expressed the view that frequency coordination is not needed because the current mileage reuse standards are working well.[89]

133. We have considered this matter and the views of the parties carefuly. We are adopting new rules to require eligibles in any of the non-SMRS pools to make their own frequency selections. We have decided this based on our belief that systems can be "engineered-in" to use spectrum more efficiently than is possible under the present frequency assignment policies.

134. We are not requiring frequency coordination for SMR systems. No entity has stated a willingness to coordinate the use of spectrum by SMR systems. Furthermore, most SMRS licensees seemed to feel that fixed frequency re-use of 70 miles is the best approach to assigning exclusive channels. Accordingly, for commercial systems we will continue to select and assign channels under our current mileage separation standards although we will allow commercial applicants to specify their channels if they wish.

135. With respect to coverage and separation standards applicable to the channels being released, it is our intention that an applicant generally be provided with a grade of service and protection for exclusive channels equivalent to that provided in Docket No. 18262 for exclusive channels and set out in our existing rules for 800 MHz. Specifically, the existing power and antenna height limitations will apply to the channels being released. The intention of these limitations is to provide for a signal strength contour of 40 dBu at a distance of 20 miles from the base/repeater station. Furthermore, the limitations are intended to limit the strength of co-channel interfering signals to a level of 30 dBu at the 40 dBu contour of the licensee's exclusive coverage area. The resultant separation distance between co-channel stations necessary to achieve this 10 dBu ratio is typically 70 miles and this is the maximum mileage separation we will authorize for co-channel protection. There are instances, however, where lesser spacings are appropriate, and deviations from the 70 mile reuse figure will be needed to account for special conditions, such as terrain irregularities, reduced service area and directional antennas.[90] We expect that applicants will, whenever possible, attempt to use spacings less than 70 miles, so long as the 10 dBu protection margin for exclusive channels is maintained. The criteria outlined above must be followed whether the applicant uses a coordinator or a field study. Non exclusive assignments (*i.e.*, where an applicant does not have sufficient mobile units for channel exclusivity) will not be protected from other co-channel users.

136. When an applicant selects frequencies through a field study, a copy of the field study report must be submitted with the application. As part of the field study, the applicant must calculate the field strength of the proposed station and the interference impact that the new station will have upon existing co-channel stations with exclusive assignments within a 70 mile radius of the proposed station. The applicant must also notify co-channel stations within a 70 mile radius whose area of coverage (*i.e.*, 40 dBu contour) will be overlapped of the applicant's intent to apply for the designated frequencies. These notifications and any responses received, must be submitted with the applications.[91] To assure the accuracy of the data bases of the frequency coordinators, we are requiring that applicants who choose to conduct a field study must notify the appropriate coordinator of the frequency for which they have applied at the time of application.

2. *Wide Area Systems/Ribbon Configuration/and State Wide Systems.*

137. Wide area, ribbon configuration, state-wide or region-wide and other types of systems which depart from the single fixed transmitter pattern currently are authorized on a case-by-case basis. There has been, however, substantial interest expressed in incorporating into the rules some routine way of handling these requests.

138. The first of these systems is the wide area system. Wide area systems are complicated by the fact that in the case of trunked systems, the authorization of additional base stations which operate on trunked frequencies affects our ability to re-assign the channels within seventy mile intervals. To illustrate, if a five channel trunked system was authorized in Kansas City, the same five channels are available for re-assignment seventy miles away. If, however, the licensee of the trunked system wished to place a second transmitter thirty miles outside of Kansas City and use these channels as part of a wide area system, it is potentially only forty miles away from another co-channel user of these frequencies. The two options available are to make this "remote" site "secondary" to other co-channel users, or to authorize this "remote" transmitter entirely different frequencies. A related issue is how we would count mobile stations on a wide area system when a mobile might move back and forth between transmitters.

139. The second type of system, ribbon systems, raise entirely different issues. Here the licensee wishes to have a long narrow area of operation. Some illustrations of such systems are railroads or gas lines. The licensee wishes to move from one area of operation to another along a narrow route rather than serve a single geographic area circumscribed by a circle with a twenty mile radius. Three problems arise. First, under a sequential assignment and vertical stacking approach to frequency authorization, how could the licensee secure the same frequencies along the entire path it wished to cover? Second, as a mobile moved along the route from one transmitter to another, how was it to be counted for mobile loading purposes? Third, where base station transmitters are spaced at 70 mile intervals, could

[89] NMRA also opposed frequency coordinating committees.

[90] We expect the Commission's R-6602 curves, as adjusted for land mobile operations, to be used whenever possible.

[91] We have determined that it would be unnecessarily burdensome to the applicant to require a letter of concurrence from all licensees whose systems would be affected in any way by grant of the application.

remote transmitters be placed in-between to assure continuity of coverage?

140. The third type of system is the state-wide or region-wide systems. These systems resemble both the wide area and the ribbon configuration systems because they seek to "blanket" a large geographic area with a communications system, *e.g.*, a state-wide public safety network. The primary concern in relation to these systems is how a licensee with many base station transmitters and a fleet of mobiles can assure the same frequencies are assigned and satisfy the channel loading requirements.[92]

141. In our *Further Notice* we stated that we would limit wide area, ribbon configuration, and state wide systems to non-SMRS eligibles, and we would not authorize SMRS's for these types of systems.

142. With regard to wide area systems, we stated we would not authorize "remote" stations operating on the system's trunked frequencies on a primary basis. We said if licensees of trunked systems wanted remote stations, these stations would either have to operate on a secondary basis to co-channel trunked systems or would have to operate on other channels.

a. *Wide Area.*

143. While all of those who commented felt there should be some specific rules to accommodate wide area systems, there was little in the way of specific guidance. Most who commented felt that remote stations in wide area systems should either use separate frequencies or should accept secondary status. Regarding how the mobiles should be counted, they felt that we should count the total number of frequencies in the geographic area and the total number of mobile stations. If the total number of mobile stations justified the total number of authorized base station frequencies, most commentors felt we should regard the frequencies as loaded.

144. Because we have decided to require frequency coordination for non-SMRS systems, we feel that the status and accommodation of remote stations is a matter best left to the frequency coordinators and the applicants.

145. As for loading of wide area systems, we feel that the approach suggested in the comments has merit. Therefore, for loading purposes we will count the total number of base station frequencies and the total number of mobile stations in a given geographic area to determine if our loading standards have been met.

b. *Ribbon Configuration and State Wide Systems.*

146. Ribbon configuration and state wide systems raise particular problems because they involve many geographic areas. The difficulty with establishing these systems, as has been noted, was our sequential frequency selection and vertical stacking rules. Little in the way of specific suggestions as to how these systems should be accommodated was provided in the comments. However, we have considered the matter and the record of the consolidated proceeding in which this issue was involved and have decided to adopt the following approach.

147. Because under the rules we are adopting today there will no longer be frequency selection by the Commission for non-SMRS systems, there is no need to maintain vertical loading and sequential assignment rules. The introduction of frequency coordination and our slow growth system provisions will do much to alleviate the concerns of applicants for these types of systems as to securing the same frequencies in different areas and sharing channels with compatible users. We believe, therefore, that the provisions made for slow growth systems and for frequency coordination should satisfy most ribbon configuration and state wide system requirements, and that no additional rules are necessary.

148. With regard to loading of ribbon configuration and state-wide systems, a mobile will be counted only for the geographic area in which it primarily operates. To the extent that this cannot be determined, it will be counted fractionally over the number of base stations involved. Thus, if it covers five different geographic areas equally, it will be counted as one-fifth mobile for each base station for channel loading purposes.

c. *SMRS's.*

149. No generalized requirement for wide area, ribbon configuration or state wide systems was demonstrated by SMRS's. Consequently we will not authorize these configurations in the commerical pool. To the extent that such a requirement exists in a particular case, we will consider it on its individual merits. However, such a system will only be authorized if we are convinced that it will not unduly interfere with the coverage area of other established or potential SMRS's.

J. Technical Rules

150. In our *Further Notice*, we proposed to allow flexibility in choosing the type of emission mode to be used and the amount of bandwidth to be occupied. Specifically, technical in-band flexibility was to be permitted: (1) on those channels assigned for exclusive use to a single licensee, (2) to shared systems where all users agree to the intended use, and (3) to SMRS licensees. We proposed however that users must continue to comply with current out-of-band restrictions to prevent interference. Expecting such compliance, we proposed also to eliminate current requirements concerning frequency stability.

151. Additionally, we proposed: to allow a licensee to use more than a single emission mode within the authorized bandwith; to eliminate designation of specific emission classes for particular frequencies; and to eliminate all restrictions on "non-voice" and other specialized operations.

152. Under our proposal, we would have continued to identify spectrum assignments by the center frequency in the bandwidth authorized, although we recognized that this might not necessarily correspond to the emission carrier frequency.

153. Furthermore, we proposed to allow licensees to employ any bandwidth up to a maximum of 25 kHz, and any effective radiated power up to a maximum of 1000 watts in urban systems, and 500 watts in suburban systems [93] over each entire 25 kHz allocation. In cases in which a licensee chose to use more than a single emission within a 25 kHz allocation, we indicated that the sum of the emissions could not exceed these limits on effective radiated power. [94] Under our proposal, maximum antenna heights would vary according to location and power limits. [95]

[92] For example, a state wide system with twenty transmitter sites spaced seventy miles apart and trunking five channels would like to re-use the channel blocks. Such a system also would require 10,000 mobile stations in order for the system to be fully loaded.

[93] Systems to be located within 24 km. (15 mi.) of the geographic center of the 50 urbanized areas detailed in 47 CFR § 90.365 were to be considered "urban" systems. All others were to be considered "suburban" systems. Systems located on Santiago Peak, Mount Lukens or Mount Wilson (all in California) were to be permitted to utilize an effective radiated power of 1000 watts. Pending propagation tests in the Southern California and Mexican border areas however, may result in reduced ERP limits being imposed.

[94] However, we noted that stations wishing to operate near the edge of their 25 KHz allocation might be required to reduce their output level by an amount set forth in § 90.209(g) of the Rules.

[95] The maximum antenna height we proposed to authorize for the above power limits was 304 m. (1000 ft.) above average terrain (AAT) for urban systems, and 152 m. (500 ft.) AAT for suburban systems. For antenna heights greater than 304 m. (1000 ft.) AAT in urban systems, or 152 m. (500 ft.) AAT in suburban systems, we proposed that effective radiated power should be reduced in accordance with existing rules.

154. Finally, we proposed that applicants who were able to justify exclusive use of more than one 25 kHz channel would be permitted to apply for interleaved or contiguous channel groups. We provided in each proposed category several contiguous channels in either two, three, or four channel groups. Where contiguous channels would be assigned to a single licensee in a given area, we proposed that the adjacent channel limits in the current rules would apply only to the upper and lower edge of the combined bandwidth. [96] We also proposed that the total in-band power permitted within the contiguously assigned bandwidth would be the power normally permitted within the 25 kHz segment of assigned bandwidth multiplied by the number of channels assigned, not to exceed the maximum otherwise allowed.

155. M/A-COM, API and MRFAC all commented in support of the proposed new standards for technical flexibility. MRFAC favored adoption of the new standards to provide for appropriate in-band protection criteria to protect co-channel licensees from interference. EIA, TACTEC, and Motorola on the other hand, stated that the standards are premature and that the 800 MHz spectrum is not the proper place for long-term technological development. Motorola, while suppporting the concept of technical flexibility, recommended against adoption on the basis that a strong demand for 800 MHz channels mitigates against allowing new technologies the necessary time to develop on these channels. Moreover, Motorola stated that the standards may result in a mixing of incompatible emission modes and occupied bandwidths resulting in serious interference to other users. SIRSA contended that we should have addressed the technical flexibility proposals in a separate Notice of Inquiry. It stated that a delay in the release of the frequencies should not occur because of possible controversy over our technical flexibility proposals. No comments on the technical flexibility proposals were received in the submissions from the SMRS licensees.

156. We have considered the pros and cons of these issues carefully and we conclude that it is in the public interest that technical flexibility be authorized to meet the needs of users who have communications requirements that necessitate innovative systems. Technical flexibility will enable licensees to engineer their communications systems without being constrained to use a specific emission mode or bandwidth. By taking this action we recognize that the best combination of emission mode and bandwidth differs for various users and geographic areas. We also believe that technical flexibility will provide equipment manufacturers with the opportunity to develop more efficient technology. To allow for such systems, we are adopting certain rules which we feel are neither too restrictive nor too permissive for the spectrum we are releasing.

157. To prevent interference on shared channels, we will restrict the eligibility for technical flexibility considerations to channels assigned for exclusive use to a single licensee, to shared channels where all users agree to the intended use of a channel, and to SMRS systems. Eligible licensees will normally be assigned 25 kHz channels with a 20 kHz authorized bandwidth. We are reducing this from the 25 kHz bandwidth contained in our NPRM to minimize the likelihood of adjacent channel interference. [96a] We will permit the licensee to utilize any emission mode provided that all emissions comply with the out-of-band emission limits as specified in § 90.209 (c) or (g) of the Rules. However, contrary to our proposal in the *Further Notice,* we will require that the emission designation(s) be specified on the station authorization. Additionally, more than a single emission may be utilized within the authorized bandwidth.

158. For systems requiring more than the normally authorized single channel bandwidth, the frequency plans we are adopting for the channels to be released in this proceeding include, in most cases, contiguous channels which may be authorized upon a showing that from 2 to 5 contiguous channels are required for wide-band systems. Contiguous channels will not be available for the SMRS category, however, because providing contiguous channels for SMRS's would drastically reduce the number of 5-channel groups that would be available for their trunked systems. No provision has been made for them therefore. Also, because of the frequency plans that resulted from the agreements with the Mexican and Canadian governments, contiguous frequencies will not be available in the border areas except in Region 3 of the U.S./Canada border. These channels are listed in § 90.615, § 90.617 and § 90.619 of the Appendix. [97]

159. We are adopting our proposed effective radiated power (ERP) and antenna height limits for the channels where technical flexibility is allowed. These power limits are 1000 watts ERP for urban systems and 500 watts ERP for suburban systems for each channel authorized. Where a licensee chooses to use more than a single emission within the authorized bandwidth, the sum of the emissions may not exceed the aforementioned limits on ERP. Antenna heights above average terrain for these power limits are 1000 feet AAT (304 m.) for urban systems, and 500 feet AAT (152 m.) for suburban systems. For greater antenna heights, the ERP authorized will be in accordance with the equivalent power/antenna height table given in the Appendix.

160. On channels where technical flexibility is allowed we are not requiring a specified equipment frequency stability. However, licensees must meet the out-of-band emission standards of § 90.209 (c) or (g). [98]

161. Nothing we are doing here is intended to increase the potential for adjacent channel and co-channel interference between current and new technology users. We assume, however, that manufacturers involved in the development and sale of two-way land mobile communications equipment are fully cognizant of technical issues concerning adjacent channel and co-channel interference when dissimilar emissions are involved and will take precautions to assure that current technology users are not adversely affected. We recognize that there is some risk involved, yet we believe that this risk is offset by the potential benefits derived from the introduction of innovative technology. Furthermore, the current rules for type acceptance will require manufacturers to request waivers of or § 90.203 of our rules to market equipment occupying more than one channel.

K. PR Docket No. 81-703

162. In line with our technical flexibility provisions, we have decided to include the issues in PR Docket No.

[96] See § 90.209 of the Rules.

[96a] However, we will also consider requests for waiver to enable an applicant to utilize the full 25 kHz bandwidth, if the applicant can demonstrate out of band interference is not likely to result.

[97] The *Further Notice* proposed allowing licensees to trade among themselves to acquire contiguous channels for interleaved channels. We have considered this point and will allow licensees to trade channels to acquire contiguous spectrum, subject to other applicable rules and Commission approval.

[98] While we originally proposed type-acceptance tests for worst case conditions (e.g., amplitude modulated single side-band transmitters operating on frequencies nearest the channel edge), we have rejected this proposal and will not require a specified equipment frequency stability. Instead, we will rely upon the out-of-band emission standards in the Rules.

81–703 in this proceeding.[99] After reviewing the record, we have determined to relax the non-voice rules as they relate to data and tone signalling transmission on trunked, exclusive use and shared channels.

163. All comments except those from Mobilfone Service, Inc. and Radiotelephone Communicators of Puerto Rico, Inc. supporting our non-voice proposals. Motorola, for example, indicated that the use of non-voice at 800 MHz would "eliminate restrictions which have proved unnecessary . . ." SIRSA noted that the proposals would also provide greater flexibility for licensees that satisfy the criteria for an exclusive channel assignment and enable entities such as mining companies and large agricultural firms to "maximize the use of their 800 MHz systems by utilizing non-voice capabilities to provide routine responses or perform other specific tasks." API stated that the proposals would "be of great benefit to Petroleum Radio Service licensees who already enjoy these (non-voice) benefits with systems that use frequencies below 806 MHz." Further, API stated, "the Central Committee believes that these same non-voice techniques can be permitted on shared 800 MHz channels without any serious negative impact." NABER concurred with this view and further indicated that "there is significant interest among users and equipment manufacturers in encouraging non-voice technology." API added that this would "diminish some congestion problems." GE stated that "the application of mobile data to these services will not only improve spectrum utilization, by reducing the air time required for transactions, but also provide for automation of such functions as service part inventory control, remote invoicing and advance ordering for stocking requirements" when secondary fixed uses are permitted.

164. The comments of CSG, GE and Motorola suggested additional areas in our non-voice rules which would benefit from further deregulation. CSG and GE felt that we should relax or drop the two second limitation in § 90.233 [100] which applies to non-voice emissions. They pointed out that this rule inhibits the useful efficiency of non-voice communications, such as computerized dispatch. However, Mototola suggested that we make a distinction on this point between trunked and non-trunked shared channels, reasoning that the parallel nature of the trunked system which effectively provides a user a "dedicated" channel would support non-voice communication exceeding two seconds, but that a single shared channel would not assure a lack of interference between voice and non-voice communications. NABER and API expressed a similar desire to retain this two second limitation as it applies to non-trunked, shared channels.

165. However, Motorola, in its reply comments, in light of more recent developments in non-voice communication systems, modified its view. Motorola stated, "Now, however, it is clear that data mode dispatch communication will be a practical and efficient substitute for telephony that could be applied to a number of existing and future requirements." It concluded that these systems should be treated on an equivalent basis with voice systems and that co-equal sharing on a primary basis would not be a problem.

166. We have considered these comments and we conclude that non-voice data transmission on 800 MHz channels is both desirable and feasible. We also conclude that interference between co-channel voice and non-voice transmissions is not likely to develop because our frequency coordination procedures should substantially alleviate co-channel system incompatibility problems. In light of this and in recognition of the fact that the secondary status of non-voice operations can retard the development of spectrally efficient, data-only transmissions because of the licensee risk involved, we are authorizing such systems on a co-equal primary status with voice systems.

167. We are also removing the two second limitation because it unncessarily restricts the usefulness of these systems and no substantive reasons for retention of this restriction are before us. We are not, however, adopting rules to permit fixed operations on 800 MHz frequencies because these frequencies were allocated to accommodate base/mobile needs. Other frequencies are available to satisfy fixed-point-to-point requirements.

L. U.S./Canada Border Area Frequency Allocation

1. *Proposal.*

168. Based upon an interim agreement between the United States and Canada on the use of 800 MHz that was valid at the time of release of the *Further Notice*, we proposed that new channels would not be available within 233 km. (145 miles) of the Canadian border, and that stations located between 233 km. (145 miles) and 402 km. (250 miles) would have to coordinate their operations under existing arrangements between the two countries.

169. Comments concerning the U.S./Canada border frequencies were received from Allen Electronics, Radio Systems, Inc., Stan's Communications, and Grove Communications. All the comments urged that immediate action be taken to provide frequency relief in the border area.

170. On April 7, 1982, an agreement was concluded between the Federal Communications Commission and the Department of Communications of Canada concerning the use of the private land mobile radio frequency bands 806–821/851–866 MHz in the U.S./Canada border area. Sharing arrangements were developed that permit each country to utilize exclusive portions of these bands so that only minimum coordination between the two countries will be necessary. Geographical protection and sharing zones were established, and the number of frequencies made available to each country was generally dependent upon population density and expected spectrum use.

171. The sharing arrangement establishes criteria for the use of the 600 available channels in an area that extends 140 km (87.5 miles) on each side of the U.S./Canada border. The agreement divides each 140 km strip into 8 geographical regions with different numbers of channels as listed below:

Region	Location (longitude)	U.S. channel allocation
1	66° W.—71° W. (0–100 km from border)	300
2	71° W.—81° W. (0–100 km from border)	180
3	81° W.—85° W. (0–100 km from border)	420
4	85° W.—121°—(0–30' W km from border)	300
5	121°–30 W.—127° W. (0–140 km from border)	300
6	127° W.—143° W. (0–100 km from border)	300
7	66° W.—121°–30' W. (100–140 km from border)	600
8	127° W.—143° W. (100–140 km from border)	600

Regions 1–6 are called sharing zones, in which the sum of each country's allocation total 600 channels. In regions 7 and 8, which are called protection zones, each country can use all 600 channels. The use of all frequencies in the sharing and protection zones will be subject to effective radiated power and effective antenna height limitations set out in the Appendix.

[99] *Notice of Proposed Rule Making*, PR Docket No. 81–703, FCC 81–460, adopted October 1, 1981 and released October 14, 1981.

[100] 90.233(b) states: "(b) Maximum duration of a transmission for each distinct non-voice message, including automatic repeats of the message, may not exceed 2 seconds. There must be a break in the carrier between each such transmission."

172. Previously, the interim agreement with Canada did not permit authorizations to be granted for 800 MHz stations that were located closer than 160 km (100 miles) from the border. Under the final agreement, 800 MHz frequencies may now be authorized in an area 140 km (87.5 miles) from the border under certain sharing and protection criteria. The different distances from the border in the two agreements leaves a 20 km (12.5 mile) strip that previously was denied the use of 800 MHz frequencies, and technically is not now subject to the provisions of the agreement. This area, which we are calling Region 9, encompasses the area extending from 140–160 km (87.5–100 miles) from the border from longitudes 66° W to 143° W. Since this region is such a narrow strip, rather than establishing a separate set of criteria for stations in this area, we are treating Region 9 under the parameters applicable to Regions 7 and 8 of the U.S./Canada agreement.

173. In those areas listed in the Appendix where, as a result of the special sharing arrangements, portions of the allocated bands of both countries overlap, certain frequency assignments in the overlapping portions will be coordinated with Canada in accordance with existing procedure. Beyond 160 km (100 miles) from the border, the use of the frequencies will be subject only to the Commission's Rules.

174. Currently, five Canadian television stations provide service in Southern Ontario and British Columbia in the band 806–890 MHz in accordance with the U.S./Canadian Television Agreement of 1952. They are:

Windsor, Ontario	Channel 78.	854–860 MHz.
Kitchener, Ontario	Channel 76.	842–848 MHz.
Toronto, Ontario	Channel 79.	860–866 MHz.
Enderby, British Columbia	Channel 72.	818–824 MHz.
Radium/Hot Springs, British Columbia.	Channel 77.	848–854 MHz.

The United States has agreed to protect reception of these stations in Canada from interference from other radio services operating in the band 806–890 MHz. Canada has agreed to reassign as expeditiously as possible the three television stations located in Ontario. The two stations in British Columbia will be reassigned at some future date if it is concluded that their continued operation would impair the provision of land mobile radio services along the border.

175. Prior to reassignment, each of the television broadcast stations is to be protected as follows: the field strength of an interfering mobile radio signal at the station's calculated B contour (where the protected contour crosses the border, that portion of the border lying within the contour shall be treated as the relevant segment of the B contour) is not to exceed 14 dBu for frequencies co-channel with the television channel utilized, and is not to exceed 54 dBu in the two adjacent 6 MHz guard bands. The field strength of any interfering signal is to be calculated using the FCC Report R-6602 F (50, 10) propagation curves at a receiving effective antenna height of 30 feet (9.1 meters).

176. It is expected that the three Ontario television stations will be reassigned by the end of 1982. Until then, in the Detroit and Cleveland areas, 800 MHz land mobile systems will be authorized only if a technical submission is made showing that the agreed upon protection is provided the Canadian TV stations. Also, in order to provide protection from interference to the reception in Canada of certain other Canadian television stations, we will withhold authorization of the operation of land mobile base stations in the frequency bands and geographical areas listed in the attached Appendix.

177. A 5-channel trunked group is normally authorized with frequencies spaced 1 MHz (40 channels) apart. This results ordinarily in a need for 200 contiguous channels. Because of the manner in which the 600 available channels were divided, 1 MHz spacing between frequencies is feasible only in Regions 3, 7, 8 and 9, where the U.S. has more than 200 contiguous channels.

178. Five channel trunked systems can also be implemented in the four areas where each country has 300 channels. However, less than the standard 1 MHz channel spacing is necessary in those areas as the U.S. portion is 150 channels at each end of the band, with the Canadian portion being the middle 300 channels. This means that a 5-channel group will have to operate with only 30 channels spacing (750 kHz) between frequencies. In Region 2, where the U.S. apportionment is 180 channels, with 90 at each end of the band, a spacing of 18 channels (450 kHz) between frequencies is necessary. Region 2 includes the cities of Rochester, Syracuse, Buffalo, and Erie, Pa.

179. The number of channels available in the Canadian border area to the four categories of users that have been established are listed below. The proportion of the number of channels assigned to each category to the total number of available channels is approximately the same as in the non-border areas.

Category	Regions (number of channels)			
	1, 4, 5, 6	2	3	7, 8, 9
Public safety/special emergency	85	50	115	170
Industrial/land transportation	60	35	85	120
Business	60	35	85	120
SMRS	95	60	135	190
Total available channels	300	180	420	600

180. A frequency plan has been developed for use in the U.S./Canada border region. All frequencies that will be made available for use in the United States sector will be considered as newly available spectrum and will be subject to all new rules adopted in this proceeding and set out in Subpart S of the Appendix. Actual frequencies that have been allocated to each category of users are listed in a new § 90.619 of the Rules as shown in the Appendix.

M. U.S./Mexico Border Region Channel Allocation

181. When the Commission reallocated the 806–890 MHz spectrum from television broadcasting to the private land mobile radio services in 1974,[101] negotiations were initiated with the Mexican government to arrive at an agreement for the use of these frequencies in the Mexican border area.

182. The *Further Notice* proposed to divide the 250 channels in the Southern California region by providing 100 exclusive channels for San Diego County and 150 channels exclusively for the Los Angeles area. The channels were further categorized as follows:

Category	San Diego	Los Angeles
Public safety/special emergency	25	35
Industrial/land transportation	25	45
Business	20	30
SMR/community repeater	30	40
Total channels	100	150

183. We also indicated in the Further Notice that since we anticipated that the 800 MHz spectrum would be shared by the U.S. and Mexico in the border area, offset assignments could require a coordination effort between the two countries. We stated that the receiver selectivity for 12.5 kHz offset operation was approximately 15 dB and might not be enough protection for offset operation due to the unusual radio propagation conditions in Southern California.

184. Comments on the proposed Southern California frequency plan were received from Palomar Communications,

[101] *Second Report and Order*, Docket No. 18262, *supra*.

Inc. (Palomar), NMRA, Motorola, TACTEC, and General System 75 (GS 75). Reply comments were received from Motorola and NMRA. The comments agreed that immediate frequency relief was needed in the San Diego area. Palomar supported the proposed 200 mile (from the border) reuse limitation of the San Diego channels, but indicated that San Diego should receive more than 100 channels to make up for its lack of 470–512 MHz frequencies and for the restrictions on use in San Diego already allocated 800 MHz channels. Palomar also argued that the same effective radiated power requirement of 1000 watts as allowed for Los Angeles mountain top stations should be allowed for San Diego stations. NMRA stated that Los Angeles should have as many new 800 MHz frequencies as needed to meet its demands, while only the frequencies utilized in Los Angeles which are blocked from being received in San Diego because of the intervening mountains terrain should be assigned to San Diego. NMRA proposes that any additional remaining needs of San Diego should be met from the 30 MHz of existing 800 MHz reserve. Motorola stated that there will be a surplus of applicants for new channels in the Southern California area and that the proposed plan may not satisfy the demands of the end users. Motorola suggested that an offset frequency plan might provide the fullest possible spectrum utilization.[102] TACTEC agreed with the concept of setting aside 100 channels for San Diego, but would divide them into only two groups of 25 conventional and 75 trunked channels. GS 75 disagreed with our Southern California proposal and said that only those channels, both old and new, that are terrain shielded from Los Angeles should be assigned to San Diego.

185. Subsequent to the release of the *Further Notice* in this proceeding, a frequency sharing arrangement with Mexico was signed on June 18, 1982. The sharing arrangement agreed upon provides exclusive bands of 800 MHz frequencies for each country's use, eliminating the necessity for frequency coordination between the two countries. This finalization of the frequency usage arrangement along the entire border area has, however, necessitated changes to our proposed plan.

[102] Motorola, in its reply comments, indicated that it had conducted laboratory and field tests to determine the isolation between a desired carrier frequency and an undersired carrier frequency 12.5 kHz removed. On the basis of these tests, it believed that a value of 20dB rather than the 15dB referenced in the *Further Notice* represents a reasonable design guideline for interference protection in 12.5 kHz offset operation.

186. Therefore, in light of the border frequency usage agreement with Mexico, as well as the comments received, we are adopting an offset frequency plan for the Mexican border area. This offset plan will provide 200 frequency pairs, for use in a region extending 110 km (68.4 miles) from the Mexican border, (rather than the 100 pairs for only San Diego County use as proposed in the Further Notice). The 200 offset channels will be divided among the four service categories as indicated below.

Category	Border area offset channels
Public safety/special emergency	40
Industrial/land transportation	40
Business	40
SMRS	80
Total	200

The use of offsets in the border area will allow all 250 reserve channels to be utilized in Los Angeles.

187. The sharing arrangement with Mexico states that within the 816–821/861–866 MHz bands, the U.S. will use the even-numbered blocks, and Mexico the odd-numbered blocks (as given in Table 1 of § 90.365(h) of the Rules). This arrangement results in each country having 100 interleaved channels in this portion of the allocation. These channels are the same as those now being utilized in the Los Angeles area, and because of the Southern California propagation conditions, cannot be reused in the San Diego region. We are mindful that some who commented on this point supported only allowing the use of any of these frequencies in the border area if co-channel interference would not occur between Los Angeles and San Diego systems due to intervening terrain. It appears the use of offset frequencies is feasible in the border area, and in the interest of maximizing the number of channels available for use in the border area we are adopting such an approach. Also we are considering the use of offsets in the 816–821/861–866 MHz bands. Such a plan would provide 100 additional channels, for a total of 300, that could be utilized in the San Diego area. Since the use of such an offset plan, however, would require a modification of the agreement between the two countries, we will initially authorize only the 200 offset channels which were obtained from the exclusive U.S. allocation, and postpone the authorization of the additional 100 offset channels derived in the 816–821/861–866 MHz bands until any modification of the agreement is concurred with by both countries. The frequencies available for use in the U.S./Mexico border area are listed for the various service categories in § 90.619 of the Rules.

N. PR Docket No. 79–107—Multiple Licensed Community Repeaters

188. By a separate order the above-captioned docket has been consolidated into this proceeding. Docket 79–107 was initiated at a time when the development of SMRS's was uncertain and the Commission wished to explore the impact that multiple licensed community repeaters were likely to have on SMRS development and on the private land mobile community.

189. Generally the comments received in this proceeding were not useful from the Commission's perspective. Instead of addressing the questions posed by the Commission, many parties made broad allegations and sweeping generalizations about the entities which provided community repeaters, particularly the large equipment suppliers such as Motorola, General Electric and RCA. Rather than address the pros and cons of this licensing approach from the end-users' perspective, competitors of these companies in the provision of radio equipment or services argued that these companies dominated the community repeater maket and that this was not good.

190. The allegations made, however, were by and large just that. Neither evidence substantiating the claims of anti-competitive practices nor specific instances documenting this charge were submitted. In the absence of documentation the Commission is left with a record of unsubstantiated allegations of generic practices and bare conclusions which maintain that community repeater operators are anti-competitive and therefore multiple licensing about 800 MHz should be discontinued.

191. The users of community repeaters and their representatives do not appear to share this view. They have maintained in their comments in both PR Docket Nos. 79–107 and 79–191 that community repeaters are useful licensing options which maximize their flexibility and which ought to be retained.

192. The specific points on which we asked comment in our Notice of Inquiry were:

(1) Economic—how does the community repeater affect the cost of radio communications equipment to the public?

(2) Spectrum efficiency—does the community repeater make efficient use of the spectrum?

(3) User satisfaction—are consumers satisfied with community repeaters, and what would their satisfaction be with alternative arrangements?

(4) Administrative/enforcement—can the FCC efficiently and fairly administer the licensing of community repeaters at 800 MHz and can we effectively enforce the rules which govern them?

193. The comments received on these questions, in a broad overview, were as follows. Generally the users of community repeaters and their representatives stated that they were satisfied with community repeaters. They found them a useful and cost efficient user option which the Commission should retain. Commercial entities in competition with large community repeater suppliers challenged the suppliers as engaging in "monopolistic" and "anticompetitive" practices in the ways in which they made community repeaters available. Comments addressing the specific question of how the community repeater affected the cost of radio communications to the public were speculative rather than substantive in nature. Thus, on the primary economic issue propounded by the *Notice of Inquiry* we have almost nothing concrete before us.

194. Regarding spectrum efficiency, the question which concerned us was whether the community repeater operating in a conventional mode is more, less or as efficient as other types of private systems. The term spectrum efficiency, however, was not specifically defined because of the number of variables which combine to effectuate efficient, disciplined use of spectrum. We invited input from interested parties as to the constituent elements of spectrum efficiency and whether or not they were promoted by the use of community repeaters.

195. Little of a substantive nature was adduced in the comments, nor was there any general agreement of what constituted spectrum efficiency in the private services. After considering the evidence before us, it appears that a multiple licensed community repeater on which several licensees of a channel make use of a single base station is likely to be as spectrally efficient as several private systems on a single channel each with their own base station. In addition, when several licensees use a single transmitter there is no opportunity for two base stations to transmit simultaneously and cause a potential interference problem.

196. With regard to other types of shared systems (*i.e.*, cooperatives and conventional SMRS's), multiple licensed systems and shared systems all operate on the same principle. That is, each has a number of users who share a single transmitter. There is nothing intrinsically different in their operating modes. This being so, we conclude that multiple licensing is as spectrally efficient as these other modes of conventional operation.

197. Regarding trunked systems, we conclude that single channel conventional systems, multiple licensed or otherwise, are less spectrum efficient than multi-channel trunked systems.

198. On the question of spectrum efficiency, therefore, it appears that community repeaters are as spectrally efficient as several unrelated conventional systems or other forms of joint transmitter use and less spectrally efficient than multiple-channel trunking.

199. Turning now to the question of user satisfaction, we conclude that the end-users or licensees of multiple licensed community repeaters are quite satisfied with this mode of operation and wish the Commission to continue it, although entities which provide end users with alternatives to community repeaters (*e.g.*, conventional and trunked SMRS's and radio common carriers) would like to see this option removed.

200. Finally with regard to the Commission's ability to administer and enforce its rules governing community repeaters, little of a substantive nature was said. Prior to March of 1982, we had no specific rules governing multiple licensing. In March 1982, specific rules were adopted to govern multiple licensing. See *Report and Order*, Docket No. 18921, FCC 82-129 (released April 13, 1982). These rules are applicable both below and above 800 MHz. We adopted them confident of our ability to administer and enforce them. Nothing submitted in PR Docket Nos. 79-191 or 79-107 causes us to alter this conclusion.

201. In consideration of the foregoing we conclude there is no basis on which to find that multiple licensed community repeaters adversely affect the cost of radio communications equipment to the public or that they promote anti-competitive practices. Also, it appears they are as spectrum efficient as other conventional communications systems. Additionally, there appears to be widespread satisfaction with this mode of operation by the actual users of these systems. Finally, they appear to present no unique administrative or enforcement problems. Therefore, in light of our desire to maximize the options available to private land mobile eligibles in tailoring their communications systems to satisfy their particular communications requirements, we find that the public interest is served by continuing the practice of multiple licensing of shared transmitters at 800 MHz.

O. Filing and Processing of Applications for the 800 MHz Channels

202. Applications for 800 MHz channels are to be submitted to the Commission's offices in Gettysburg. All applicants are to use FCC Form 400.

203. Applicants on waiting lists for already released conventional frequencies will have their applications returned so that they may modify them by selecting the specific frequencies on which they wish to operate. They must re-submit these applications before November 12, 1982, if they wish to keep their place in the processing line for these old frequencies.

204. Applications on waiting lists for already released trunked channels will be retained by the Commission and will be processed in order as frequencies become available. These applications will not be considered for the newly released channels. If these applicants wish to apply for channels being made available in this release they will have to complete and submit new applications.

205. On November 15, 1982, the Commission will begin accepting applications for the new frequencies. It will continue accepting them until close of business on December 15, 1982. Thereafter it will not accept any more applications until the Chief of the Private Radio Bureau releases a Public Notice stating that the Commission will again accept applications for the newly released frequencies.

206. We will process applications in the order in which they are received. Those applications acceptable for filing (not deficient in any material respect) will be placed in a queue based on the date and time they were received. Applications which are dismissed or denied will be returned to the applicant and will lose their claim to the date and time they were received.

207. If in the period between November 15, 1982 through December 15, 1982, more applications for frequencies are received than there are available frequencies in a geographic area, then all applications will be treated as if they were received on the same date and at the same time.

208. To the extent that there are more requests for frequencies than frequencies available in a particular geographic area and user category, we

will judge the comparative merits of the applicants. Tentatively we will consider three criteria. First, we will look at the efficiency of the proposed system including whether it is conventional or trunked. Second, we will consider whether the application would expand a fully loaded trunked system. In this regard, we will favor larger trunked systems because of their ability to accommodate greater numbers of mobile stations. Third, we will see whether an applicant is proposing to exceed, within the first year, the three year or five year loading levels adopted herein. We will favor applications which would exceed prescribed loading levels in the interest of maximizing channel usage.

209. Potential differences among applicants for these channels may be outweighed by the public interest in the fastest possible assignment of available channels. Accordingly, should Congress adopt legislation giving us authority to assign channels based on a lottery, we will consider such a method to choose among competing applications.

210. If we receive more applications for frequencies than we can accommodate with available channels in an area, we will institute comparative hearing proceedings pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. 309. However, we intend to minimize the expense and delay of the comparative process to the extent possible consistent with the requirements of the Administrative Procedure Act. Our goal is to assure applicants the opportunity to present their cases adequately and fairly, while expeditiously concluding the administrative process so that the newly released channels can be made available to users as quickly as possible.

211. As we stated in our low power television decision, we believe that we may be able to shorten the administrative process through the use of a modified paper proceeding directly administered by the Commission.[103] The Commission *en banc* will receive the evidence and issue the final decision awarding licenses to applicants. The Private Radio Bureau will serve as advisor to the Commission. As such, the Bureau will be responsible for reviewing and analyzing pleadings, and preparing a draft of the final decision. The Bureau will not appear as a party unless the Commission orders it to do so in a particular case.[104]

212. If, after reviewing the applications received by the specified cut-off date, the Commission determines that all applications cannot be accommodated with available frequencies, a public notice will be issued to start the 800 MHz comparative process. This notice will identify those applications which are involved. It also will include the hearing designation order, the comparative issues, and the pleading schedule to be followed by the parties.[105]

213. Specifically, the public notice will direct each applicant to submit its affirmative case in writing on or before the date set in the notice. This will be approximately 30 days from the date of the notice. The affirmative written case must spell out those facts and characteristics of the proposed operation the applicant wishes the Commission to consider, and it must address the three comparative criteria set forth in paragraph 208, *supra*. Documentary evidence upon which the applicant relies must be attached. Each exhibit must be numbered and must be accompanied by an affidavit from someone with personal knowledge of the facts therein attesting to the truth of the submission. The public notice will also specify that each applicant may submit a written rebuttal case within twenty (20) days after the affirmative case is due. As with the affirmative case, documentary evidence submitted with the rebuttal case must be placed in a numbered exhibit and accompanied by an appropriate affidavit from someone with personal knowledge of the facts therein. At the time the rebuttal case is due, any applicant also may submit a request for oral hearings and cross-examination, stating the subject matter of the desired cross-examination and the basis for it, including the evidence to be presented, the reason why the evidence is material to the outcome of the proceeding, the reason why an oral hearing with cross-examination is necessary to bring out this evidence, and the evidence in the record which would be contradicted by the cross-examination.

214. The Commission intends to dispose of as many applications for 800 MHz frequencies as possible pursuant to the paper procedures described above. When reviewing each case before it, the Commission also will consider any requests for oral testimony. However, as we stated on our low power television decision,[106] we will order oral testimony only in limited circumstances; *i.e.*, where it is shown that the party will be prejudiced by a paper proceeding without oral testimony; where a substantial and material question of fact which would affect the outcome cannot be resolved without oral testimony; or where oral testimony would otherwise be required by the public interest. If the Commission makes a decision on the basis of the written affirmative and rebuttal cases and any other authorized pleadings, the request for oral testimony will be deemed denied. No separate order will be issued disposing of the request for oral hearing.

215. If the Commission concludes that an oral proceeding is necessary, it will issue an interlocutory order directing an Administrative Law Judge to hear a particular issue or issues. The order will specify the issue or issues and set a prehearing conference to establish a discovery and trial schedule.[107] When the testimony is complete, the Administrative Law Judge may request proposed findings of fact and conclusions of law to be filed within thirty (30) days of the final hearing session. The Administrative Law Judge will issue an Initial Decision which may be appealed directly to the Commission within thirty (30) days after its release.

216. We believe that these procedures are fully acceptable under Section 309 of the Act to elicit all evidence necessary to resolve issues arising in our comparative consideration procedures and to assure that the public interest will be served in the granting of applications.[108]

VI. Regulatory Flexibility Act—Final Analysis

217. *Need for and purpose of Rules.* In this proceeding, the Commission is releasing additional 800 MHz band

[103] *Low Power Television Broadcasting and Television Translators, Report and Order*, BC Docket No. 78-253, FCC 82-107, 47 FR 21468, 21484 (May 18, 1982). *See also Cellular Communications Systems*, 86 FCC 2d 469, 499-501 (1981), *procedures modified in part on reconsideration*, 89 FCC 2d 58, 90-94 (1982).

[104] Of course, should the Bureau participate as a party, it will not advise the Commission regarding that case unless its party participation is through a separated trial staff.

[105] Applicants are reminded of the prohibition against *ex parte* presentations to decision-making Commission personnel in adjudicative proceedings which have been designated for hearing. 47 CFR 1.1203. Because of the Private Radio Bureau's role as advisor to the Commission regarding these applications, the Chief, Private Radio Bureau, and his staff will be considered to be decision-making Commission personnel with regard to any hearing, paper or otherwise, conducted pursuant to the procedures prescribed herein. However, should any of his staff be designated as separated trial staff for the purpose of participating as a party in any such hearing, that separated trial staff shall be non-decision-making personnel. Such staff shall be separated from decision-making personnel.

[106] *Low Power Television Broadcasting and Television Translators*, 47 FR at 21485.

[107] Only at this point may applicants avail themselves of the discovery procedures normally available in adjudication cases.

[108] 47 U.S.C. 309.

frequency spectrum, now held in reserve, for use by private land mobile radio systems. The proposed rules are intended to enhance user options and to increase the efficiency of the use of this reserve spectrum. In addition, the proposed rules are intended to eliminate to the maximum extent possible unnecessary operational and technical restrictions.

218. *Comments and Alternatives Considered.* The majority of the comments received in response to the Initial Regulatory Flexibility Analysis pertain to the proposals to modify the existing restriction on the licensing of RF equipment manufacturers for SMRS facilities and to modify, prospectively and retroactively, required channel loading levels and the times for attaining these levels in order to obtain channel exclusivity.[109] Specifically, most of the comments on these proposals were received from businesses engaged in the provision of land mobile radio communication service. The comments opposed the proposals either to allow RF equipment manufacturers to be licensed for one trunked radio system per market area, or to allow RF equipment manufacturers to be licensed without restrictions.

219. The comments stated that the various manufacturers trunked systems are technically incompatible. As a result, once the system is built, the system operator must rely on a single manufacturer for the associated mobile equipment to load the system to the levels prescribed in the Commission's rules. In addition, one of the major manufacturers of trunked land mobile radio systems, Motorola, sells its equipment directly to the end user, or sells to a communication service provider at the full retail price. As a result, businesses which operate Motorola trunked systems generally rely on the Motorola sales force to sell the mobile radios to be used on their radio systems. The concern of these operators is that, if Motorola has a competing radio system in the same market, Motorola will sell mobile radios on its own system to assure that it achieves the prescribed mobile loading level within the time limits imposed by the Commission's rules.

220. The concerns regarding other manufacturers (General Electric, E. F. Johnson, Kokusai or TACTEC) are similar. These other manufacturers sell their equipment to dealers at wholesale prices, enabling the trunked system operators to sell radio systems to users and profit both from the markup on the equipment sold and from the monthly charge for using the shared facilities. However, if these manufacturers operate competing trunked systems, commenters fear they would favor their own systems at the expense of the independent operators' systems. This could be done by preferential pricing arrangements or equipment delivery times.

221. The concern about the proposal to increase the loading for channel exclusivity and to decrease the time to load was that substantial financial investments were made predicated on the existing rules, and to change the rules and apply them retroactively would be "inequitable" and a "breach of faith." Commenters asserted that the retroactive imposition of the new loading standards, coupled with free entry by RF equipment manufacturers, would enable the manufacturers to obtain control of a large number of systems within each market area, ultimately decreasing the degree of competition.

222. Comments were also received from the Small Business Administration questioning whether the Initial Regulatory Flexibility Analysis adequately addressed the effects on small businesses both of the entry of manufacturers into the trunked SMRS market and of the change in loading standards for existing licensees.

Manufacturer Entry

223. Entry into the trunked SMRS market by manufacturers with their large capital capability will increase competition to obtain SMRS customers. We must expect that this will have a detrimental effect on some existing SMRS licensees who have been protected from competition by the constraints our entry regulation have placed on the market. However, the impact on small businesses of the proposals is much broader than that. SMRS's were created as a means of bringing the efficiencies of trunked radio service to small users who could not afford construction of their own trunked system. The efficiencies of trunking also allow more users to operate effectively on a given amount of spectrum. Most of these "end users" are small businesses. They will have more services to choose from as a result of opening up the provider market place to equipment manufacturers. This increased competition will result in better and more diversified service and lower prices to users. We expect that the manufacturers may establish trunked facilities in smaller communities which do not now have this because of the major capital required and risk presented by such ventures. Thus, we expect the majority of small businesses affected by land mobile radio to benefit from the proposed rule changes.

224. Commenters have argued that if the manufacturers are allowed to be licensees, they will give preferential treatment to their own systems to the detriment of independent systems using their equipment. We do not expect this to be a problem. The key to private land mobile radio provision is the tailoring of service to user needs. Thus, selection of a particular base station operation is keyed to service area and technical capabilities, and price and availability. Both independent and manufacturer SMRS systems can offer whatever technical capabilities they choose. Service areas will depend on site selection and the technical parameters of a system. There should be nothing inherently preferential about those factors, and preference will depend on who is located in the area in which a user needs service and offers the desired service features. On price and availability, manufacturers could give preferential treatment to their own systems by subsidization or preferential product delivery. However, such conduct would raise questions regarding anti-competitive practices, subject to examination by this agency as well as others, and offering a variety of relief to an injured competitor. We expect the manufacturers to be particularly sensitive to the potential for such charges, and thus to establish effective internal systems to insure that they compete fairly. Should that not prove to be the case, we have ample jurisdiction over them as licensees to rectify the situation.

225. The argument that it is unfair to change the entry rule at this point is rather weak. In Docket 18262, *supra*, we specifically indicated that the question of restrictions on manufacturer entry would be revisited once SMRS operation was established. Existing SMRS licensees have a substantial head start over any new systems we authorize manufacturers. They have been protected long enough to become established in their markets. To ask that we continue to protect them indefinitely from would-be competitors is unreasonable and would have us subordinate the public interest in the best service at the lowest cost through the natural process of the marketplace to the private interests of a few individuals. Therefore, we will not do so.

226. To summarize, the unrestricted entry of manufacturers into the trunked SMRS service market is likely to have

[109] See the *Further Notice of Proposed Rule Making* in this proceeding at paragraphs 107–110 for the Initial Regulatory Flexibility Analysis.

an adverse impact on some current SMRS operators. However, those possible adverse impacts are outweighed by the benefit of additional, well-managed, trunked SMRS systems, especially outside the top 25 urbanized areas.[110] Therefore, the alternative proposal of permitting one system per market, or retention of the current restriction to one system for the country are rejected as not being in the best interests of the public.

Changes in Loading Standards

227. Although the FNPRM proposed changes in both trunked and conventional systems loading levels prospectively and retroactively, this *Second Report and Order* changes only the loading standards for conventional systems retroactively. The change in loading standards for trunked systems will be applied only to trunked systems authorized on the channels to be released in this proceeding.

228. All other trunked systems will have until September 1, 1987, to comply with the new rules. Therefore, this analysis will only address the impact of the changes for conventional systems.

229. Briefly, the new uniform standard of 70 mobiles per channel to assure "unshared" use of a channel increases the required mobile loading for all users except those in the taxicab and motor carrier radio services. The impact of this change is to increase somewhat the number of mobile units required to obtain "unshared" use of a channel. However, this change should not decrease the quality of the radio communication service enjoyed by the affected licensees, because even the increased loading levels are well within those which can be accommodated with a premium quality of communications under our conservative 800 MHz assignment practices heretofore. Moreover, we expect coordinators to load users horizontally in non-urban areas, and thus users will still have "unshared" use where demand for spectrum is not high.

230. The Small Business Administration was concerned about the impact of allowing equipment manufacturers into the trunked SMRS market on industry structure and competitive opportunities of existing or new small business, and what alternatives exist to applying new loading standards retroactively.

231. As for the question of the impact on the structure of the trunked SMRS industry, it would appear that manufacturer entry into this market may result in somewhat fewer competitors participating in the market than would be the case without manufacturer participation. Manufacturers will be in a position of strength relative to some independent SMRS's, and it is likely that some weaker SMRS systems will sell out to other SMRS operators, either manufacturers or not. Thus, the number of small businesses which will be SMRS licensees may be less than if we continued to constrain manufacturers in some way. However, this fact alone does not justify the agency artificially altering the SMRS service market. In addition, the advantage that non-manufacturers have thus far received gives them a substantial competitive edge at this time. They are already constructed and offering services, with a performance record to provide to potential customers.

232. The alternatives to applying the changes in loading standards for conventional systems retroactively are as follows: (1) No retroactive change in loading; or (2) a change in loading for authorized systems at the license renewal date or some other reasonable future date.[111] In fact, the new loading standards will affect current conventional system users only after all other conventional systems, including those to be licensed on the newly released channels, have been loaded to a similar level. Therefore, grandfathering existing systems for a specified period of time would not be likely to affect the time when a licensee is actually faced with having an additional user loaded in its frequency, but would create a significant administrative burden for the Commission. As a result, we will apply the new standards uniformly to all existing and future conventional system users.

Frequency Coordination/Field Study Requirement

233. An additional area in which small business will be affected by the new rules is the requirement that applicants specify the frequencies sought, either by a recommendation from a frequency coordinator or the results of a field study. Since the current rules do not require coordination or a field study, applicants will now have to bear the expense of this new requirement. It is expected that the cost of coordination or a field study would be comparable to the charges currently encountered by applicants for frequencies in those bands which now require frequency coordination.

234. The alternative to the frequency coordination/field study requirement is retention of the existing procedures in which the Commission determines the frequency(ies) to be assigned to an applicant. However, frequency coordination in the 800 MHz band is expected to result in more efficient use of the spectrum by allowing systems to be spaced more closely than the current fixed mileage separation standards without degrading the expected quality of service. This will create additional opportunities for licensees, many of which will likely be small businesses. We consider the spectrum efficiency thus obtained to be a more significant public interest factor than the relatively inexpensive costs associated with applicant frequency selection.

235. In summary, although a number of areas have been identified which may result in some adverse impact on small businesses, they are more than offset by beneficial aspects to small businesses as well. In addition, these are significant to other public interest factors which prompt our decisions here. On balance, the final rules contained in this document advance the interests of the end users of communication systems and thus should benefit small businesses in this country.

236. The Secretary shall cause a copy of the *Second Report and Order*, including the Final Regulatory Flexibility Analysis, to be published in the **Federal Register** in accordance with Section 604(b) of the Regulatory Flexibility Act, 5 U.S.C. 604(b).

VII. Conclusion

237. Accordingly, it is ordered, that pursuant to the authority found in Section 4(i), 301 and 303(r) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i), 301 and 303(r)), Part 90 of the Commission's Rules and Regulations is amended as specified in Appendix A. These amendments become effective October 18, 1982.

It is further ordered, that this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commission's Rules and Regulations is amended as follows: 1.

[110] See paragraphs 126 to 132, *infra*.

[111] It should be noted that the area in which the majority of the comments were addressed was the retroactive increase in loading for trunked systems. This proposal has been deleted from this order so any further discussion is unnecessary.

Subpart M is removed in total and new Subpart M is added to read as follows:

* * * * *

Subpart M—Special Regulations Governing Licensing and Use of Frequencies in the 816-821/861-866 MHz Bands for Trunked Systems Authorized Prior to September 1, 1987

Sec.
90.350 Scope.

Applications for Authorizations for Frequencies in the 816-821/861-866 MHz Bands

90.352 Eligibility.
90.354 Forms to be used.
90.356 Supplemental information to be furnished by applicants for facilities under this Subpart.
90.358 Special limitations on amendment of applications for assignment or transfer of authorization for radio systems used to provide service to persons other than the licensee.
90.360 Processing of applications.
90.362 Selection and assignment of frequencies.
90.364 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.
90.366 Trunked systems loading requirements.
90.368 Modification of authorization.

Technical Regulations Regarding the Use of Frequencies in the 816-821 MHz and 861-866 MHz Bands

90.374 Limitations on power and antenna height.
90.376 Restrictions on operational fixed stations.

Operating Requirements in the 816-821 MHz and 861-866 MHz Bands

90.378 Permissible operations.
90.380 Station identification.
90.382 Supplemental reports required of licensees authorized under this Subpart.

Other Provisions Governing the Use of the 816-821 MHz and 861-866 MHz Bands

90.386 Number of systems authorized in a geographical area.
90.388 Special licensing requirements for radio systems used to provide service to persons other than the licensee.
90.390 Temporary permit.

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

Subpart M—Special Regulations Governing Licensing and Use of Frequencies in the 816-821/861-866 MHz Bands for Trunked Systems Authorized Prior to September 1, 1987

§ 90.350 Scope.

This subpart sets out the regulations governing the licensing and operation of trunked systems authorized on frequencies in the 816-821/861-866 MHz bands. It includes eligibility requirements, application procedures, and operational, and technical standards for stations licensed in these bands. The rules in this Subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands. These rules will remain in effect until September 1, 1987. At that time all systems will become subject to the rules contained in Subpart S.

Applications for Authorizations For Frequencies in the 816-821/861-866 MHz Bands

§ 90.352 Eligibility.

The following persons are eligible for licensing on these frequencies.

(a) Any person eligible for licensing under Subparts B, C, D, or E of this Part.

(b) Any person proposing to provide communications service to any person eligible for licensing under Subpart B, C, D, or E of this part on a not-for-profit, cost-shared basis.

(c) Any person, except wire line telephone common carriers, eligible under this rule Part proposing to provide on a commercial basis base station and ancillary facilities for the use of persons eligible for licensing under Subparts B, C, D, or E of this part.

§ 90.354 Forms to be used.

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

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

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

(1) A statement of the planned mode of operation.

(2) A statement certifying that no person ineligible to use the proposed facility for the purposes for which it is to be authorized will be offered or provided service through the licensee's base station facility.

(b) All applicants must furnish a list of all radio systems licensed to them or proposed by them within 64 km. (40 mi.) from the location of the base station transmitter site of the facility for which they have applied.

(c) All applicants for trunked systems must specify the number of mobile units to be placed in operation within the term of the license.

(d) Each applicant shall furnish a functional system diagram illustrating the inter-relationship of all stations being applied for, together with technical details (including antenna height (AAT) and effective radiated power (ERP)), the proposed area of coverage, and the coverage and signaling methods to be employed.

§ 90.358 Special limitations on amendment of applications for assignment or transfer of authorization for radio systems used to provide service to persons other than the licensee.

(a) No application for a trunked radio system may be amended so as to substitute a new entity except in the following circumstances:

(1) The amendment does not involve a substantial change in the ownership or control of the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's insolvency, bankruptcy, incapacity, or death.

(b) A license to operate a trunked radio system may not be assigned or transferred prior to the completion of construction of the facility. However, the Commission may give its consent to the assignment or transfer of control of such a license prior to the completion of construction where:

(1) The assignment or transfer does not invlove a substantial change in ownership or control of the authorized radio facilities; or,

(2) The assignment or transfer is involuntary due to the licensee's insolvency, bankruptcy, incapacity, or death.

(c) Partial assignment of an authorization grant is prohibited.

§ 90.360 Processing of applications.

Applications for facilities to operate on the frequencies governed by this Subpart will be processed as follows:

(a) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

(b) All applications in pending status will be processed in the order in which they are received, determined by the time and date on which the application acceptable for filing was received by the Commission, in its Gettysburg, Pennsylvania Office 17325.

(c) Each application will then be reviewed to determine whether it can be granted. Frequencies may be specified

by the applicant pursuant to the applicable provisions of § 90.621 of the rules or the applicant may elect to have the Commission select the frequencies. Frequencies will be selected in accordance with the Commission's assignment policies and loading criteria. If the application cannot be granted because of lack of availability of frequencies, it will be placed in queue on a waiting list in the order it was received.

(d) An application which is dismissed will be returned, and will lose its place in the processing line.

(e) If an application is returned for correction and resubmitted within 30 days, it will retain its place in the processing line. If it is not resubmitted within 30 days it will lose its place in the processing line.

§ 90.362 Selection and assignment of frequencies.

(a) The assignment of frequencies will be made in accordance with applicable loading criteria and the following:

(1) All mobile and control station frequencies will be chosen from those allocated in the 816–821 MHz band. Mobile station transmitting frequencies will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25 kHz channeling. Corresponding base station transmitting frequencies will be chosen from those allocated in the 861–866 MHz band, commencing with Channel No. 1 at 865.9875 MHz, followed by Channel No. 2 at 865.9625 MHz, and proceeding to the band end with uniform 25 kHz channeling.

(2) The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(3) Frequencies will be assigned for 5, 10, 15 or 20 channel systems in accordance with Table 1 and Table 2.

TABLE 1.—CHANNELIZATION FOR TRUNKED SYSTEMS

[Other than Chicago]

Block No.	Channel No.	Mobile frequency/base frequency (MHz)
1	1-41-81-121-161.	820.9875/865.9875, 819.9875/864.9875, 818.9875/863.9875, 817.9875/862.9875, and 816.9875/861.9875.
	21-61-101-141-181.	820.4875/865.4875, 819.4875/864.4875, 818.4875/863.4975, 817.4875/862.4875, and 816.4875/861.4875.
	11-51-91-131-171.	820.7375/865.7375, 819.7375/864.7375, 818.7375/863.7375, 817.7375/862.7375, and 816.7375/861.7375.

TABLE 1.—CHANNELIZATION FOR TRUNKED SYSTEMS—Continued

[Other than Chicago]

Block No.	Channel No.	Mobile frequency/base frequency (MHz)
	31-71-111-151-191.	820.2375/865.2375, 819.2375/864.2375, 818.2375/863.2375, 817.2375/862.2375, and 816.2375/861.2375.
2	2-42-82-122-162.	820.9625/865.9625, 819.9625/864.9625, 818.9625/863.9625, 817.9625/862.9625, and 816.9625/861.9625.
	22-62-102-142-182.	820.4625/865.4625, 819.4625/864.4625, 818.4625/863.4625, 817.4625/862.4625, and 816.4625/861.4625.
	12-52-92-132-172.	820.7125/865.7125, 819.7125/864.7125, 818.7125/863.7125, 816.7125/862.7125, and 816.7125/861.7125.
	32-72-112-152-192.	820.2125/865.2125, 819.2125/864.2125, 818.2125/863.2125, 817.2125/862.2125, and 816.2125/861.2125.
3	3-43-83-123-163.	820.9375/865.9375, 8199.9375/864.9375, 818.9375/963.9375, 817.9375/862.9375, and 816.9375/861.9375.
	23-63-103-143-183.	820.4375/865.4375, 819.4375/864.4375, 818.4375/863.4375, 817.4375/862.4375, and 816.4375/861.4375.
	13-53-93-133-173.	820.6875/865.6875, 819.6875/864.6875, 818.6875/863.6875, 817.6875/862.6875, and 816.6875/861.6875.
	33-73-113-153-193.	820.1875/865.1875, 819.1875/864.1875, 818.1875/863.1875, 817.1875/862.1875, and 816.1875/861.1875.
4	4-44-84-124-164.	820.9125/865.9125, 819.9125/864.9125, 818.9125/863.9125, 817.9115/862.9125, and 816.9125/861.9125.
	24-64-104-144-184.	820.4125/865.4125, 819.4125/864.4125, 818.4125/863.4125, 817.4125/862.4125, and 816.4125/861.4125.
	14-54-94-134-174.	820.6625/865.6625, 819.6625/864.6625, 818.6625/863.6625, 817.6625/862.6625, and 816.6625/861.6625.
	34-74-114-154-194.	820.1625/865.1625, 819.1625/864.1625, 818.1625/863.1625, 817.1625/862.1625, and 816.1625/861.1625.
5	5-45-85-125-165.	820.8875/865.8875, 819.8875/864.8875, 818.8875/863.8875, 817.8875/862.8875, and 816.8875/861.8875.
	25-65-105-145-185.	820.3875/865.3875, 819.3875.864.3875, 818.3875/863.3875, 817.3875/862.3875, and 816.3875/861.3875.
	15-55-95-135-175.	820.6375/865.6375, 819.6375/864.6375, 818.6375/863.6375, 817.6375/862.6375, and 816.6375;861.6375.
	35-75-115-155-195.	820.1375/865.1375, 819.1375/864.1375, 818.1375/863.1375, 817.1375/862.1375, and 816.1375/861.1375.

TABLE 1.—CHANNELIZATION FOR TRUNKED SYSTEMS—Continued

[Other than Chicago]

Block No.	Channel No.	Mobile frequency/base frequency (MHz)
6	6-46-86-126-166.	820.8625/865.8625, 819.8625/864.8625, 818.8625/863.8625, 817.8625/862.8625, and 816.8625/861.8625.
	26-66-106-146-186.	820.3625/865.3625, 319.3625/864.3625, 818.3625/863.3625 817.3625/862.3625, and 816.3625/861.3625.
	16-56-96-136-176.	820.6125/865.6125, 819.6125/864.6125, 818.6125/863.6125, 817.6125/862.6125, and 816.6125/861.6125.
	36-76-116-156-196.	820.1125/865.1125, 819.1125/864.1125, 818.1125/863.1125, 817.1125/862.1125, and 816.1125/861.1125.
7	7-47-87-127-167.	820.8375/865.8375, 819.8375/864.8375, 818.8375/863.8375, 817.8375/862.8375 and 816.8375/861.8375.
	27-67-107-147-187.	820.3375/865.3375, 819.3375/864.3375, 818.3375/863.3375, 817.3375/862.3375, and 816.3375/861.3375.
	17-57-97-137-177.	820.5875/865.5875, 819.5875/864.5875, 818.5875/863.5875, 817.5875/862.5875, and 816.5875/861.5875.
	37-77-117-157-197.	820.0875/865.0875, 819.0875/864.0875, 818.0875/863.0875, 817.0875/862.0875, and 816.0875/861.0875.
8	8-48-88-128-168.	820.8125/865.8125, 819.8125/864.8125, 818.8125/863.8125, 817.8125/862.8125, and 816.8125/861.8125.
	28-68-108-148-188.	820.3125/865.3125, 819.3125/864.3125, 818.3125/863.8125, 817.3125/862.3125, and 816.3125/861.8125.
	18-58-98-138-178.	820.5625/865.5625, 819.5625/864.5625, 818.5625/863.5625, 817.5625/862.5625, and 816.5625/861.5625.
	38-78-118-158-198.	820.0625/865.0625, 819.0625/864.0625, 818.0625/863.0625, 817.0625/862.0625, and 816.0625/861.0625.
9	9-49-89-129-169.	820.7875/865.7875, 819.7875/864.7875, 818.7875/863.7875, 817.7875/862.7875 and 816.7875/861.7875.
	29-69-109-149-189.	820.2875/865.2875, 819.2875/864.2875, 818.2875/863.2875, 817.2875/862.2875, and 816.2875/861.2875.
	19-59-99-139-199.	820.5375/865.5375, 819.5375/864.5375, 818.5375/863.5375, 817.5375/862.5375, and 816.5375/861.5375.
	39-79-119-159-199.	820.0375/865.0375, 819.0375/864.0375, 818.0375/863.0375, 817.0375/862.0375, and 816.0375/861.0375.
10	10-50-90-130-170.	820.7625/865.7625, 819.7625/864.7625, 818.7625/863.7625, 817.7625/862.7625, and 816.7625/861.7625.

TABLE 1.—CHANNELIZATION FOR TRUNKED SYSTEMS—Continued

[Other than Chicago]

Block No.	Channel No.	Mobile frequency/base frequency (MHz)
	30-70-110-150-190.	820.2625/865.2625, 819.2625/864.2625, 818.2625/863.2625, 817.2625/862.2625, and 816.2625/861.2625,
	20-60-100-140-180.	820.5125/865.5125, 819.5125/864.5125, 818.5125/863.5125, 817.5125/862.5125, and 816.5125/861.5125.
	40-80-120-160-200.	820.0125/865.0125, 819.0125/864.0125, 818.0125/863.0125, 817.0125//862.0125, and 816.0125/861.0125.

TABLE 2.—CHICAGO PLAN

Block	Channels
1	1-2-3-4-5
2	6-7-8-9-10
3	11-47-83-119-155
	29-65-101-137-173
	20-56-92-128-164
	38-74-110-146-182
4	12-48-84-120-156
	30-66-102-138-174
	21-57-93-129-165
	39-75-111-147-183
5	13-49-85-121-157
	31-67-103-139-175
	22-58-94-130-166
	40-76-112-148-184
6	14-50-86-122-158
	32-68-104-140-176
	23-59-95-131-167
	41-77-113-149-185
7	15-51-87-123-159
	33-69-105-141-177
	24-60-96-132-168
	42-78-114-150-186
8	16-52-88-124-160
	34-70-106-142-178
	25-61-97-133-169
	43-79-115-151-187
9	17-53-89-125-161
	35-71-107-143-179
	26-62-98-134-170
	44-80-116-152-188
10	18-54-90-126-162
	36-72-108-144-180
	27-63-99-135-171
	45-81-117-153-189
11	19-55-91-127-163
	37-73-109-145-181
	28-64-100-136-172
	46-82-118-154-190
12	[1] 191 through 200

[1] Reserved for contiguous assignments or as a frequency pool for assignments to systems with odd number of channels.

(4) Five-channel applicants will be authorized the next available five-channel group provided that such an assignment does not result in adjacent channels being assigned in the same system. In this case, an alternate five-channel assignment will be made.

(5) Ten and fifteen-channel applicants will be authorized the next two or three five-channel groups provided they are within the same block.

(6) Each applicant for twenty-channels will be authorized the next successive complete twenty-channel block.

(7) Frequencies for applications for other than 5, 10, 15, or 20 channels will be selected by taking integral multiples of 5 channels within a twenty-channel block with the remaining channels (less than 5 channels) made up from any groups already broken. If these are unavailable, a group will be broken.

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

(c) The ordinary separation between co-channel systems will be 112 km. (70 mi.) except that no trunked system will be less than 168 km. (105 mi.) distant from co-channel trunked systems authorized 1 kw. ERP on any of the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

(d) UHF television translator stations using UHF output channels from Channel 70 through Channel 83 operate on a secondary basis to land mobile stations using the UHF bands allocated under this subpart for land mobile use. Accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(e) Land mobile stations operating in the 806–821/851–866 MHz bands in the Canadian and Mexican border areas shall be subject to rules contained in Subpart S.

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

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

(b) No licensee will be authorized trunked systems with 40 dBu contour overlap except where the licensees shows:

(1) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) That the licensee's existing trunked system(s) is loaded to at least 90 mobiles per channel.

Note.— For the purposes of this paragraph, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this subpart.

§ 90.366 Trunked systems loading requirements.

(a) Loading requirements for trunked systems are:

TABLE 1.—LOADING REQUIREMENTS FOR TRUNKED SYSTEMS

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

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

[2] Foir loading trunked systems of communication, no distinction is made between vehicular and portable mobile units.

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

(b) Each applicant for trunked facilities must certify that a minimum of 70 percent of the mobile units specified in the application will be placed in operation within five years from grant of the initial license.

(c) Any licensee, at any time the authorized trunked system is occupied to 90 percent of its specified capacity, may apply for additional channels.

(d) Licensees of trunked facilities must complete construction within one year of initial grant; *Provided, however,* That a licensee of a "trunked" facility assigned more than the minimum five-channel group and authorized prior to August 1, 1982, may elect to construct the facility in stages. In this event, the licensee shall complete construction of the basic five-channel group of the authorized facility within one year. At the end of two years the licensee must demonstrate notwithstanding the provisions of paragraph (b) of this section that the basic five-channel group is loaded to 70 percent with mobile stations which operate over the entire complement of authorized channels. Construction of the next stage cannot begin until the licensee demonstrates a minimum of 70 percent of the loading required for the first stage. If at the end of two years a licensee who elected to construct in stages has not loaded the first five-channel group to 70 percent and a waiting list for frequencies exists

in the system's geographic area, authorization for channels in excess of five cancels automatically. If at the end of five years the 5 channel system is not loaded to 70 percent of the prescribed level for this period of time and a waiting list for frequencies exists in the system's geographic area, authorization for channels not loaded to 100 mobile stations cancels automatically. All licenses are subject to this condition. A licensee may only modify the election to build or not build a system in stages with the first year of authorization. If the election is changed there will be no extensions of time to complete construction.

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

(f) If a station is not placed in operation in 1 year, except as provided in § 90.629, its license cancels automatically.

(g) For applications in the Public Safety, Land Transportation, and Industrial (except for the Business and the Radio location) Services (See Rule § 90.617 *et seq.),* a period of up to three (3) years may be authorized for placing a station in operation in accordance with the following:

(1) The applicant submits justification for an extended implementation period. The justification must include the implementation schedule (with milestones) for the construction and for the loading of the facility (e.g., construction of base stations and for placing mobiles in service) and must show either that:

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

(ii) The proposed system will require longer than eight months to place in operation because of its purpose, size, or complexity; or

(iii) The proposed system is to be a part of a coordinated or integrated area-wide system which will require more than a year to plan, approve, fund, and construct; or

(iv) The applicant is a local governmental agency and demonstrates that the government involved is required by law to follow a multi-year cycle for planning, approval, funding and for purchasing of the proposed system.

(2) Authorizations under this section are conditioned upon the licensee's compliance with the implementation schedule. If the licensee fails to meet that schedule, authorization for channels not loaded to 100 mobile stations cancels automatically. The licensee must submit a report to the Commission's Private Radio Bureau Licensing Division, Land Mobile Branch annually showing the extent to which the authorized system has been implemented. A copy of the report must also be submitted to the licensee's frequency advisory committee.

(h) Wide area systems may be authorized to persons eligible for licensing under Subparts B, C, D or E of this Part upon an appropriate showing of need. If the licensee wishes to operate remote or satellite stations on some or all of its authorized trunked frequencies, these systems will be authorized only on a secondary, non-interference basis to co-channel licensees.

(i) Regional, statewide, or ribbon configuration systems may be authorized to persons eligible for licensing under Subparts B, C, D or E of this part upon an appropriate showing of need. In a regional or statewide system, a mobile station will be counted for channel loading purposes only for the base station facility in the geographic area in which it primarily operates. If this cannot be determind, it will be counted fractionally over the number of base station facilities with which it communicates regularly.

§ 90.368 Modification of authorization.

If a licensee modifies his authorization for a trunked system to add additional channels, and at the time of modification existing authorized channels are not loaded to 90% of the prescribed level, the licensee must load all of the channels for which he is authorized to the prescribed level by the end of the original license term or within two years of the date of the grant of modification, whichever is later.

Technical Regulations Regarding the use of Frequencies in the 816–821 MHz and 861–866 MHz Bands

§ 90.374 Limitations on power and antenna height.

(a) The effective radiated power and antenna height for base stations used in trunked systems authorized in the 861–866 MHz band may not exceed 1 kilowatt (30 dBw) and 304 m. (1,000 ft.) above average terrain (AAT), respectively, or the equivalent thereof determined from Table 1 of this Section. These are maximum values, and applicants will be required to justify power levels and antenna heights requested. For service area requirements less than 32 km (20 mi.) in radius, see Table 2.

TABLE 1.—EQUIVALENT POWER AND ANTENNA HEIGHTS FOR TRUNKED SYSTEM BASE STATIONS IN THE 861–866 MHz BAND WHICH HAVE A REQUIREMENT FOR A 32 KM (20 MI.) SERVICE AREA RADIUS

Antenna height (AAT) (feet)	Trunked system base station effective radiated power (watts) [1] [2]
Above 5,000	65
4,501 to 5,000	65
4,000 to 4,500	70
3,501 to 4,000	75
3,000 to 3,500	100
2,501 to 3,000	140
2,001 to 2,500	200
1,501 to 2,000	350
1,001 to 1,500	600
up to 1,000	1,000

[1] Power is given in terms of effective radiated power (ERP).

[2] Applicants for facilities on Santiago Peak, Sierra Peak, Mount Lukens, or Mount Wilson, California which demonstrate a need to serve both the downtown and fringe areas of Los Angeles may be authorized an ERP of 1 kw.

TABLE 2.—EQUIVALENT POWERS AND ANTENNA HEIGHTS FOR TRUNKED SYSTEM BASE STATIONS IN THE 861–866 MHz BAND WHICH HAVE A REQUIREMENT FOR LESS THAN 20-MI. SERVICE AREA RADIUS-MAXIMUM EFFECTIVE RADIATED POWER (WATTS)

	Base station antennaheight (AT)							
	751–1,000	501–750	401–500	301–400	201–300	101–200	51–100	0–50
Service area radius (miles):								
20	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
19	800	1,000	1,000	1,000	1,000	1,000	1,000	1,002
18	640	830	1,000	1,000	1,000	1,000	1,000	1,000
17	480	625	960	1,000	1,000	1,000	1,000	1,000
16	360	470	720	900	1,000	1,000	1,000	1,000
15	270	350	540	675	875	1,000	1,000	1,000
14	200	260	400	500	650	1,000	1,000	1,000
13	140	180	280	350	450	700	1,000	1,000

TABLE 2.—EQUIVALENT POWERS AND ANTENNA HEIGHTS FOR TRUNKED SYSTEM BASE STATIONS IN THE 861-866 MHZ BAND WHICH HAVE A REQUIREMENT FOR LESS THAN 20-MI. SERVICE AREA RADIUS-MAXIMUM EFFECTIVE RADIATED POWER (WATTS)—Continued

	Base station antennaheight (AT)							
	751-1,000	501-750	401-500	301-400	201-300	101-200	51-100	0-50
12	100	130	200	250	325	500	1,000	1,006
11	70	90	140	175	230	350	700	1,000
10	45	60	90	110	145	220	440	1,000
9	30	40	60	75	100	150	300	600
8	20	25	40	50	65	100	200	400
7	15	20	30	40	50	80	160	300
6	8	10	16	20	25	40	80	100
5 or less	5	6	9	12	15	25	50	100

(b) The maximum output power of the transmitter for mobile stations is 100 watts (20 dBu).

§ 90.376 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 816–821 and 861–866 MHz bands.

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

(2) Control stations must employ directional antennas with the main lobe of radiation directed toward the station(s) being controlled. In each case, the antenna used, consistent with reasonable design, shall produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limits radiation in other directions to the extent feasible.

(3) The strength of the signal of a control station controlling a single mobile relay station may not exceed by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced there by a unit of the associated mobile station. When the fixed station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference must be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location which is not more than one-fourth mile from the control station site.

(4) Each application for a control station to be authorized under this subpart must accompanied by a statement certifying that the output power of the proposed transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio must be kept with station records and be made available upon request for inspection by Commission personnel.

Operating Requirements in the 816–821 MHz and 861–866 MHz Bands

§ 90.378 Permissible operations.

Trunked radio systems may be used:

(a) For purposes expressly allowed under this Part.

(b) Only by persons who are eligible for facilities, either under this Subpart or in the radio services included under Subparts B, C, D, or E.

(c) For the transmission of any base/mobile message, page, or signal permitted in the service in which the participants are eligible.

(d) For digital or analog transmissions.

(e) For more than a single emission utilized within an authorized bandwidth of 20 kHz. In such cases, the frequency stability requirements of § 90.213 shall not apply, but out-of-band emission limits of § 90.209(c) or (g) shall be met.

§ 90.380 Station identification.

(a) Trunked systems of communication shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30-minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned to the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it must be at a rate of between 15 to 20 words per minute and by means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz.

§ 90.382 Supplemental reports required of licensees authorized under this subpart.

(a) Licensees offering service on a commercial basis to any person or entity eligible under either Subpart B, C, D, or E of this part must report the number of mobile units being served annually on the anniversary of their authorization date and at the time of filing applications for renewal of license. They must also report all mobile stations which operate on more than one SMR system. These reports must be filed with the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch in Gettysburg, PA 17325. Licensees must maintain records of the names and addresses of each customer and the dates that service commenced and terminated. These records must be made available to the Commission upon request.

(b) Other trunked system licensees must report the number of mobile units being served annually, and at the time of filing applications for renewal of licenses. These reports should be filed with the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch in Gettysburg, PA 17325.

(c) All licensees of trunked systems must report, to the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch in Gettysburg, PA 17325 within thirteen months of the date of the grant, whether or not construction of the facility has been completed.

Other Provisions Governing the Use of The 816–821 MHz and 861–866 MHz Bands

§ 90.386 Number of systems authorized in a geographical area.

There shall be no limit on the number of trunked systems authorized to operate in any one given area except that imposed by allocation limitations and no person shall have a right to protest any other proposal on grounds other than violation of or any inconsistency with the provisions of this subpart.

§ 90.388 Special licensing requirements for radio systems used to provide service to persons other than the licensee.

Where a trunked radio system is to be used to provide radio facilities to a user(s) on a commercial basis, any associated control points, control stations, and mobile radio stations shall be authorized only to the user(s) of those particular facilities.

§ 90.390 Temporary permit.

An applicant for a Subpart M radio station license to use an already existing facility may operate the radio station(s) for a period of up to 180 days under a temporary permit evidenced by a properly executed certification of FCC Form 572 after the mailing of a formal application for station license, provided that the antenna(s) employed by the control station(s) is twenty feet or less above ground or twenty feet or less above a manmade structure other than an antenna tower to which it is affixed.

2. A new Subpart S is added to read as follows:

* * * * *

Subpart S—Regulations Governing Licensing and Use of Frequencies in The 806–821 and 851–866 MHz Bands

Sec.
90.601 Scope.

Application for Authorizations

90.603 Eligibility.
90.605 Forms to be used.
90.607 Supplemental information to be furnished by applicants for facilities under this Subpart.
90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.

Policies Governing The Processing of Applications and The Selection and Assignment of Frequencies For Use in The 806–821 MHz and 851–866 MHz Bands

90.611 Processing of applications.
90.613 Frequencies available.
90.615 Frequencies available for conventional systems in the 806–809.750/851–854.750 MHz bands.
90.617 Frequencies in the 809.750–816/854.750–861 MHz bands available for trunked or conventional system use in non-border areas.
90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.
90.621 Selection and assignment of frequencies.
90.623 Limitation on the number of frequencies assignable for conventional systems.
90.625 Other criteria to be applied in assigning channels for use in conventional systems of communication.
90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.
90.629 Extended implementation schedules.
90.631 Trunked systems loading requirements.
90.633 Conventional systems loading requirements.

Technical Regulations Regarding the Use of Frequencies in The 806–821 MHz and 851–866 MHz Bands

90.635 Limitations on power and antenna height.
90.637 Restrictions on operational fixed stations.
90.645 Permissible operations.
90.647 Station identification.
90.651 Supplemental reports required of licensees authorized under this Subpart.
90.653 Number of systems authorized in a geographical area.
90.655 Special licensing requirements for radio systems used to provide service to persons other than the licensee.
90.657 Temporary permit.

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

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–821 and 851–866 MHz Bands

§ 90.601 Scope.

This subpart sets out the regulations governing the licensing and operations of all conventional systems operating in the 806–821/851–866 MHz bands, and trunked systems operating in the 809.750 to 816 MHz and 854.750 to 861 MHz bands. Trunked systems operating in the 816–821/861–866 MHz bands are governed by the rules in Subpart M until September 1, 1987. After that time they will be governed by the rules in this subpart. This subpart also governs the use of frequencies in the 806–821/851–866 MHz bands along the Mexican and Canadian border areas in accordance with existing agreements. It includes eligibility requirements, application procedures, operational, and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

Application for Authorizations

§ 90.603 Eligibility.

The following persons are eligible for licensing in the 806–821 MHz and 851–866 MHz bands.

(a) Any person eligible for licensing under Subparts B, C, D, or E of this part.

(b) Any person proposing to provide communications service to any person eligible for licensing under Subpart B, C, D, or E of this part on a not-for-profit, cost-shared basis.

(c) Any person, except wire line telephone common carriers eligible under this part proposing to provide on a commercial basis base station and ancillary facilities for the use of persons eligible for licensing under Subparts B, C, D, or E of this part.

§ 90.605 Forms to be used.

Applications for conventional and trunked radio facilities shall be submitted on FCC Forms 400 and 400S and such applications shall be filed with the Federal Communications Commission, at its offices in Gettysburg, Pa. 17325.

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

(a) Where the applicant is a person proposing to provide service to eligibles under this Part on a commercial basis, the applicant must supply:

(1) A statement of the planned mode of operation.

(2) A statement certifying that no person not eligible to use the proposed facility for the purposes for which it is to be authorized will be offered or provided service through the licensee's base station facility.

(b) All applicants for conventional radio systems must:

(1) Furnish a list of all radio systems licensed to them or proposed by them within 64 km. (40 mi.) from the location of the base station transmitter site of the facility for which they have applied.

(2) Specify the number of mobile units to be placed in operation upon grant of the authorization and the number of such units that will be placed in operation within 8 months of the date of grant.

(c) All applicants for trunked systems must:

(1) Furnish a list of all radio systems licensed to them within 64 km (40 mi.) from the location of the base station transmitter site of the facility for which they have applied;

(2) Specify the number of mobile units to be placed in operation within the term of the license.

(d) Each applicant shall furnish a functional system diagram illustrating the inter-relationship of all stations being applied for, together with technical details including antenna height (AAT), effective radiated power (ERP), the proposed area of coverage, and the signalling methods to be employed.

§ 90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.

(a) No application for a conventional or trunked radio system may be amended so as to substitute a new entity except in the following circumstances:

(1) The amendment does not involve a substantial change in the ownership or control of the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's insolvency, bankruptcy, incapacity, or death.

(b) A license to operate a conventional or trunked radio system may not be assigned or transferred prior to the completion of construction of the facility. However, the Commission may give its consent to the assignment or transfer of control of such a license prior to the completion of construction where:

(1) The assignment or transfer does not involve a substantial change in ownership or control of the authorized radio facilities; or,

(2) The assignment or transfer is involuntary due to the licensee's insolvency, bankruptcy, incapacity, or death.

(c) Partial assignment of an authorization grant is prohibited.

Policies Governing the Processing of Applications and the Selection and Assignment of Frequencies for Use in the 806-821 MHz and 851-866 MHz Bands

§ 90.611 Processing of applications.

Applications for facilities to operate on the frequencies governed by this subpart will be processed as follows:

(a) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

(b) All applications in pending status will be processed in the order in which they are received, determined by the time and date on which the application was received, determined by the time and date on which the application was received by the Commission in its Gettysburg, PA Office.

(c) Each application will then be reviewed to determine whether it can be granted. Frequencies must be specified by an applicant in any of the three non-SMRS categories pursuant to the provisions of § 90.621 of the rules. They must be selected in accordance with the Commission's assignment policies and loading criteria. SMRS applicants may select their frequencies pursuant to § 90.621 or they may request the Commission to select frequencies.

(d) An application which is dismissed will be returned and will lose its place in the processing line.

(e) If an application is returned for correction and resubmitted within 30 days it will retain its place in the processing line. If it is not resubmitted within 30 days it will lose its place in the processing line.

§ 90.613 Frequencies available.

The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with mobile station frequencies taken from the 806–821 MHz band, and the corresponding base station frequencies taken from the 851–866 MHz band.

TABLE OF 806-821/851-866 MHZ CHANNEL DESIGNATIONS

[Only lower half of the frequency pair is listed. Base station frequency is 45 MHz higher]

Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)
1	806.0125	51	807.2625	101	808.5125	151	809.7625
2	.0375	52	.2875	102	.5375	152	.7875
3	.0625	53	.3125	103	.5625	153	.8125
4	.0875	54	.3375	104	.5875	154	.8375
5	.1125	55	.3625	105	.6125	155	.8625
6	.1375	56	.3875	106	.6375	156	.8875
7	.1625	57	.4125	107	.6625	157	.9125
8	.1875	58	.4375	108	.6875	158	.9375
9	.2125	59	.4625	109	.7125	159	.9625
10	.2375	60	.4875	110	.7375	160	.9875
11	.2625	61	.5125	111	.7625	161	810.0125
12	.2875	62	.5375	112	.7875	162	.0375
13	.3125	63	.5625	113	.8125	163	.0625
14	.3375	64	.5875	114	.8375	164	.0875
15	.3625	65	.6125	115	.8625	165	.1125
16	.3875	66	.6375	116	.8875	166	.1375
17	.4125	67	.6625	117	.9125	167	.1625
18	.4375	68	.6875	118	.9375	168	.1875
19	.4625	69	.7125	119	.9625	169	.2125
20	.4875	70	.7375	120	.9875	170	.2375
21	.5125	71	.7625	121	809.0125	171	.2625
22	.5375	72	.7875	122	.0375	172	.2875
23	.5625	73	.8125	123	.0625	173	.3125
24	.5875	74	.8375	124	.0875	174	.3375
25	.6125	75	.8625	125	.1125	175	.3625
26	.6375	76	.8875	126	.1375	176	.3875
27	.6625	77	.9125	127	.1625	177	.4125
28	.6875	78	.9375	128	.1875	178	.4375
29	.7125	79	.9625	129	.2125	179	.4625
30	.7375	80	.9875	130	.2375	180	.4875
31	.7625	81	808.0125	131	.2625	181	.5125
32	.7875	82	.0375	132	.2875	182	.5375
33	.8125	83	.0625	133	.3125	183	.5625
34	.8375	84	.0875	134	.3375	184	.5875
35	.8625	85	.1125	135	.3625	185	.6125
36	.8875	86	.1375	136	.3875	186	.6375
37	.9125	87	.1625	137	.4125	187	.6625
38	.9375	88	.1875	138	.4375	188	.6875
39	.9625	89	.2125	139	.4625	189	.7125
40	.9875	90	.2375	140	.4875	190	.7375
41	807.0125	91	.2625	141	.5125	191	.7625
42	.0375	92	.2875	142	.5375	192	.7875

TABLE OF 806-821/851-866 MHz CHANNEL DESIGNATIONS—Continued

[Only lower half of the frequency pair is listed. Base station frequency is 45 MHz higher]

Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)
43	.0625	93	.3125	143	.5625	193	.8125
44	.0875	94	.3375	144	.5875	194	.8375
45	.1125	95	.3625	145	.6125	195	.8625
46	.1375	96	.3875	146	.6375	196	.8875
47	.1625	97	.4125	147	.6625	197	.9125
48	.1875	98	.4375	148	.6875	198	.9375
49	.2125	99	.4625	149	.7125	199	.9625
50	.2375	100	.4875	150	.7375	200	.9875

TABLE OF 806-821/851-866 MHz CHANNEL DESIGNATIONS—Continued

[Only lower half of the frequency pair is listed. Base station frequency is 45 MHz higher]

Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)
201	811.0125	251	812.2625	301	813.5125	351	814.7625
202	.0375	252	.2875	302	.5375	352	.7875
203	.0625	253	.3125	303	.5625	353	.8125
204	.0875	254	.3375	304	.5875	354	.8375
205	.1125	255	.3625	305	.6125	355	.7825
206	.1375	256	.3875	306	.6375	356	.8875
207	.1625	257	.4125	307	.6625	357	.9125
208	.1875	258	.4375	308	.6875	358	.9375
209	.2125	259	.4625	309	.7125	359	.9625
210	.2375	260	.4875	310	.7375	360	.9875
211	.2625	261	.5125	311	.7625	361	815.0125
212	.2875	262	.5375	312	.7875	362	.0375
213	.3125	263	.5625	313	.8125	363	.0625
214	.3375	264	.5875	314	.8375	364	.0875
215	.3625	265	.6125	315	.8625	365	.1125
216	.3875	266	.6375	316	.8875	366	.1375
217	.4125	267	.6625	317	.9125	367	.1625
218	.4375	268	.6875	318	.9375	368	.1875
219	.4625	269	.7125	319	.9625	369	.2125
220	.4875	270	.7375	320	.9875	370	.2375
221	811.5125	271	.7625	321	814.0125	371	.2625
222	.5375	272	.7875	322	.0375	372	.2875
223	.5625	273	.8125	323	.0625	373	.3125
224	.5875	274	.8375	324	.0875	374	.8375
225	.6125	275	.8625	325	.1125	375	.3625
226	.6375	276	.8875	326	.1375	376	.3875
227	.6625	277	.9125	327	.1625	377	.4125
228	.6875	278	.9375	328	.1875	378	.4375
229	.7125	279	.9625	329	.2125	379	.4625
230	.7375	280	.9875	330	.2375	380	.4875
231	.7625	281	813.0125	331	.2625	381	.5125
232	.7875	282	.0375	332	.2875	382	.5375
233	.8125	283	.0625	333	.3125	383	.5625
234	.8375	284	.0875	334	.3375	384	.5875
235	.8625	285	.1125	335	.3625	385	.6125
236	.8875	286	.1375	336	.3875	386	.6375
237	.9125	287	.1625	337	.4125	387	.6625
238	.9375	288	.1875	338	.4375	388	.6875
239	.9625	289	.2125	339	.4625	389	.7125
240	.9875	290	.2375	340	.4875	390	.7375
241	812.0125	291	.2625	341	.5125	391	.7625
242	.0375	292	.2875	342	.5375	392	.7875
243	.0625	293	.3125	343	.5625	393	.8125
244	.0875	294	.3375	344	.5875	394	.8375
245	.1125	295	.3625	345	.6125	395	.8625
246	.1375	296	.3875	346	.6375	396	.8870
247	.1625	297	.4125	347	.6625	397	.9125
248	.1875	298	.4375	348	.6875	398	.9375
249	.2125	299	.4625	349	.7125	399	.9625
250	.2375	300	.4875	350	.7375	400	.9875

TABLE OF 806-821/851-866 MHz CHANNEL DESIGNATIONS—Continued

[Only lower half of the frequency pair is listed. Base station frequency is 45 MHz higher]

Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)
401	816.0125	451	.2625	501	818.5125	551	.7625
402	.0375	452	.2875	502	.5375	552	.7875
403	.0625	453	.3125	503	.5625	553	.8125
404	.0875	454	.3375	504	.5875	554	.8375
405	.1125	455	.3625	505	.6125	555	.8625
406	.1375	456	.3875	506	.6375	556	.8875
407	.1625	457	.4125	507	.6625	557	.9125
408	.1875	458	.4375	508	.6875	558	.9375
409	.2125	459	.4625	509	.7125	559	.9625
410	.2375	460	.4875	510	.7375	560	.9875

TABLE OF 806-821/851-866 MHz CHANNEL DESIGNATIONS—Continued—Continued

[Only lower half of the frequency pair is listed. Base station frequency is 45 MHz higher]

Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)	Channel No.	Mobile frequency (MHz)
411	.2625	461	817.5125	511	.7625	561	820.0125
412	.2875	462	.5375	512	.7875	562	.0375
413	.3125	463	.5625	513	.8125	563	.0625
414	.3375	464	.5875	514	.8375	564	.0875
415	.3625	465	.6125	515	.8625	565	.1125
416	.3875	466	.6375	516	.8875	566	.1375
417	.4125	467	.6625	517	.9125	567	.1625
418	.4375	468	.6875	518	.9375	568	.1875
419	.4625	469	.7125	519	.9625	569	.2125
420	.4875	470	.7375	520	.9875	570	.2375
421	.5125	471	.7625	521	819.0125	571	.2625
422	.5375	472	.7875	522	.0375	572	.2875
423	.5625	473	.8125	523	.0625	573	.3125
424	.5875	474	.8375	524	.0875	574	.3375
425	.6125	475	.8625	525	.1125	575	.3625
426	.6375	476	.8875	526	.1375	576	.3875
427	.6625	477	.9125	527	.1625	577	.4125
428	.6875	478	.9375	528	.1875	578	.4375
429	.7125	479	.9625	529	.2125	579	.4625
430	.7375	480	.9875	530	.2375	580	.4875
431	.7625	481	818.0125	531	.2625	581	.5125
432	.7875	482	.0375	532	.2875	582	.5375
433	.8125	483	.0625	533	.3125	583	.5625
434	.8375	484	.0875	534	.3375	584	.5875
435	.8625	485	.1125	535	.3625	585	.6125
436	.8875	486	.1375	536	.3875	586	.6375
437	.9125	487	.1625	537	.4125	587	.6625
438	.9375	488	.1875	538	.4375	588	.6875
439	.9625	489	.2125	539	.4625	589	.7125
440	.9875	490	.2375	540	.4875	590	.7375
441	817.0125	491	.2625	541	.5125	591	.7625
442	.0375	492	.2875	542	.5375	592	.7875
443	.0625	493	.3125	543	.5625	593	.8125
444	.0875	494	.3375	544	.5875	594	.8375
445	.1125	495	.3625	545	.6125	595	.8625
446	.1375	496	.3875	546	.6375	596	.8875
447	.1625	497	.4125	547	.6625	597	.9125
448	.1875	498	.4375	548	.6875	598	.9375
449	.2125	499	.4625	549	.7125	599	.9625
450	.2375	500	.4875	550	.7375	600	.9875

§ 90.615 Frequencies available for conventional systems in the 806-809.750/851-845.750 MHz bands.

Channels 1-150 are available to eligible applicants in all services only for conventional system use. The frequencies are available in areas farther than 110 km. (68.4 miles) from the U.S./Mexico border, and farther than 160 km (100 miles) from the U.S./Canada border.

§ 90.617 Frequencies in the 809.750-816/854.750-861 MHz bands available for trunked or conventional system use in non-border areas.

(a) The channels listed in Table 1 are available to eligible applicants in the Public Safety Category which consists of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Special Emergency Radio Services. These frequencies are available in areas farther than 110 km (68.4 miles) from the U.S./Mexico border, and 160 km from the U.S./Canada border.

TABLE 1.—PUBLIC SAFETY CATEGORY—70 CHANNELS

Group No.	Channel Nos.
209	209-249-289-329-269
210	210-250-290-330-370
211	211-251-291-331-371
218	218-258-298-338-378
219	219-259-299-339-379
220	220-260-300-340-380
229	229-269-309-349-389
230	230-270-310-350-390
231	231-271-311-351-391
238	238-278-318-358-398
239	239-279-319-359-399
240	240-280-320-360-400
Single channels	159, 169, 179, 189, 199, 160, 170, 180, 190, 200

(b) The channels listed in Table 2 are available to eligible applicants in the Industrial/Land Transportation Category which consists of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab and Automobile Emergency Radio Services. These frequencies are available in areas farther than 110km (68.4 miles) from the U.S./Mexico border and farther than 160 km (100 miles) from the U.S./Canada border.

TABLE 2.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—50 CHANNELS

Group No.	Channel Nos.
212	212-252-292-332-372
213	213-253-293-333-373
214	214-254-294-334-374
215	215-255-295-335-375
216	216-256-296-336-376
217	217-257-297-337-377
Single channels	155, 165, 175, 185, 195, 156, 166, 176, 186, 196, 157, 167, 177, 187, 197, 158, 168, 178, 188, 198

(c) The channels listed in Table 3 are available to eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.603(c). These frequencies are available in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 160 km (100 miles) from the U.S./Canada border.

TABLE 3.—BUSINESS CATEGORY—50 CHANNELS

Group No.	Channel Nos.
232	232-272-312-352-392
233	233-273-313-353-393
234	234-274-314-354-394
235	235-275-315-355-395
236	236-276-316-356-396

TABLE 3.—BUSINESS CATEGORY—50 CHANNELS—Continued

Group No.	Channel Nos.
237	237-277-317-357-397
Single channels	151, 161, 171, 181, 191, 152, 162, 172, 182, 192, 153, 163, 173, 183, 193, 154, 164, 174, 184, 194

(d) The channels listed in Table 4 are available only for eligibles in the SMRS Category which consists of Specialized Mobile Radio Systems (SMRS) eligible under § 90.603(c). These frequencies are available in areas farther than 110 km (68.4 miles) from the U.S/Mexico border and farther than 160 km (100 miles) from the U.S./Canada border.

TABLE 4.—SMRS CATEGORY—80 CHANNELS

Group No.	Channel Nos.
201	201-241-281-321-361
202	202-242-282-322-362
203	203-243-283-323-363
204	204-244-284-324-364
205	205-245-285-325-365
206	206-246-286-326-366
207	207-247-287-327-367
208	208-248-288-328-368
221	221-261-301-341-381
222	222-262-302-342-382
223	223-263-303-343-383
224	224-264-304-344-384
225	225-265-305-345-385
226	226-266-206-346-386
227	227-267-307-347-387
228	228-268-308-348-388

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

(a) U.S./Mexico border area. The channels listed in Tables 1–4 are offset 12.5 kHz lower in frequency than those specified in § 90.613. The Channel 201 mobile frequency will be 811.000 MHz, followed by Channel 202 at 811.025 MHz and proceeding with uniform 25 kHz channeling to Channel 400 at 815.750 MHz. Base station frequencies will be 45 MHz higher in frequency. These channels are available for assignment for conventional or trunked systems only in areas 68.4 miles (110 km) or less from the U.S./Mexico border.

(1) Table 1 lists the channels that are available for assignment to eligible applicants in the Public Safety Category, which consist of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Special Emergency Radio Services.

TABLE 1.—UNITED STATES/MEXICO BORDER AREA PUBLIC SAFETY CATEGORY—55 CHANNELS

Offset group No.	Offset channel Nos.
201	201-241-281-321-361
202	202-242-282-322-362

TABLE 1.—UNITED STATES/MEXICO BORDER AREA PUBLIC SAFETY CATEGORY—55 CHANNELS—Continued

Offset group No.	Offset channel Nos.
203	203-243-283-323-363
204	204-244-284-324-364
205	205-245-285-325-365
206	206-246-286-326-366
207	207-247-287-327-367
208	208-248-288-328-368
209	209-249-289-329-369
210	210-250-290-330-370
211	211-251-291-321-371

(2) Table 2 lists the channels that are available for assignment to eligible applicants in the Industrial/Land Transportation Category, which consists of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab and Automobile Emergency Radio Services.

TABLE 2.—UNITED STATES/MEXICO BORDER AREA, INDUSTRIAL/LAND TRANSPORTATION CATEGORY—40 CHANNELS

Offset group No.	Offset channel Nos.
212	212-252-292-332-372
213	213-253-293-333-373
214	214-254-294-334-374
215	215-255-295-335-375
216	216-256-296-336-376
217	217-257-297-337-377
218	218-258-298-338-378
219	219-259-299-339-379

(3) Table 3 lists the channels that are available for assignment to eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.603(c).

TABLE 3.—UNITED STATES/MEXICO BORDER AREA, BUSINESS CATEGORY—40 CHANNELS

Offset group No.	Offset channel Nos.
220	220-260-300-340-380
221	221-261-301-341-381
222	222-262-302-342-382
223	223-263-303-343-383
224	224-264-304-344-384
225	225-265-305-345-385
226	226-266-306-346-386
227	227-267-307-347-387

(4) Table 4 lists the channels that are available for assignment only for the SMRS Category, which consists of Specialized Mobile Radio Systems (SMRS) as defined in § 90.603(c).

TABLE 4.—UNITED STATES-MEXICO BORDER AREA, SMRS CATEGORY—65 CHANNELS

Offset group No.	Offset channel Nos.
228	228-268-308-348-388
229	229-269-309-349-389

TABLE 4.—UNITED STATES-MEXICO BORDER AREA, SMRS CATEGORY—65 CHANNELS—Continued

Offset group No.	Offset channel Nos.
230	230-270-310-350-390
231	231-271-311-351-391
232	232-272-312-352-392
233	233-273-313-353-393
234	234-274-314-354-394
235	235-275-315-355-395
236	236-276-316-356-396
237	237-277-317-357-397
238	238-278-318-358-398
239	239-279-319-359-399
240	240-280-320-360-400

(b) U.S./Canada border area. The following criteria shall govern the assignment of frequency pairs (channels) for stations located in the U.S./Canada border area. These channels are available for assignment for conventional or trunked systems in accordance with all applicable sections of this Subpart.

(1) The U.S./Canada border area is divided into nine geographical regions with U.S. channel allocations shown in Table 5.

TABLE 5.—GEOGRAPHICAL REGIONS

Region	Location (longitude)	U.S. channel allocation
1	66° W.-71° W. (0-100 km from border)	300
2	71° W.-81° W. (0-100 km from border)	180
3	81° W.-85° W. (0-100 km from border) 420	
4	85° W.-121°-30' W. (0-100 km from border)	300
5	121°-30' W.-127° W. (0-140 km from border)	300
6	127°W.-143° W. (0-100 km from border)	300
7	66° W.-121°-30' W. (100-140 km from border)	600
8	127° W.-143° W. (100-140 km from border)	600
9	66° W.-143° W. (140-160 km from border)	600

(2) Station authorizations in Regions 1–4 and Regions 6–9 will be subject to Effective Radiated Power (ERP) and Effective Antenna Height (EAH) limitations as indicated in Table 6. Stations in Region 5 will be subject to the ERP and antenna height above mean sea level limitations in Table 8. Effective Radiated Power (ERP) is defined as the product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. Effective Antenna Height is calculated by subtracting the Assumed Average Terrain Elevation (AATE) given in Table 7 from the antenna height above mean sea level.

TABLE 6.—LIMITS OF EFFECTIVE RADIATED POWER (ERP), CORRESPONDING TO EFFECTIVE ANTENNA HEIGHTS (EAH), OF BASE STATIONS IN REGIONS 1, 2, 3, 4, 5, 6, 7, 8, 9

Feet	Meters	Watts (maximum)
0-500	0-152	500
501-1000	153-305	125
1001-1500	306-457	40
1501-2000	458-609	20
2001-2500	610-762	10
2501-3000	763-914	10

TABLE 6.—LIMITS OF EFFECTIVE RADIATED POWER (ERP), CORRESPONDING TO EFFECTIVE ANTENNA HEIGHTS (EAH), OF BASE STATIONS IN REGIONS 1, 2, 3, 4, 5, 6, 7, 8, 9—Continued

Feet	Meters	Watts (maximum)
3001-3500	915-1066	6
3501-4000	1067-1219	5
Above 4000	Above 1219	5

Table 7. Values of Assumed Average Terrain Elevation (AATE) Along the U.S./Canada Border

Longitude (Ø) (°West)	Latitude (θ) (°North)	Assumed Average Terrain Elevation	
		Feet	Meters
65 ≤ Ø < 69	θ < 45	0	0
"	45 ≤ θ < 46	300	91
"	θ ≥ 46	1000	305
69 ≤ Ø < 73	all	2000	609
73 ≤ Ø < 74	"	500	152
74 ≤ Ø < 78	"	250	76
78 ≤ Ø < 80	θ < 43	250	76
"	θ ≥ 43	500	152
80 ≤ Ø < 90	all	600	183
90 ≤ Ø < 98	"	1000	305
98 ≤ Ø < 102	"	1500	457
102 ≤ Ø < 108	"	2500	762
108 ≤ Ø < 111	"	3500	1066
111 ≤ Ø < 113	"	4000	1219
113 ≤ Ø < 114	"	5000	1524
114 ≤ Ø < 121.5	"	3000	914
121.5 ≤ Ø < 127	"	0	0
↑	54 ≤ θ < 56	0	0
	56 ≤ θ < 58	500	152
Ø ≥ 127	58 ≤ θ < 60	0	0
(Alaska - British	60 ≤ θ < 62	4000	1219
Columbia/Yukon	62 ≤ θ < 64	1600	488
Territory Border)	64 ≤ θ < 66	1000	305
	66 ≤ θ < 68	750	228
	68 ≤ θ < 69.5	1500	457
↓	θ ≥ 69.5	0	0

TABLE 8.—LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO ANTENNA HEIGHTS ABOVE MEAN SEA LEVEL OF BASE STATIONS IN REGION 5

Antenna height above mean sea level		ERP watts (maximum)
Feet	Meters	
0 to 1,650	0 to 503	500
1,651 to 2,000	504 to 609	350
2,001 to 2,500	610 to 762	200
2,501 to 3,000	763 to 914	140
3,001 to 3,500	915 to 1,066	100
3,501 to 4,000	1,067 to 219	75
4,001 to 4,500	1,220 to 1,371	70
4,501 to 5,000	1,372 to 1,523	65
Above 5,000	Above 1,523	5

(3) The following frequency bands are available in each Region with the exception of those listed in § 90.619(b)(5).

Region(s)	Frequency bands (MHz)
1, 4, 5, 6	806.00-809.75/851.00-854.75 and 817.25-821.00/862.25-866.00.
2	806.00-808.25/851.00-853.25 and 818.75-821.00/863.75-866.00.
3	806.00-811.25/851.00-856.25 and 815.75-821.00/860.75-866.00.
7, 8, 9	806.00-821.00/851.00-866.00.

(4) Coordination with Canada will be required:

(i) For frequencies in the 808.2625-809.7375/853.2625-854.7375 MHz and 817.2625-818.7375/862.2625-863.7375 MHz bands, for stations to be located in the geographical area in Region 1 enclosed by the United States border, the meridian 71° W and the line beginning at the intersection of 44°25'N, 71° W, then running by great circle arc to the intersection of 45° N, 70° W, then North along meridian 70° W to the intersection of 45°45'N, then running West along 45°45'N to the intersection of the United States—Canada border.

(ii) For frequencies in the 808.2625-811.2375/853.2625-856.2375 MHz and 815.7625-818.7375/860.7625-863.7375 MHz bands, for stations to be located in the geographical area in Region 3 enclosed by the meridian 81° W longitude, the arc of a circle of 100 km radius centered at the intersection of 81° W longitude and the northern shore of Lake Erie and drawn clockwise from the southerly intersection with 81° W longitude to intersect the United States-Canada border, and the United States-Canada border.

(5) No authorizations will be made in the frequency bands in the geographical areas listed below:

Frequency bands (MHz)	Areas
852-856.25	Between 42°30'N and 43°30'N and within 10km of the border, and West of 82° W.
852-853.25	Between 43°N and 43°20'N and within 10 k of the border, and East of 80° W.
864-866	Between 42°55'N and 43°20'N and within 15 km of the border, and East of 81° W.
851-852	Between 74°20'W and 72°55'W and within 10 km of the border.
852-853.25	Between 75°20'W and 74°05'W and within 10 km of the border.
864-866	Between 75°30'W and 74°55'W and within 10 km of the border.
851-852	Between 72°10'W and 71°25'W and within 10 km of the border.
852-854.75	Within 10 km of the border West of 121°55'W longitude and North of 48°25'N latitude, excluding the Alaska-British Columbia/Yukon Territory border.

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

Windsor, Ont	Channel 78	854-860 MHz.
Kitchener, Ont	Channel 76	842-848 MHz.
Toronto, Ont	Channel 79	860-866 MHz.
Enderby, B.C	Channel 72	818-824 MHz.
Radium/Hot Springs, B.C.	Channel 77	848-854 MHz.

Until reassignment of these stations, they must be protected as follows: the

field strength of an interfering mobile radio signal at the station's calculated B contour (where the protected contour crosses the border, that portion of the border lying within the contour shall be treated as the relevant segment of the B contour) may not exceed 14 dBu for frequencies co-channel with the television channel utilized, and may not exceed 54 dBu in the two adjacent 6 MHz guard bands. The field strength of any interfering signal must be calculated using the FCC Report R-6602 F(50,10) propagation curves at a receiving effective antenna height of 30 feet (9.1 meters).

(7) Frequencies in Regions 1-9 are designated in accordance with the following:

(i) As shown in § 90.613, mobile and control station transmitting frequencies will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz and proceed with uniform 25 kHz spacing to the band end, with Channel No. 600 at 820.9875 MHz. Corresponding base station frequencies, separated by 45 MHz from the mobile control frequencies, will commence with Channel No. 1 at 851.0125 MHz and end with Channel No. 600 at 865.9875 MHz.

(ii) Channels will be arranged into 5-channel groups. Because of the distribution and differing number of channels available for United States use in Regions 1-9, channel spacing between channels in a 5-channel group vary as follows:

Region	Number of 5-channel groups	Spacing between channels in a 5-channel group
1, 4, 5, 6	60	30 channels.
2	36	18 channels.
3	[1]80	40 channels.
7, 8, 9	120	40 channels.

[1] Region 3 also has ten (10) contigous channels in each of the two allocated sub-bands.

(8) Tables 9, 10, 11, and 12 list the channels available in Regions 1, 4, 5, and 6 for the categories of users indicated. Frequencies are given in § 90.613.

TABLE 9.—PUBLIC SAFETY CATEGORY—85 CHANNELS

[Regions 1, 4, 5, 6]

Group No.	Channel No.
1	1-31-61-91-121
2	2-32-62-92-122
3	3-33-63-93-123
4	4-34-64-94-124
5	5-35-65-95-125
6	6-36-66-96-126
7	7-37-67-97-127
8	8-38-68-98-128
9	9-39-69-99-129
10	10-40-70-100-130

TABLE 9.—PUBLIC SAFETY CATEGORY—85 CHANNELS—Continued

[Regions 1, 4, 5, 6]

Group No.	Channel No.
11	11-41-71-101-131
12	12-42-72-102-132
13	13-43-73-103-133
14	14-44-74-104-134
15	15-45-75-105-135
16	16-46-76-106-136
17	17-47-77-107-137

TABLE 10.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—60 CHANNELS

[Regions 1, 4, 5, 6]

Group No.	Channel No.
18	18-48-78-108-138
19	19-49-79-109-139
20	20-50-80-110-140
21	21-51-81-111-141
22	22-52-82-112-142
23	23-53-83-113-143
24	24-54-84-114-144
25	25-55-85-115-145
26	26-56-86-116-146
27	27-57-87-117-147
28	28-58-88-118-148
29	29-59-89-119-149

TABLE 11.—BUSINESS CATEGORY—60 CHANNELS

[Regions 1, 4, 5, 6]

Group No.	Channel No.
451	451-481-511-541-571
452	452-482-512-542-572
453	453-483-513-543-573
454	454-484-514-544-574
455	455-485-515-545-575
456	456-486-516-546-576
457	457-487-517-547-577
458	458-488-518-548-578
459	459-489-519-549-579
460	460-490-520-550-580
461	461-491-521-551-581
462	462-492-522-552-582

TABLE 12.—SMRS CATEGORY—95 CHANNELS

[Regions 1, 4, 5, 6]

Group No.	Channel No.
30	30-60-90-120-150
463	463-493-523-553-583
464	464-494-524-554-584
465	465-495-525-555-585
466	466-496-526-556-586
467	467-497-527-557-587
468	468-498-528-558-588
469	469-499-529-559-589
470	470-500-530-560-590
471	471-501-531-561-591
472	472-502-532-562-592
473	473-503-533-563-593
474	474-504-534-564-594
475	475-505-535-565-595
476	476-506-536-566-596
477	477-507-537-567-597
478	478-508-538-568-598
479	479-509-539-569-599
480	480-510-540-570-600

(9) Tables 13, 14 15, and 16 list the frequencies available in Region 2 for the categories of users indicated.

TABLE 13.—PUBLIC SAFETY CATEGORY—50 CHANNELS

[Region 2]

Group No.	Channel Nos.
1	1-19-37-55-73
2	2-20-38-56-74
3	3-21-39-57-75
4	4-22-40-58-76
5	5-23-41-59-77
6	6-24-42-60-78
7	7-25-43-61-79
8	8-26-44-62-80
9	9-27-45-63-81
10	10-28-46-64-82

TABLE 14.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—35 CHANNELS

[Region 2]

Group No.	Channel Nos.
11	11-29-47-65-83
12	12-30-48-66-84
13	13-31-49-67-85
14	14-32-50-68-86
15	15-33-51-69-87
16	16-34-52-70-88
17	17-35-53-71-89

TABLE 15.—BUSINESS CATEGORY—35 CHANNELS

[Region 2]

Group No.	Channel Nos.
511	511-529-547-565-583
512	512-530-548-566-584
513	513-531-549-567-585
514	514-532-550-568-586
515	515-533-551-569-587
516	516-534-552-570-588
517	517-535-553-571-589

TABLE 16.—SMRS CATEGORY—60 CHANNELS

[Region 2]

Group No.	Channel Nos.
18	18-36-54-72-90
518	518-536-554-572-590
519	519-537-555-573-591
520	520-538-556-574-592
521	521-539-557-575-593
522	522-540-558-576-594
523	523-541-559-577-595
524	524-542-560-578-596
525	525-543-561-579-597
526	526-544-562-580-598
527	527-545-563-581-599
528	528-546-564-582-600

(10) Tables 17, 18, 19, and 20 list the frequencies available in Region 3 for the categories of users indicated.

TABLE 17.—PUBLIC SAFETY—115 CHANNELS

[Region 3]

Group No.	Channel Nos.
1	1-41-81-121-161
2	2-42-82-122-162
3	3-43-83-123-163
4	4-44-84-124-164
5	5-45-85-125-165
6	6-46-86-126-166
7	7-47-87-127-167
8	8-48-88-128-168
9	9-49-89-129-169
10	10-50-90-130-170
11	11-51-91-131-171

TABLE 17.—PUBLIC SAFETY—115 CHANNELS—Continued

[Region 3]

Group No.	Channel Nos.
12	12-52-92-132-172
13	13-53-93-133-173
14	14-54-94-134-174
15	15-55-95-135-175
16	16-56-96-136-176
17	17-57-97-137-177
18	18-58-98-138-178
19	19-59-99-139-179
20	20-60-100-140-180
21	21-61-101-141-181
22	22-62-102-142-182
Contiguous channels	201, 202, 203, 204, 205

TABLE 18.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—85 CHANNELS

[Region 3]

Group No.	Channel Nos.
23	23-63-103-143-183
24	24-64-104-144-184
25	25-65-105-145-185
26	26-66-106-146-186
27	27-67-107-147-187
28	28-68-108-148-188
29	29-69-109-149-189
30	30-70-110-150-190
31	31-71-111-151-191
32	32-72-112-152-192
33	33-73-113-153-193
34	34-74-114-154-194
35	35-75-115-155-195
36	36-76-116-156-196
37	37-77-117-157-197
Contiguous channels	391, 392, 393, 394, 395, 396, 397, 398, 399, 400

TABLE 19.—BUSINESS CATEGORY—85 CHANNELS

[Region 3]

Group No.	Channel Nos.
401	401-441-481-521-561
402	402-442-482-522-562
403	403-443-483-523-563
404	404-444-484-524-564
405	405-445-485-525-565
406	406-446-486-526-566
407	407-447-487-527-567
408	408-448-488-528-568
409	409-449-489-529-569
410	410-450-490-530-570
411	411-451-491-531-571
412	412-452-492-532-572
413	413-453-493-533-573
414	414-454-494-534-574
415	415-455-495-535-575
416	416-456-496-536-576
Contiguous channels	206, 207, 208, 209, 210

TABLE 20.—SMRS CATEGORY—135 CHANNELS

[Region 3]

Group Nos.	Channel No.
38	38-78-118-158-198
39	39-79-119-159-199
40	40-80-120-160-200
417	417-457-497-537-577
418	418-458-498-538-578
419	419-459-499-539-579
420	420-460-500-540-580
421	421-461-501-541-581
422	422-462-502-542-582
423	423-463-503-543-583
424	424-464-504-544-584
425	425-465-505-545-585
426	426-466-506-546-586

TABLE 20.—SMRS CATEGORY—135 CHANNELS—Continued

[Region 3]

Group Nos.	Channel No.
427	427-467-507-547-587
428	428-468-508-548-588
429	429-469-509-549-589
430	430-470-510-550-590
431	431-471-511-551-591
432	432-472-512-552-592
433	433-473-513-553-593
434	434-474-514-554-594
435	435-475-515-555-595
436	436-476-516-556-596
437	437-477-517-557-597
438	478-478-518-558-598
439	439-479-519-559-599
440	440-480-520-560-600

(11) Tables 21, 22, 23, and 24 list the frequencies available in Regions 7, 8, and 9 for the categories of users indicated.

TABLE 21.—PUBLIC SAFETY CATEGORY—170 CHANNELS

[Regions 7, 8, 9]

Group No.	Channel Nos.
1	1-41-81-121-161
2	2-42-82-122-162
3	3-43-83-123-163
4	4-44-84-124-164
5	5-45-85-125-165
6	6-46-86-126-166
7	7-47-87-127-167
8	8-48-88-128-168
9	9-49-89-129-169
10	10-50-90-130-170
11	11-51-91-131-171
12	12-52-92-132-172
13	13-53-93-133-173
14	14-54-94-134-174
15	15-55-95-135-175
16	16-56-96-136-176
17	17-57-97-137-177
18	18-58-98-138-178
19	19-59-99-139-179
20	20-60-100-140-180
21	21-61-101-141-181
22	22-62-102-142-182
23	23-63-103-143-183
24	24-64-104-144-184
25	25-65-105-145-185
26	26-66-106-146-186
27	27-67-107-147-187
28	28-68-108-148-188
29	29-69-109-149-189
30	30-70-110-150-190
31	31-71-111-151-191
32	32-72-112-152-192
33	33-73-113-153-193
34	34-74-114-154-194

TABLE 22.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—120 CHANNELS

[Regions 7, 8, 9]

Group No.	Channel Nos.
201	201-241-281-321-361
202	202-242-282-322-362
203	203-243-283-323-363
204	204-244-284-324-364
205	205-245-285-325-365
206	206-246-286-326-366
207	207-247-287-327-367
208	208-248-288-328-368
209	209-249-289-329-369
210	210-250-290-330-370
211	211-251-291-331-371
212	212-252-292-332-372
213	213-253-293-333-373
214	214-254-294-334-374

TABLE 22.—INDUSTRIAL/LAND TRANSPORTATION CATEGORY—120 CHANNELS—Continued

[Regions 7, 8, 9]

Group No.	Channel Nos.
215	215-255-295-335-375
216	216-256-296-336-376
217	217-257-297-337-377
218	218-258-298-338-378
219	219-259-299-339-379
220	220-260-300-340-380
221	221-261-301-341-381
222	222-262-302-342-382
223	223-263-303-343-383
224	224-264-304-344-384

TABLE 23.—BUSINESS CATEGORY—120 CHANNELS

[Regions 7, 8, 9]

Group No.	Channel Nos.
401	401-441-481-521-561
402	402-442-482-522-562
403	403-443-483-523-563
404	404-444-484-524-564
405	405-445-485-525-565
406	406-446-486-526-566
407	407-447-487-527-567
408	408-448-488-528-568
409	409-449-489-529-569
410	410-450-490-530-570
411	411-451-491-531-571
412	412-452-492-532-572
413	413-453-493-533-573
414	414-454-494-534-574
415	415-455-495-535-575
416	416-456-496-536-576
417	417-457-497-537-577
418	418-458-498-538-578
419	419-459-499-539-579
420	420-460-500-540-580
421	421-461-501-541-581
422	422-462-502-542-582
423	423-463-503-543-583
424	424-464-504-544-584

TABLE 24.—SMRS CATEGORY—190 CHANNELS

[Regions 7, 8, 9]

Group No.	Channel Nos.
35	35-75-115-155-195
36	36-76-116-156-196
37	37-77-117-157-197
38	38-78-118-158-198
39	39-79-119-159-199
40	40-80-120-160-200
225	225-265-305-345-385
226	226-266-306-346-386
227	227-267-307-347-387
228	228-268-308-348-388
229	229-269-309-349-389
230	230-270-310-350-390
231	231-271-311-351-391
232	232-272-312-352-392
233	233-273-313-353-393
234	234-274-314-354-394
235	235-275-315-355-395
236	236-276-316-356-396
237	237-277-317-357-397
238	238-278-318-358-398
239	239-279-319-359-399
240	240-280-320-360-400
425	425-465-505-545-585
426	426-466-506-546-586
427	427-467-507-547-587
428	428-468-508-548-588
429	429-469-509-549-589
430	430-470-510-550-590
431	431-471-511-551-591
432	432-472-512-552-592
433	433-473-513-553-593
434	434-474-514-554-594
435	435-475-515-555-595
436	436-476-516-556-596

TABLE 24.—SMRS CATEGORY—190 CHANNELS—Continued

[Regions 7, 8, 9]

Group No.	Channel Nos.
437	437-477-517-557-597
438	438-478-518-558-598
439	439-479-519-559-599
440	440-480-520-560-600

§ 90.621 Selection and assignment of frequencies.

(a) Applicants eligible in the Public Safety/Special Emergency, Industrial/Land Transportation and Business Categories must specify the frequencies on which the proposed system will operate pursuant to a field study or a recommendation by the appropriate frequency coordinating entity. An applicant in the SMRS Category may specify, on the basis of a field study the frequencies desired or may request the Commission to select and assign frequencies for the system.

(1) For trunked systems, the assignment of frequencies will be made in accordance with applicable loading criteria and in accordance with the following:

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

(ii) The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(iii) There are no limitations on the number of frequencies which may be trunked. Except as indicated in paragraph (a)(1)(iv) of this section, authorizations may be granted for up to 20 trunked channels at a time in accordance with the Tables in §§ 90.617 and 90.619.

(iv) The maximum number of frequencies which will be assigned to an SMRS Category applicant at any one time is five (5) frequency pairs. Additional frequencies will not be authorized until assigned frequencies are loaded to 90%.

(2) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, an applicant may either be required to share a channel, or, if an applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, it may be licensed to use such channel or channels on an unshared basis in the area of operation specified in its application.

(i) All mobile control and base station frequencies will be chosen from those indicated in §§ 90.613, 90.615, 90.617, and 90.619. The spacing between associated mobile and base station frequencies shall be uniformly, 45 MHz.

(b) Systems authorized on frequencies in the SMRS Category will be afforded protection solely on the basis of fixed mileage separation criteria. The ordinary separation between co-channel systems will be 112 km. (70 mi.) except that no trunked system will be less than 168 km. (105 mi.) distance from co-channel trunked systems authorized 1 kw ERP on the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California). Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(c) Trunked systems authorized on frequencies in the Public Safety, Industrial/Land Transportation and Business Categories will be protected solely on the basis of predicted contours. Coordinators will attempt to provide a 40 dBu contour and to limit co-channel interference levels to 30 dBu over an applicants requested service area. This would result in a mileage separation of 70 miles for typical system parameters. Separations will be less than 70 miles where the requested service areas, terrain or other factors warrant reduction. We will not accept recommendations of more than 70 miles separation from coordinating groups. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account. The same criteria apply to applicants submitting field studies. When an applicant selects frequencies through a field study, a copy of the field study report must be submitted with the application. As part of the field study, the applicant must calculate the field strength of the proposed station and the interference impact that the new station will have upon existing co-channel stations with exclusive assignments within a 70 mile radius of the proposed station. The applicant must also notify co-channel stations within a 70 mile radius, whose area of coverage (i.e., 40 dBu contour) will be overlapped, of the applicant's intention to apply for the designated frequencies. These notifications and any responses received, must be submitted with the application to assure the accuracy of the data bases of the frequency coordinators. Applicants who choose to conduct a field study must notify the appropriate coordinator of the frequencies for which they have applied at the time of application.

(d) Conventional systems authorized on frequencies in the Public Safety, Industrial/Land Transportation and Business Categories which have met the loading level necessary for channel exclusivity will be protected in the same fashion as described in paragraph (c) of this section.

(e) Conventional systems authorized on frequencies in the Public Safety, Industrial/Land Transportation and Business Categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

(f) UHF television translator stations using UHF output channels from Channel 70 through 83 operate on a secondary basis to land mobile stations using the UHF bands allocated under this subpart for land mobile use. Accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(g) The channels listed as available for eligibles in the Public Safety/Special Emergency, Industrial/Land Transportation, and Business Categories are available as of April 1, 1984 on a shared basis to all persons eligible in these categories under the following conditions:

(1) Channels in the Public Safety/Special Emergency Category will be available for inter-category sharing only if eligibles in the Business and Industrial/Land Transportation Categories have exhausted all other inter-category sharing possibilities and there are no public safety systems authorized on those channels under consideration to be shared.

(2) The sharing is among compatible users. *Note.* The question of compatibility will be decided by the Commission.

(3) The out-of-category licensee must operate by the rules applicable to the category to which the frequency is allocated.

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

(a) The maximum number of frequency pairs that may be assigned to a licensee for operation in the conventional mode in a given area is five (5).

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

frequency pairs justified on the basis of the requirements of the proposed single user of the system.

(c) No licensee will be authorized transmitting facilities on conventional frequency pairs which have a 40 dBu contour overlap except where the licensee shows:

(1) That the additional frequency pair will be used to provide radio facilities to a single entity and the additional frequency pair is justified on the basis of the requirements of the proposed single user or

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

Note.—For the purpose of this subsection, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this subpart.

§ 90.625 Other criteria to be applied in assigning channels for use in conventional systems of communication.

(a) Where an applicant shows that a channel will be loaded to 70 mobile stations, that channel will be made available to that applicant for its exclusive use in the area in which it proposes to operate. If the showing made justifies the assignment of more than one channel to the applicant, additional frequencies will be authorized.

(b) Where an applicant proposes to furnish service to eligibles under Subparts B, C, D, or E of this part on a commercial basis using a conventional system of communication, the application will be considered on the same basis as that of an applicant for private or shared communications facilities.

(c) No person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this subpart.

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

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

(b) No licensee will be authorized trunked systems with 40 dBu contour overlap except where the licensee shows:

(1) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) That the licensee's existing trunked system(s) is loaded to at least 90 mobiles per channel.

Note.—For the purposes of this paragraph, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted.

§ 90.629 Extended implementation schedules.

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

(a) The applicant submits justification for an extended implementation period. The justification must include the implementation schedule (with milestones) for the construction and for the loading of the facility (e.g., construction of base stations and for placing mobiles in service) and must show either that:

(1) The proposed system will serve a large fleet (at least two hundred (200) mobile units) and will involve a multi-year cycle for its planning, approval, funding, purchase and construction;

(2) The proposed system will require longer than eight months to place in operation because of its purpose, size, or complexity; or

(3) The proposed system is to be a part of a coordinated or integrated area-wide system which will require more than a year to plan, approve, fund, and construct; or

(4) The applicant is a local governmental agency and demonstrates that the government involved is required by law to follow a multi-year cycle for planning, approval, funding and for purchasing the proposed system.

(b) Authorizations under this section are conditioned upon the licensee's compliance with the implementation schedule. If the licensee fails to meet that schedule, authorization for channels not loaded to 100 mobile stations cancels auutomatically. The licensee must submit a report to the Commission's Private Radio Bureau, Gettysburg, PA 17325, annually showing the extent to which the authorized system has been implemented. A copy of the report must be submitted to the licensee's frequency advisory committee.

§ 90.631 Trunked systems loading requirements.

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

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

(c) Except as provided in § 90.629, licensees of trunked facilities must complete construction within one year.

(d) If a station is not placed in operation in one year, except as provided in § 90.629, its license cancels automatically.

(e) Wide-area systems may be authorized to persons eligible for licensing under Subparts B, C, D or E of this part upon an appropriate showing of need. If the licensee wishes to operate remote or satellite stations on some or all of its authorized trunked frequencies, these stations will be authorized only on a secondary, non-interference basis to co-channel licensees.

(f) Regional, statewide, or ribbon configuration systems may be authorized to persons eligible for licensing under Subparts B, C, D or E of this part upon an appropriate showing of need. In a ribbon, regional or statewide system, a mobile station will be counted for channel loading purposes only for the base station facility in the geographic area in which it primarily operates. If this cannot be determined, it will be counted fractionally over the number of base station facilities with which it communicates regularly.

§ 90.633 Conventional systems loading requirements.

(a) Conventional systems of communication will be authorized on the basis of a minimum loading criteria of 70 mobile stations for each channel authorized.

(b) A channel will not be assigned to additional licensees when it is loaded to 70 mobile stations. Where a licensee does not load a channel to 70 mobiles

the channel will be available for assignment to other licensees. All authorizations for conventional systems are issued subject to this potential channel sharing condition.

(c) Except as provided in § 90.629 licensees of conventional systems must place their authorized facilities in operation not later than eight months after the date of grant of the license for the system.

(d) If a station is not placed in operation in eight months, except as provided in § 90.629, its license cancels automatically.

(e) A licensee may apply for additional frequency pairs if its authorized conventional channel(s) is occupied to 70 mobiles. We will also consider applications for additional channels in areas where waiting lists do not exist even if the already authorized channel(s) are not loaded to 70 mobile stations, upon an appropriate demostration of need.

(f) Wide-area systems may be authorized to persons eligible for licensing under Subparts B, C, D or E of this part upon an appropriate showing of need. For loading purposes, if the total number of mobile stations justifies the total number of authorized based frequencies in a given area, the system will be construed to be loaded.

(g) Regional, statewide or ribbon configuration systems may be authorized to persons eligible for licensing under Subpart B, C, D or E of this part upon an appropriate showing of need. In a ribbon, regional or statewide system, a mobile station will be counted for channel loading purposes only for the base station facility in the geographic area in which it primarily operates. If this cannot be determined, it will be counted fractionally over the number of base station facilities with which it communicates regularly.

Technical Regulations Regarding the Use of Frequencies in the 806–821 MHz and 851–866 MHz Bands

§ 90.635 Limitations on power and antenna height.

(a) Systems to be located within 24 km. (15 mi.) of the geographic center of the 50 urbanized areas detailed in Table 1 will be considered "urban" systems. All others will be considered "suburban" systems.

(b) The effective radiated power and antenna height, for base stations used in suburban-conventional systems of communications shall be no greater than 500 watts (27 dBu) and 152 m (500 ft) above average terrain (AAT) respectively, or the equivalent as determined from Table 2. These are maximum values, and applicants are required to justify power levels and antenna heights requested. For service area requirements less than 32 km. (20 mi.) in radius, see Table 3.

(c) The effective radiated power and antenna height for base stations used in trunked and urban-conventional systems may not exceed 1 kilowatt (30 dBw) and 304 m. (1,000 ft.) above average terrain (AAT), respectively, or the equivalent thereof as determined from Table 2. These area maximum values, and applicants will be required to justify power levels and antenna heights requested. For service are requirements less than 32 km (20 mi.) in radius, see Table 4.

(d) The maximum output power of the transmitter for mobile stations is 100 watts (20 dBu).

TABLE 1.—URBANIZED AREAS

Urbanized area	Geographic center	
	North lattitude	West longitude
Akron, Ohio	41°05'00"	81°30'44"
Albany-Schenectady-Troy, N.Y.	42°39'01"	73°45'01"
Atlanta, Ga	33°45'10"	84°23'37"
Baltimore, Md	39°17'26"	76°36'45"
Birmingham, Ala	33°31'01"	86°48'36"
Boston, Mass	42°21'24"	71°03'24"
Buffalo, N.Y.	42°53'12"	78°52'30"
Chicago, Ill	45°52'28"	87°38'22"
Cincinnati, Ohio	39°06'07"	84°30'35"
Cleveland, Ohio	41°29'51"	81°41'50"
Columbus, Ohio	39°57'47"	83°00'17"
Dallas, Tex	32°47'09"	96°47'37"
Dayton, Ohio	39°45'32"	84°11'43"
Denver, Colo	39°44'58"	104°59'22"
Detroit, Mich	42°19'48"	83°02'57"
Fort Lauderdale-Hollywood, Fla	26°07'30"	80°09'00"
Fort Worth, Tex	32°44'55"	97°19'44"
Houston, Tex	29°45'26"	95°21'37"
Indianapolis, Ind	39°46'07"	86°09'46"
Jacksonville, Fla	30°19'44"	81°39'42"
Kansas City, Mo.-Kans	39°04'56"	94°35'20"
Los Angeles, Calif	34°03'15"	118°14'28"
Louisville, Ky.-Ind	38°14'47"	85°45'49"
Miami, Fla	25°46'37"	80°11'32"
Memphis, Tenn.-Mississippi	35°08'46"	90°03'13"
Milwaukee, Wis	43°02'19"	87°54'15"
Minneapolis-St. Paul, Minn	44°58'57"	93°15'43"
New Orleans, La	29°56'53"	90°04'10"

TABLE 1.—URBANIZED AREAS—Continued

Urbanized area	Geographic center	
	North lattitude	West longitude
New York-northeastern New Jersey	40°45'06"	73°50'39"
Norfolk-Portsmouth, Va	36°51'10"	76°17'21"
Oklahoma City, Okla	35°28'26"	97°31'04"
Omaha, Nebr.-Iowa	41°15'42"	95°56'14"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Phoenix, Ariz	33°27'12"	112°04'28"
Pittsburgh, Pa	40°26'19"	80°00'00"
Portland, Oreg.-Wash	45°31'06"	122°40'35"
Providence-Pawtucket-Warwick, R.I.-Mass	41°49'32"	71°24'41"
Rochester, N.Y.	43°09'41"	77°36'21"
Sacramento, Calif	38°34'57"	121°29'41"
St. Louis, Mo.-Ill	38°37'45"	90°12'22"
St. Petersburg, Fla	27°46'18"	82°38'19"
San Antonio, Tex	29°25'37"	98°29'06"
San Bernardino-Riverside, Calif	34°06'30"	117°17'28"
San Diego, Calif	32°42'53"	117°09'21"
San Francisco-Oakland, Calif	37°46'39"	122°24'40"
San Jose, Calif	37°20'16"	121°53'24"
Seattle, Wash	47°36'32"	122°20'12"
Springfield-Chicopee-Holyoke, Mass.-Conn	42°06'21"	72°35'32"
Toledo, Ohio-Mich	41°39'14"	83°32'39"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"

TABLE 2.—EQUIVALENT POWER AND ANTENNA HEIGHTS FOR BASE STATIONS IN THE 851–866 MHZ BAND WHICH HAVE A REQUIREMENT FOR A 32 KM (20 MI) SERVICE AREA RADIUS

Antenna height (ATT) (feet) (meters)	Effective radiated power (watts) [1 2]	
	Urban/trunked	Surburban
Above 5,000	65	15
4,501 to 5,000	65	15
4,001 to 4,500	70	29
3,501 to 4,000	75	25
3,001 to 3,500	100	30
2,501 to 3,000	140	35
2,001 to 2,500	200	50
1,501 to 2,000	350	80
1,001 to 1,500	600	160
501 to 1,000	[3] 1,000	220
Up to 500	1,000	[4] 500

[1] Power is given in terms of effective radiated power (ERP).

[2] Applicants in the Los Angeles, Calif., area who demonstrate a need to serve both the downtown and fringe areas will be permitted to utilize an ERP of 1 kw at the following mountaintop sites: Santiago Park, Sierra Peak, Mount Lukens, and Mount Wilson.

[3] Stations with antennas below 1,000 ft (AAT) will be restricted to a maximum power of 1 kw (ERP).

[4] Stations with antenna below 500 ft (AAT) will be restricted to a maximum power of 500 W (ERP).

TABLE 3.—EQUIVALENT POWERS AND ANTENNA HEIGHTS FOR SUBURBAN-CONVENTIONAL BASE STATIONS IN THE 851–866 MHZ BAND WHICH HAVE A REQUIREMENT FOR LESS THAN 20-MI SERVICE AREA RADIUS—MAXIMUM EFFECTIVE RADIATED POWER (WATTS)

	Base station antenna height (AAT) (feet)					
	401–500	301–400	201–300	101–200	51–100	0–50
Service area radius, miles (kilometers):						
20 (32)	500	500	500	500	500	500
19 (30)	400	500	500	500	500	500
18 (29)	310	385	500	500	500	500
17 (27)	235	300	385	500	500	500
16 (26)	175	220	285	440	500	500
15 (24)	130	160	215	330	500	500
14 (22)	95	120	155	240	480	500
13 (21)	70	85	115	175	350	500
12 (19)	50	60	80	125	250	500
11 (18)	35	45	60	90	180	360
10 (16)	25	30	40	60	120	240
9 (14)	15	20	25	40	80	160
8 (13)	10	12	15	25	50	100
7 (11)	6	7	10	15	30	60
6 (10)	3	4	5	7	15	30
5 (8) or less	1	2	3	4	8	16

TABLE 4.—EQUIVALENT POWERS AND ANTENNA HEIGHTS FOR URBAN-CONVENTIONAL AND TRUNKED SYSTEM BASE STATIONS IN THE 851-866 MHZ BAND WHICH HAVE A REQUIREMENT FOR LESS THAN 20-MI. SERVICE AREA RADIUS—MAXIMUM EFFECTIVE RADIATED POWER (WATTS)

	Base station antenna height (AAT)							
	751-1,000	501-750	401-500	301-400	201-300	101-200	51-100	0-50
Service area radius (miles):								
20	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
19	800	1,000	1,000	1,000	1,000	1,000	1,000	1,002
18	640	830	1,000	1,000	1,000	1,000	1,000	1,000
17	480	625	960	1,000	1,000	1,000	1,000	1,000
16	360	470	720	900	1,000	1,000	1,000	1,000
15	270	350	540	675	875	1,000	1,000	1,000
14	200	260	400	500	650	1,000	1,000	1,000
13	140	180	280	350	450	700	1,000	1,000
12	100	130	200	250	325	500	1,000	1,006
11	70	90	140	175	230	350	700	1,000
10	45	60	90	110	145	220	440	1,000
9	30	40	60	75	100	150	300	600
8	20	25	40	50	65	100	200	400
7	15	20	30	40	50	80	160	300
6	8	10	16	20	25	40	80	100
5 or less	5	6	9	12	15	25	50	100

§ 90.637 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806–821 and 851–866 MHz bands.

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

(2) Control stations must employ directional antennas with the main lobe of radiation directed toward the station(s), being controlled. In each case the antenna used, consistent with reasonable design, shall produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limits radiation in other directions to the extent feasible.

(3) The strength of the signal of a control station controlling a single mobile relay station may not exceed by more than 6 dB, at the antenna terminal of the mobile relay receiver the signal strength produced there by a unit of the associated mobile station. When the fixed station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference must be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical from a location which is not more than one-fourth mile from the control station site.

(4) Each application for a control station under this subpart must be accompanied by a statement certifying that the output power of the proposed transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio must be kept with the station records and be made available upon request for inspection by Commission personnel.

§ 90.645 Permissible operations.

Conventional and trunked radio systems may be used:

(a) Only for purposes expressly allowed under this part.

(b) Only by persons who are eligible for facilities, either under this subpart or in the radio services included under Subparts B, C, D, or E.

(c) Only for the transmission of messages or signals permitted in the services in which the participants are eligible.

(d) For digital or analog transmissions.

(e) An SMRS licensee or a licensee who has been authorized a channel(s) on an exclusive basis, may use the system for the transmission of any base/mobile message, page or signal permitted in the service in which the participants are eligible.

(f) Where the channel(s) is assigned to an SMRS licensee or exclusively to a single licensee, or where all users of a system agree, more than a single emission may be utilized within an authorized bandwidth of 20 kHz. In such cases, the frequency stability requirements of § 90.213 shall not apply, but out-of-band emission limits of § 90.209 (c) or (g) shall be met.

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

§ 90.647 Station identification.

(a) Conventional systems of communication shall be identified in accordance with existing regulations governing such matters.

(b) Trunked systems of communication shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30 minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned to the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it must be at a rate of between 15 to 20 words per minute and by means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz.

§ 90.651 Supplemental reports required of licensees authorized under this subpart.

(a) Licensees offering service on a commercial basis to any person or entity eligible under either Subpart B, C, D, or E of this part must report the number of mobile units being served annually on the anniversary of their authorization date and at the time of filing applications for renewal of license. They must also report all mobile stations which operate on more than one SMR system. These reports must be filed with the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch

in Gettysburg, PA 17325. Licensees must maintain records of the names and addresses of each customer and the dates that service commenced and terminated. These records must be made available to the Commission upon request.

(b) Other trunked system licensees must report the number of mobile units being served annually, and at the time of filing applications for renewal of licenses. These reports should be filed with the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch in Gettysburg, PA 17325.

(c) Licensees of conventional systems must report the number of mobile units placed in operation within 8 months of the date of the grant of their license. Such reports shall be filed within 30 days from that date.

(d) Licensees of trunked systems must report, to the Commission's Private Radio Bureau, Licensing Division, Land Mobile Branch in Gettysburg, PA 17325, within thirteen months of the date of the grant, whether or not construction of the facility has been completed.

§ 90.653 Number of systems authorized in a geographical area.

There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations and no person shall have a right to protest any other proposal on grounds other than violation of any inconsistency with the provisions of this Subpart.

§ 90.655 Special licensing requirements for radio systems used to provide service to persons other than the licensee.

Where a conventional or a trunked radio system is to be used to provide radio facilities to a user(s) on a commercial basis, any associated control points, control stations, and mobile radio stations shall be authorized only to the user(s) of those particular facilities.

§ 90.657 Temporary permit.

An applicant for a Subpart S radio station license to use an already existing facility may operate the radio station(s) for a period of up to 180 days under a temporary permit evidenced by a properly executed certification of FCC Form 572 after the mailing of a formal application for station license, together with evidence of frequency coordination, for applicants of shared conventional channels, provided that the antenna(s) employed by the control station(s) is twenty feet or less above ground or twenty feet or less above a manmade structure other than an antenna tower to which it is affixed.

3. Revise § 90.3, paragraph (i), add new paragraph (o), and revise the introductory text of § 90.3 as follows:

§ 90.3 Organization and applicability of the rules.

The rules in this part are divided into subparts as follows:

* * * * *

(i) Subpart M contains special regulations for trunked system operation in the 816–821 and 861–866 MHz bands. These regulations expire September 1, 1987.

* * * * *

(o) Subpart S contains regulations for operation in the 806–821 and 851–866 MHz bands.

§§ 90.17, 90.19, 90.21, 90.23, 90.25, 90.53, 90.63, 90.65, 90.67, 90.69, 90.71, 90.73, 90.75, 90.79, 90.81, 90.89, 90.91, 90.93, 90.95 [Revised]

4. The text of each of §§ 90.17(c)(15), 90.19(e)(22), 90.21(c)(10), 90.23(c)(10), 90.25(c)(16), 90.53(b)(21), 90.63(d)(17), 90.65(c)(30), 90.67(c)(20), 90.69(c)(5), 90.71(c)(3), 90.73(d)(21), 90.75(c)(33), 90.79(d)(15), 90.81(d)(7), 90.89(c)(12), 90.91(c)(13), 90.93(c)(5) and 90.95(d)(10) is revised to read as follows:

Subparts M and S contain rules for assignment of frequencies in ——— the 806–821 and 851–866 MHz bands.

5. Revise § 90.119(e) to read as follows:

§ 90.119 Application forms.

* * * * *

(e) Form 572, Temporary Permit to Operate a Part 90 Radio Station, should be properly executed if the applicant is eligible and desires to operate his station pending the processing of his formal application (See also § 90.159, § 90.390, and § 90.657).

6. Revise § 90.155(b) to read as follows:

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

* * * * *

(b) For local government entities only, a period longer than eight months for placing a station in operation may be authorized by the Commission on a case-by-case basis, where the applicant submits a specific schedule for the completion of each portion of the entire system, along with a showing that the system has been approved and funded for implementation in accordance with that schedule. See also §§ 90.366, 90.631 and 90.633.

7. Revise paragraph (a), add the word "and" to paragraph (c)(3), and add new paragraph (c)(4) to § 90.127 to read as follows:

§ 90.127 Filing of applications.

(a) All applications for base or mobile station authorization and related correspondence shall be submitted to the Federal Communication Commission, Gettysburg, Pennsylvania 17325.

* * * * *

(c) * * *

(3) * * *; and

(4) For operation in the 806–821 and 851–866 MHz bands, to transmitters authorized pursuant to § 90.629.

8. Revise paragraph (i) of § 90.129 to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(i) Showings required in connection with the use of frequencies in the band 806–866 MHz as specified in Subparts M and S.

9. Add new paragraph (f) to § 90.175 to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(f) For frequencies in the bands 806–821 MHz and 851–866 MHz, see Sections 90.360(c) and 90.621(a).

10. Revise footnote 6 to the power table in § 90.205(b) to read as follows:

§ 90.205 Power.

* * * * *

(b) * * *

[6] Specified in Subparts M and S.

* * * * *

11. Revise the first sentence of § 90.207(k) to read as follows:

§ 90.207 Types of emission.

* * * * *

(k) F3Y emissions may be employed in 800 MHz systems (See Subparts M and S) or on any frequency which is subject to the coordination requirements as set forth in § 90.175.

12. Paragraph (a) of § 90.233 is revised to read as follows:

§ 90.233 Secondary base/mobile non-voice signaling operations.

* * * * *

(a) Authorizations are limited to mobile service frequencies below 512 MHz.

* * * * *

13. Revise § 90.437(d) to read as follows:

§ 90.437 Posting station licenses.

* * * * *

(d) An applicant operating under a temporary permit authorized in accordance with §§ 90.393 or 90.657 must retain an executed copy of FCC Form 572 as a permanent part of the station records.

14. Redesignate § 90.485 as § 90.492 and revise to read as follows:

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

Except as provided at § 90.378(c) and § 90.645(e) of the rules, systems of communications licensed in the 806–821 and 851–866 MHz bands may not be employed for either tone only or tone and voice paging operations.

15. In § 90.213, paragraph (a), is amended by adding new footnote 15 to the Frequency Tolerance Table as follows:

§ 90.213 Frequency tolerance.

(a) * * *

FREQUENCY TOLERANCE

Frequency range (MHz)	Fixed and base stations		Mobile stations	
	Over 200 W output power	200 W or less output power	Over 2 W output power	2 W or less output power
*	*	*	*	*
470–512	[8].00025	[8].00025	.0005	.0005
806–821	[11] [15].00015	[11] [15].00015	[15].00025	[15].00025
851–866	[15].00015	[15].00015	[15].00015	[15].00025
*	*	*	*	*

[15] This limitation does not apply where specifically provided for in other sections of this part.

* * * * *

[FR Doc. 82-25028 Filed 9-15-82; 8:45 am]

47 CFR Part 90

[PR Docket No. 79-191; RM-3380; et al]

Amendment Rules To Release Spectrum in Specific MHz Bands and To Adopt Rules To Govern Their Use; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains certain corrections and material inadvertently omitted from the Appendix of the Second Report and Order (FCC 82–338) in PR Docket proceedings 79–191, 79–334, 79–107 and 81–703 concerning amendment of Part 90 of the Commission's Rules to release spectrum in the 806–821/851–866 MHz bands and to adopt rules which govern their use published elsewhere in this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Albert J. Catalano or Stephanie M. Spernak, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

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

Erratum

Released: August 26, 1982.

On August 16, 1982 the Commission released the Second Report and Order (FCC 82–338) in the above captioned proceeding. This erratum corrects certain omissions and makes certain corrections in the Appendix of that item.

1. Footnotes 2 and 3 are added to Table 2 of § 90.362 as follows:

§ 90.362 Selection and assignment of frequencies.

* * * * *

Table 2.—Chicago Plan [2] [3]

* * * * *

2. Add the following sentence to the end of § 90.619(a):

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

(a) * * * Stations located on Mt. Lemmon, serving the Tucson, AZ area, shall only be authorized offset frequencies.

* * * * *

3. In §§ 90.374(b) and 90.635(d) change 20 dBu to 20 dBw.

§ 90.635 [Amended]

4. In Table 1 of § 90.635 the north latitude coordinate for Chicago, Ill. should be changed from 45°52′28″ to 41°52′28″.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-25029 Filed 9-15-82; 8:45 am]

BILLING CODE 6712-01-M

[2] These frequencies will be authorized only in the area encompassed by a 70 mile radius centered at 41°52′28″ N, 87°28′32″ W.

[3] Stations located beyond the 70 mile distance authorized prior to August 16, 1981 to use these frequencies may continue to do so. Stations beyond the 70 mile distance authorized after August 16, 1982 shall employ frequencies listed in Table 1 subject to the provisions of § 90.621(b) or (c) as applicable.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 81-703; FCC 82-389]

Signals at 800 MHz

AGENCY: Federal Communications Commission.

ACTION: Order consolidating proceedings.

SUMMARY: By this Order, the Commission consolidates Dockets 79-191, 79-334, and 79-107 with this proceeding, PR Docket No. 81-703, which proposes to allow the transmission of non-voice signalling at 800 MHz. In the Report and Order the Commission concludes that there is a need for data transmission by private land mobile users and adopts rules to permit such operation on a co-equal, primary basis at 800 MHz.

FOR FURTHER INFORMATION CONTACT: Albert J. Catalano or Stephanie Spernak, Private Radio Bureau, Washington, D.C. 20554, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

Order

Adopted: July 22, 1982.
Released: August 16, 1982.

1. On October 14, 1981, we released a *Notice of Proposed Rule Making* in PR Docket No. 81-703 proposing to amend §§ 90.233, "Secondary base/mobile non-voice signaling operations," and 90.385, "Restrictions and limitations on permissible communications, on use, and on mode of operation" of the Commission's Rules. The amendments would permit the transmission of fixed tone and alarm signals on a secondary basis and the transmission of non-voice signaling in the frequency bands 806-821 MHz and 851-866 MHz in the Private Land Mobile Radio Services.

2. Concurrent with this proceeding, we have under consideration the release of the remaining 800 MHz channels which have been held in reserve (*See Further Notice of Proposed Rule Making*, PR Docket No. 79-191, FCC No. 81-268, released July 14, 1981). In PR Docket No. 79-191, we have proposed greater technical flexibility in the same frequency bands, with specific regard to allowing flexibility in choosing the type of emission mode to be used and the amount of bandwidth to be occupied. *Id.* at para. 73.

3. The issues in PR Docket No. 79-191 include the issues contained in PR Docket No. 81-703. Because it is not appropriate to have either docket prejudge the other in any way on any overlapping issues, and because it will best conduce to the dispatch of Commission business and to the ends of justice to threat these issues in one proceeding, we have decided to consolidate PR Docket Nos. 79-191 and 81-703.

4. Accordingly, pursuant to sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154 (i) and (j) and 303(r)), it is ordered that PR Docket Nos. 79-191 and 81-703 are consolidated. It is further ordered that PR Docket No. 81-703 will be captioned under the earlier-docketed PR Docket No. 79-191.

Federal Communications Commission.[1]

William J. Tricarico,
Secretary.

[FR Doc. 82-25030 Filed 9-15-82; 8:45 am]
BILLING CODE 6712-01-M

[1] Commissioner Quello concurring in part.

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47 CFR Part 90

[PR Docket No. 79-107; FCC 82-388]

Action Concerning the Multiple Licensing of Land Mobile Radio Systems "Community Repeaters" in Certain MHz bands

AGENCY: Federal Communications Commission.

ACTION: Order consolidating proceedings.

SUMMARY: By this Order, the Commission consolidates Dockets 79-191 and 79-334 with this proceeding, PR Docket 79-107, which explores the appropriateness of community repeater operation. As part of its Report and Order the Commission concludes that community repeaters are a valuable user option for which authorization at 800 MHz should continue.

FOR FURTHER INFORMATION CONTACT: Albert J. Catalano or Stephanie Spernak, Private Radio Bureau, Washington, D.C. 20554, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

In the matter an inquiry concerning the multiple radio systems ("community repeaters") in the bands 806-821 and 851-866 MHZ (PR Docket No. 79-107).

Order

Adopted: July 22, 1982.

Released: August 16, 1982.

1. On May 11, 1979, the Commission released a *Notice of Inquiry* in PR Docket No. 79-107 exploring the policy implications of community repeater licensing in the 800 MHz frequency band. Concurrent with this proceeding, we have under consideration the release of the remaining 800 MHz channels which have been held in reserve (*See Further Notice of Proposed Rule Making*, PR Docket No. 79-191, FCC No. 81-268, released July 14, 1981) PR Docket No. 79-191 necessarily includes policy decisions relating to the question of community repeater licensing at 800 MHz. *Id.* at paras. 29-31.

2. Because it is not appropriate to have either docket prejudge the other in any way on any overlapping issues, and because it will best conduce to the dispatch of Commission business and to the ends of justice to treat these issues in one proceeding, we have decided to consolidate PR Docket Nos. 79-191 and 79-107.

3. Accordingly, pursuant to sections (i) and (j) and 303 (r) of the Communications Act of 1934, as amended (47 U.S.C. 154 (i) and (j) and 303 (j), it is ordered that PR Docket Nos. 79-191 and 79-107 are consolidated. It is further ordered that PR Docket No. 79-107 will be captioned under the later-docketed PR Docket No. 79-191.

Federal Communications Commission.[1]

William J. Tricarico,
Secretary.

[FR Doc. 82 25031 Filed 9-15-82; 8:45 am]
BILLING CODE 6712-01-M

[1] Commissioner Quello concurring in part.

federal register

Thursday
September 16, 1982

Part III

Department of Transportation

Federal Railroad Administration

Revision of State Safety Participation Regulations

DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration
49 CFR Part 212

[FRA Docket No. RSSP-3, Notice No. 3]

Revision of State Safety Participation Regulations

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document revises the FRA regulations on State participation in railroad safety inspections and investigations (49 CFR Part 212). The revisions are necessary to implement the expanded State participation authority contained in the Federal Railroad Safety Authorization Act of 1980. The revised rules implement the new authority and make other changes in the regulations designed to facilitate expanded State participation authority while assuring proper coordination of Federal and State inspection activities.

EFFECTIVE DATE: This regulation will become effective on November 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Principal Program Person: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone: 202-426-4345).
Principal Attorney: Lawrence I. Wagner, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590 (Phone: 202-426-8836).

SUPPLEMENTARY INFORMATION: This regulation contains provisions concerning the submission of information that are subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96-511). Those requirements have been approved by the Office of Management and the Budget (OMB) and have been assigned OMB control number 2130-0509.

Background

On June 25, 1981, the FRA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (46 FR 32888) to revise the State Safety Participation Program regulation. The specific objectives of the proposed revision included expansion of the inspection and surveillance authority of State inspectors; clarification of the policy framework; redefinition of inspector qualification requirements; and making appropriate editorial changes to the rules.

As announced in the NPRM, the FRA held a public hearing on the proposed revision on July 30, 1981. At the hearing FRA received testimony from State agencies, the National Association of Regulatory Utility Commissioners (NARUC), the Association of American Railroads (AAR) and the Railway Labor Executives' Association (RLEA). In addition, written comments were submitted by a number of State agencies, one railroad and private individuals who did not testify at the hearing. All the comments and testimony have been reviewed and fully considered during the formulation of the rule set forth in this document.

Most commenters expressed support for the proposed changes. However, many recommended that changes be made to one or more sections. Although most of the suggested changes were minor, there were three issues of broad concern raised by the commenters.

The first of these issues was raised by several commenters who questioned the appropriateness of the proposed regulation. The views of these commenters included opposition to the basic concept of State inspectors being permitted any investigative or surveillance role and objections to expanding of State inspector authority prior to revision of the older FRA regulations.

The basic policy of providing for a State role in investigation and surveillance activities with respect to safety regulations issued by FRA was established by the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) (Safety Act). The wisdom of creating the program was extensively debated during the process of enacting the Safety Act. Congress concluded that the creation of the State program was appropriate, and after reviewing the program in 1980, authorized FRA to expand the scope of the program. Section 4 of the Federal Railroad Safety Authorization Act of 1980 (Pub. L. No. 96-423, 94 Stat. 1812). The final rule implements the authorization for expansion contained in the 1980 statute.

The remaining commenter on this issue expressed concern about FRA's decision to expand the State inspection role before completing review and revision of all of the FRA safety regulations. Although the FRA agrees that there is a need for review and revision of its older safety regulations, FRA does not believe that State inspectors should be precluded from investigative and surveillance activities regarding these regulations pending the completion of the revision process. The commenter's recommended course of action would, for example, preclude State participation in effecting compliance with the Locomotive Safety Standards (49 CFR Part 229) which have already been revised. Consequently, rather than adopt the commenter's suggestion to delay this regulation, FRA is acting to expedite its review and revision process in an effort to alleviate the commenter's concern about potentially increased efforts to effect compliance with outmoded regulations. As part of this effort, the FRA currently plans to revise the Power Brake Standards and the Track Safety Standards during 1982 as indicated in the NPRM issued on February 18, 1982 (47 FR 7283, 7275). The specific changes proposed in both NPRMs were responsive to joint recommendations by rail labor and rail management.

The second issue of concern expressed by many commenters involved FRA's expressed preference to make "agreement" the primary means by which States would participate in the program as opposed to the "certification" approach which is presently the primary means for participation. The testimony presented at the public hearing revealed that the opposition to the "agreement" method was based on misunderstandings concerning the details of this method. Once these misunderstandings were identified and resolved through questioning, the commenters initial objections were resolved and subsequent written comments endorsed the FRA proposal to make "agreement" the primary means by which States will participate in the future. The primary misconception that troubled the commenters was the absence of a reference tool to indicate what level of effort FRA would anticipate from a participating State. This absence of a reference point was contrasted with the specificity for the level of effort contained in the "certification" method. FRA will provide that reference point in the program manuals which contain a variety of administrative details concerning implementation of this regulation.

The final issue raised by the commenters concerned the matter of the proposed qualifications for State inspectors. This issue involved the absence of an experience requirement for State inspectors; the absence of qualification requirements for State inspectors to effect compliance with Hazardous Materials Regulations (49 CFR Parts 171-179); and resolution of potential conflicts of interest for State inspectors. The State agencies and NARUC supported the FRA proposal to omit any reference to specific levels of experience as a requirement for individuals who would be permitted to seek authority to engage in investigative or surveillance work. These commenters

indicated that the knowledge, skill and ability criteria proposed by the FRA would be sufficient. Other commenters, particularly the AAR and the RLEA, objected to this proposal and indicated that an experience requirement was of critical importance in their judgment.

After reviewing the comments received, particularly the testimony provided at the public hearing, which indicates that the State agencies individually believe that some "time in service" criteria should be utilized, FRA has decided that a specific duration of experience provision should be included in the final rule. The FRA is therefore adopting a four year experience requirement for most inspectors. This "time in service" requirement is lower than that utilized by FRA in selecting Federal inspectors and is premised on the fact that State inspectors will be utilized for routine surveillance and investigative activities rather than the more extensive and sophisticated tasks for which FRA inspectors will be responsible. Additionally, the final rule will permit substitution of technical education for portions of this "time in service" requirement. Finally, to avoid impeding talented personnel who merely lack sufficient "time in service", FRA is structuring the apprentice provisions to permit rapid advancement to inspector status without regard to the "time in service" if such individuals are capable of successfully completing the training program very rapidly.

One commenter noted the absence of qualification requirements for a State inspector to effect compliance with the DOT Hazardous Materials Regulations and urged that appropriate provisions be placed in the final rule. The FRA has not adopted this suggestion. The regulations in question are not within the regulatory jurisdiction of the FRA but are issued by the Materials Transportation Bureau (MTB) of the Research and Special Programs Administration of the DOT and neither the language of Safety Act nor the 1980 amendment empower the FRA to permit State inspectors to effect compliance with these regulations. Finally, the MTB has a parallel program for State inspection and enforcement efforts that has significant differences including a separate budget.

The final comments on inspector qualifications dealt with the topic of conflict of interest standards for State inspectors. The FRA was urged to require that State inspectors adhere to the same rules on conflict of interest that are utilized by FRA for Federal inspectors. Although FRA agrees that this is a correct standard, FRA is not adopting regulatory language to address this topic at this time. However, the FRA will provide guidance to the State agencies on this topic in the program manual and will attempt to assure that State inspectors adhere to FRA policies on this topic.

The following is a summary of the comments received and an explanation of the revisions made by FRA in response to those comments. The comments and related revisions have been organized in a section-by-section format. Minor editorial or language changes have been made to some sections without a specific explanation.

Subpart A—General

§ 212.1 Purpose and scope.

One commenter suggested language changes that would add the wording of the existing regulatory provision to that contained in the NPRM. The FRA has not accepted this suggestion because the addition would merely constitute a redundant statement of purpose. No other comments on this Subpart were received and no changes have been made.

Subpart B—State/Federal Roles

§ 212.101 Program principles.

One commenter made several recommendations for language changes to this section. These changes primarily focus on the tone of the section. The FRA, with one exception, does not believe that the suggested changes should be made to the wording of this section since the proposed language effectively and succinctly states FRA policy. The exception involves the insertion of the phrase "planned routine" as a descriptor for the term "compliance inspections" in subsection 212.101(d).

§ 212.103 Investigative and surveillance authority.

No comments were received on this section and no changes have been made.

§ 212.105 Agreements.

One commenter suggested several changes to this section. The first change involved the addition of the word "routine" to paragraph (d)(3) to describe the planned inspections and to add language about preferential coverage. The FRA has added the word "routine" to describe the planned inspections since this is consonant with the FRA concept but has not added any language about preferences since it is not clear what the commenter is referring to in this context. The other change involved paragraph (f) and included deletion of the phrase "consistent with national program requirements" and addition of language to indicate that a timetable or schedule for training would be established. The suggested deletion has not been made because that language refers to a major consideration in the creation of a developmental agreement and reflects FRA policy on this point. However, the FRA has adopted the suggestion for creating a timetable or schedule for training and has provided appropriate language on this point.

§ 212.107 Certification.

Two commenters suggested changes to this section that have been adopted by FRA. These changes are basically editorial and create clearly parallel mandatory filing requirements for the certification process and the agreement process.

§ 212.109 Joint planning of inspections.

As suggested by a commenter, FRA has added a sentence to this section to provide a clear method to resolve any disagreements on the joint planning process and has altered the schedule for developing the joint inspection plan to a calendar year basis instead of the proposed fiscal year basis.

§ 212.111 Monitoring and other inspections.

A number of comments on this section were received. These comments addressed matters of general program administration, including FRA monitoring and inspection practices, which are not relevant to this rulemaking proceeding and do not warrant changes in the regulatory language. However, the FRA has reordered the sequence of the paragraphs in this section for improved clarity as suggested by one commenter.

§ 212.113 Program termination.

No substantive comments were received on this section and no change has been made.

§ 212.115 Enforcement actions.

One commenter suggested that State requests for injunctive action only be submitted to a single FRA office rather then the dual submission proposed. The FRA has not accepted this suggestion because the timeliness of such requests is critical and necessitates prompt analysis and action on both the legal and policy issues. The potential for delay or misrouted communications inherent in a single office submission is not acceptable in FRA's judgment. Retention of the proposed dual submission provision should not represent a troublesome burden for State agencies since historically it is

very rare that recourse to injunctive action is even contemplated as an adjunct to normal enforcement methods.

Subpart C—State inspection personnel

As noted earlier, the FRA has decided to impose an experience requirement for all inspectors except for apprentice inspectors. Consequently, §§ 212.203, 212.207, 212.209, 212.213, 212.215, and 212.221 have been changed to provide for a four year experience level requirement for fully qualified track, train control, signal and train control, motive power and equipment, locomotive and operating practices inspectors. These sections also make specific provision for the substitution of appropriate educational background for a portion of the experience requirement in each of the respective inspector disciplines. Sections 212.217 and 212.223 have been changed to provide for two year experience requirements for car and operating practices compliance inspectors. All of these sections also were changed to provide that successful completion of the apprentice training program can be substituted for the experience requirement.

§ 212.229 Subsequent regulations and orders.

Two commenters objected to this provision and the FRA has decided to delete the provision as unnecessary and potentially troublesome. Additionally, in responding to the proposed provisions of this Subpart, the AAR raised a number of points such as inspector credentials and salary levels that FRA considers to be issues of program administration. None of these are relevant to adoption of this final rule and are not being addressed specifically. To the degree that any of these concerns are pertinent to the betterment of the program, the FRA will consider them in formulation of the Program Manual.

Subpart D—Grants in Aid

The FRA received a variety of comments on the proposed provisions for Subpart D. Those comments and the issues they presented are discussed below under the appropriate regulatory sections. However, there is an additional issue concerning this subpart which was not contemplated or addressed by those commenting on the NPRM.

This additional issue involved the availability of Federal appropriations to fund the grants in aid aspect of the State Safety Participation Program. The recently proposed Federal budget for Fiscal Year 1983 does not seek grant in aid money for the State Safety Participation Program. Accordingly, if no funds are appropriated for this purpose, there would be no need to revise the current provisions of this subpart. However, if funds should be appropriated for grants in aid, this subpart would have to be revised. To preclude the need for emergency rulemaking in that eventuality, the FRA has decided to revise the subpart in this final rule.

Furthermore, additional delay in revising this regulation, to permit resolution of the funding issue, would ignore the fact that FRA has an independent need to alter the other subparts of this regulation. This separate impetus for modifying the other subparts arises from the need to permit State agencies to voluntarily make more effective use of their existing qualified inspectors as contemplated by the 1980 statutory changes and must be resolved regardless of the resolution of the funding issue.

§ 212.301 Grant authority.

No substantive comments were received and no changes have been made.

§ 212.303 Annual funding process.

One commenter expressed concern that the proposed wording of this section could be interpreted to preclude the filing of a funding application after the start of a fiscal year. Although the proposed language did not contain any prohibitory wording, the FRA has modified the language of this section to permit late filing.

§ 212.305 Reports.

No comments were received and no changes have been made.

§ 212.307 Maximum reimbursement levels.

One commenter suggested that FRA retain the concept of the existing regulation that permits a State participating by "certification" to obtain an increase in its funding based on a showing that unique circumstances in that State justify the employment of additional inspectors. The FRA believes that this suggestion has merit and has modified this section to incorporate this concept. Additional commenters suggested that FRA consider various factors in determining reimbursement payments to State agencies. The FRA believes that no change to the regulatory language is appropriate but will consider any relevant concepts in its administration of the program.

Appendix A

No comments were received and no changes have been made.

Appendix B

No comments were received and no changes have been made.

Appendix C

The final rule contains a provision for determining the level of operating practices inspection activity for each State and the reimbursement level for certified States. The levels set forth in Appendix C are similar to those in Appendix A and B and apply to a State that is engaged in inspection and surveillance activities with respect to the Railroad Operating Rules (49 CFR Parts 217, 218), Radio Standards and Procedures (49 CFR Part 220), Rear End Marking Devices (49 CFR Part 221), Accident/Incident Reporting (49 CFR Part 225), Hours of Service of Railroad Employees (49 CFR Part 228) and the Hours of Service Act (45 U.S.C. 61–64b). In determining the levels of inspection effort, FRA used a formula based on the total number of operating employees based in the individual State and the determination that one inspector could adequately monitor the activities of approximately 4,000 operating employees.

List of Subjects in 49 CFR Part 212

Railroad safety.

Regulatory Impact

The final rule has been evaluated in accordance with existing regulatory policies. This regulation will only have a direct effect on State governments. It will not have an adverse economic impact on State governments or any other entity since it does not establish any new requirements or burdens. Based on these facts, it is certified that the final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1164, September 19, 1980). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule does not constitute a significant rule under the Department of Transportation regulatory policies and procedures. To the degree that any Federal funding may become available to State governments subsequent to adoption of this regulation, the final rule may have some minimal economic impact. However, that economic impact is so minimal that it does not warrant a regulatory evaluation under the terms of Executive Order 12291.

In consideration of the foregoing, 49 CFR Part 212 is revised to read as follows:

PART 212—STATE SAFETY PARTICIPATION REGULATIONS

Subpart A—General

Sec.
212.1 Purpose and scope.
212.3 Definitions.
212.5 Filing.

Subpart B—State/Federal Roles

212.101 Program principles.
212.103 Investigative and surveillance authority.
212.105 Agreements.
212.107 Certification.
212.109 Joint planning of inspections.
212.111 Monitoring and other inspections.
212.113 Program termination.
212.115 Enforcement actions.

Subpart C—State Inspection Personnel

212.201 General qualification of state inspection personnel.
212.203 Track inspector.
212.205 Apprentice track inspector.
212.207 Signal and train control inspector.
212.209 Train control inspector.
212.211 Apprentice signal and train control inspector
212.213 Motive power and equipment (MP&E) inspector.
212.215 Locomotive inspector.
212.217 Car inspector.
212.219 Apprentice MP&E inspector.
212.221 Operating practices inspector.
212.223 Operating practices compliance inspector.
212.225 Apprentice operating practices inspector.
212.227 Inapplicable qualification requirements.

Subpart D—Grants in Aid

212.301 Grant authority.
212.303 Annual funding process.
212.305 Reports.
212.307 Maximum reimbursement levels.
Appendix A—Track Safety Standards—level of inspection effort and reimbursement
Appendix B—Freight Car Safety Standards—level of inspection effort and reimbursement
Appendix C—Railroad Operating Practices—level of inspection effort and reimbursement.

Authority: Sections 202, 205, 206, and 207; Pub. L. No. 91-458, 84 Stat. 971 *et seq.*, as amended by sections 4 and 5; Pub. L. No. 96-423, 94 Stat. 1812 (45 U.S.C. 431, 434, 435, 436).

Subpart A—General

§ 212.1 Purpose and scope.

This part establishes standards and procedures for State participation in investigative and surveillance activities under the Federal railroad safety laws and regulations.

§ 212.3 Definitions.

As used in this part:

(a) "Administrator" means the Federal Railroad Administrator or the Deputy Administrator or the delegate of either of them.

(b) "Associate Administrator" means the Associate Administrator for Safety, Federal Railroad Administration (FRA), or the Deputy Associate Administrator for Safety, FRA.

(c) "FRA" means the Federal Railroad Administration.

(d) "Federal railroad safety laws" means the following enactments, together with regulations and orders issued under their authority:

(1) The Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 421, 431-441);

(2) The Safety Appliance Acts, as amended (45 U.S.C. 1-16);

(3) The Locomotive Inspection Act, as amended (45 U.S.C. 22-34);

(4) The Signal Inspection Act, as amended (49 U.S.C. 26);

(5) The Accident Reports Act, as amended (45 U.S.C. 38-42); and

(6) The Hours of Service Act, as amended (45 U.S.C. 61-64b).

(e) "Planned compliance inspections" means investigative and surveillance activities described in the annual work plan required by § 212.109 of this part that provide basic surveillance of railroad facilities, equipment and/or operations for the purpose of determining the level of compliance with relevant Federal safety requirements.

§ 212.5 Filing.

Each State agency desiring to conduct investigative and surveillance activities must submit to the Associate Administrator for Safety, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, the documentation which contains the information prescribed by §§ 212.105 and 212.107.

Subpart B—State/Federal Roles

§ 212.101 Program principles.

(a) The purpose of the national railroad safety program is to promote safety in all areas of railroad operations in order to reduce deaths, injuries and damage to property resulting from railroad accidents.

(b)(1) The national railroad safety program is carried out in part through the issuance of mandatory Federal safety requirements and through inspection efforts designed to monitor compliance with those requirements. FRA and State inspections determine the extent to which the railroads have fulfilled their obligations with respect to inspection, maintenance, training, and supervision. The FRA and participating States do not conduct inspections of track, equipment, signal systems and operating practices for the railroads.

(2) The national railroad safety program is also carried out through routine inspections, accident investigations, formal and informal educational efforts, complaint investigations, safety assessments, special inquiries, regulatory development, research and similar initiatives.

(c) It is the policy of the FRA to maintain direct oversight of railroad conditions and practices relevant to safety by conducting inspections and investigations throughout the national railroad system in coordination with participating State agencies.

(d) The principal role of the State Safety Participation Program in the national railroad safety effort is to provide an enhanced investigative and surveillance capability through assumption, by participating State agencies, of responsibility for planned routine compliance inspections. The FRA encourages further State contributions to the national railroad safety program consistent with overall program needs, individual State capabilities, and the willingness of the States to undertake additional investigative and surveillance activities.

(e) It is the policy of the FRA to promote the growth and vitality of the State Safety Participation Program through liaison with State government, coordination of Federal and State investigative and surveillance activities, and training of inspection personnel.

§ 212.103 Investigative and surveillance authority.

(a) Subject to the requirements of this part, a State agency with jurisdiction under State law may participate in investigative and surveillance activities concerning Federal railroad safety laws and regulations by entering into an agreement under § 212.105 for the exercise of specified authority.

(b) Subject to requirements of this part, a State agency with jurisdiction under State law may participate in investigative and surveillance activities with respect to particular rules, regulations, orders or standards issued under the regulatory authority of the Federal Railroad Safety Act of 1970 by filing an annual certification under section 212.107.

§ 212.105 Agreements.

(a) *Scope.* The principal method by which States may participate in investigative and surveillance activities is by agreement with FRA. An

agreement may delegate investigative and surveillance authority with respect to all or any part of the Federal railroad safety laws.

(b) *Duration.* An agreement may be for a fixed term or for an indefinite duration.

(c) *Amendments.* An agreement may be amended to expand or contract its scope by consent of FRA and the State.

(d) *Common terms.* Each agreement entered into under this section provides that:

(1) The State agency is delegated certain specified authority with respect to investigative and surveillance activities;

(2) The delgation is effective only to the extent it is carried out through personnel recognized by the State and the FRA (pursuant to Subpart C of this part) to be qualified to perform the particular investigative and surveillance activities to which the personnel are assigned; and

(3) The State agency agrees to provide the capability necessary to assure coverage of facilities, equipment, and operating practices through planned routine compliance inspections for all, or a specified part of, the territory of the State.

(e) *Request for agreement.* A request for agreement shall contain the following information:

(1) An opinion of the counsel for the State agency stating that:

(i) The agency has jurisdiction over safety practices applicable to railroad facilities, equipment, rolling stock, and operations in that State;

(ii) The agency has the authority and capability to conduct investigative and surveillance activities in connection with the rules, regulations, orders, and standards issued by the Administrator under the Federal railroad safety laws; and

(iii) State funds may be used for this purpose.

(2) A statement that the State agency has been furnished a copy of each Federal safety statute, rule, regulation, order, or standard pertinent to the State's participation;

(3) The names of the railroads operating in the State together with the number of miles of main and branch lines operated by each railroad in the State;

(4) The name, title and telephone number of the person designated by the agency to coordinate the program; and

(5) A description of the organization, programs, and functions of the agency with respect to railroad safety.

(Approved by the Office of Management and Budget with control number 2130-0509).

(f) *Developmental agreement.* Consistent with national program requirements, the Associate Administrator may enter into an agreement under this section prior to the qualification of inspection personnel of the State under Subpart C of this part. In such a case, the agreement shall (1) specify the date at which the State will assume investigative and surveillance duties, and (2) refer to any undertaking by the FRA to provide training for State inspection personnel, including a schedule for the training courses that will be made available.

(g) *Action on request.* The Associate Administrator responds to a request for agreement by entering into an agreement based on the request, by declining the request, or by suggesting modifications.

§ 212.107 Certification.

(a) *Scope.* In the event the FRA and the State agency do not agree on terms for the participation of the State under § 212.105 of this part and the State wishes to engage in investigative and surveillance activities with respect to any rule, regulation, order, or standard issued under the authority of the Federal Railroad Safety Act of 1970, the State shall file an annual certification with respect to such activities.

(b) *Content.* The annual certification shall be filed not less than 60 days before the beginning of the Federal fiscal year to which it applies, shall contain the information required by § 212.105(e) of this part and, in addition, shall certify that:

(1) The State agency has the authority and capability to conduct investigative and surveillance activities under the requirements of this part with respect to each rule, regulation, order or standard for which certification is submitted, and

(2) The State agency will, at a minimum, conduct planned compliance inspections meeting the level of effort prescribed in the applicable appendix to this part.

(Approved by the Office of Management and Budget with control number 2130-0509).

(c) *Action on certification.* The Associate Administrator responds to the filing of an annual certification within 60 days of its receipt by accepting it or by rejecting it for cause stated.

(d) *Delegation of authority.* Acceptance of an annual certification constitutes a delegation of authority to conduct investigative and surveillance activities only to the extent that the delegation is carried out through personnel recognized by the State and the FRA (pursuant to Subpart C of this part) to be qualified to perform the particular investigative and surveillance activities to which the personnel are assigned.

§ 212.109 Joint planning of inspections.

Prior to beginning of each calendar year, each participating State applying for grant assistance under Subpart D of this part shall develop, in conjunction with the FRA Regional Director of Railroad Safety for the region in which the State is located, an annual work plan for the conduct of investigative and surveillance activities by the State agency. The plan shall include a program of inspections designed to monitor the compliance of the railroads operating within the State (or portion thereof) with applicable Federal railroad safety laws and regulations. In the event the participating State and the FRA Regional Director of Railroad Safety cannot agree on an annual work plan, the Associate Administrator shall review the matter.

(Approved by the Office of Management and Budget with control number 2130-0509).

§ 212.111 Monitoring and other inspections.

(a) It is the policy of the FRA to monitor State investigative and surveillance practices at the program level.

(b) It is the policy of the FRA to coordinate its direct inspection and investigative functions in participating States with the responsible State agency, providing prior advice to the States whenever practicable.

(c) The FRA may conduct such monitoring of State investigative and surveillance practices and such other inspection and investigation as may be necessary to aid in the enforcement of the Federal railroad safety laws.

§ 212.113 Program termination.

(a) A State agency participating in investigative and surveillance activities by agreement or certification shall provide thirty (30) days notice of its intent to terminate its participation.

(b) The Administrator may, on his own initiative, terminate the participation of a State agency if, after at least thirty (30) days notice an opportunity for oral hearing under section 553 of Title 5 U.S.C., the State agency does not establish that it has complied and is complying with:

(1) The requirements of this part;

(2) Relevant directives, enforcement manuals, and written interpretations of law and regulations provided by the FRA for guidance of the program; and

(3) The rule of national uniformity of laws, rules, regulations, orders, and

standards relating to railroad safety as expressed in section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434).

§ 212.115 Enforcement actions.

(a) Except as provided in paragraph (b) of this section, the FRA reserves exclusive authority to assess and compromise penalties, to issue emergency orders and compliance orders, institute or cause to be instituted actions for collection of civil penalties or for injunctive relief, and to commence any and all other enforcement actions under the Federal railroad safety laws.

(b)(1) Section 207(a) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 436(a)), authorizes a participating State to bring an action for assessment and collection of a civil penalty in a Federal district court of proper venue, if the FRA has not acted on a request for civil penalty assessment originated by the State, within sixty (60) days of receipt, by assessing the penalty or by determining in writing that no violation occurred.

(2) Section 207(b) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 436(b)), authorizes a participating State to bring an action for injunctive relief in a Federal district court of proper venue, if the FRA has not acted on a request to initiate such an action within fifteen (15) days of receipt, by referring the matter to the Attorney General for litigation, by undertaking other enforcement action, or by determining in writing that no violation has occurred.

(3) For purposes of this paragraph, a request for legal action is deemed to be received when a legally sufficient investigative report specifying the action requested is received by the designated FRA offices.

(c)(1) Requests for civil penalty assessments and other administrative actions shall be submitted to the FRA Regional Director for Railroad Safety for the FRA region in which the State is located.

(2) Requests for the institution of injunctive actions shall be submitted simultaneously to (i) the FRA Regional Director for Railroad Safety for the FRA region in which the State is located and (ii) the Enforcement Division, Office of Chief Counsel, FRA, Washington, D.C. 20590.

Subpart C—State Inspection Personnel

§ 212.201 General qualifications of State inspection personnel.

(a) This subpart prescribes the minimum qualification requirements for State railroad safety inspectors, compliance inspectors and inspector apprentices. A State agency may establish more stringent or additional requirements for its employees.

(b) An inspector, compliance inspector, or apprentice inspector shall be recognized as qualified under this part by the State agency and the Associate Administrator prior to assuming the responsibilities of the position.

(c) Each inspector, compliance inspectors and apprentice inspector shall be a bona fide employee of the State agency.

(d) Each inspector, compliance inspector, and apprentice inspector shall demonstrate:

(1) The ability to read and comprehend written materials such as training and enforcement manuals, regulations, operating and safety rules of the railroad, and similar materials;

(2) The ability to compose narrative reports of investigative findings that are clear, complete, and grammatically acceptable;

(3) The ability to record data on standard report forms with a high degree of accuracy;

(4) The ability to communicate orally; and

(5) Basic knowledge of rail transportation functions, the organization of railroad companies, and standard railroad rules for personal safety.

(e) Each inspector shall demonstrate a thorough knowledge of:

(1) Railroad rules, practices, record systems, and terminology common to operating and maintenance functions; and

(2) The scope and major requirements of all of the Federal railroad safety laws and regulations.

(f) In addition to meeting the requirements of this section, each inspector, compliance inspector, and apprentice inspector shall meet the applicable requirements of §§ 212.203–212.225 of this subpart.

§ 212.203 Track inspector.

(a) The track inspector is required, at a minimum, to be able to conduct independent inspections of track structures for the purpose of determining compliance with the Track Safety Standards (49 CFR Part 213), to make reports of those inspections, and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The track inspector is required, at a minimum to have at least four years of recent experience in track construction or maintenance. A bachelor's degree in engineering or a related technical specialization may be substituted for two of the four years of this experience requirement and successful completion of the apprentice training program may be substituted for the four years of this experience requirement.

(c) The track inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of track nomenclature, track inspection techniques, track maintenance methods, and track equipment;

(2) The ability to understand and detect deviations from:

(i) Track maintenance standards accepted in the industry; and

(ii) The Track Safety Standards (49 CFR Part 213).

(3) Knowledge of operating practices and vehicle/track interaction sufficient to understand the safety significance of deviations and combinations of deviations; and

(4) Specialized knowledge of the requirements of the Track Safety Standards, including the remedial action required to bring defective track into compliance with the standards.

§ 212.205 Apprentice track inspector.

(a) The apprentice track inspector must be enrolled in a program of training prescribed by the Associate Administrator leading to qualification as a track inspector. The apprentice track inspector may not participate in investigative and surveillance activities, except as an assistant to a qualified State or FRA inspector while accompanying that qualified inspector.

(b) An apprentice track inspector shall demonstrate basic knowledge of track inspection techniques, track maintenance methods, and track equipment prior to being enrolled in the program.

§ 212.207 Signal and train control inspector.

(a) The signal and train control inspector is required, at a minimum, to be able to conduct independent inspections of all types of signal and train control systems for the purpose of determining compliance with the Rules, Standards and Instructions for Railroad Signal Systems (49 CFR Part 236), to make reports of those inspections, and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The signal and train inspector is required, at a minimum, to have at least four years of recent experience in signal construction or maintenance. A bachelor's degree in electrical

engineering or a related technical specialization may be substituted for two of the four years of this experience requirement and successful completion of the apprentice training program may be substituted for the four years of this requirement.

(c) The signal and train control inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of signal and train control systems, maintenance practices, test and inspection techniques;

(2) The ability to understand and detect deviations from:

(i) Signal and train control maintenance standards accepted in the industry; and

(ii) The Rules, Standards and Instructions for Railroad Signal Systems (49 CFR Part 236).

(3) The ability to examine plans and records, to make inspections of signal train control systems and to determine adequacy of stopping distances from prescribed speeds;

(4) Knowledge of operating practices and signal systems sufficient to understand the safety significance of deviations and combination of deviations; and

(5) Specialized knowledge of the requirements of the Rules, Standards and Instructions for Railroad Signal Systems, including the remedial action required to bring signal and train control systems into compliance with the standards.

§ 212.209 Train control inspector.

(a) The train control inspector is required, at a minimum, to be able to conduct independent inspections of automatic cab signal, automatic train stop, and automatic train control devices on board locomotives for the purpose of determining compliance with Subpart E of the Rules, Standards and Instructions for Railroad Signal Systems (49 CFR 236) and to recommend the institution of enforcement action when appropriate to promote compliance.

(b) The train control inspector is required, at a minimum, to have at least four years of recent experience in locomotive construction or maintenance. A bachelor's degree in electrical engineering or a related technical specialization may be substituted for two of the four years of this experience requirement and successful completion of the apprentice training program may be substituted for the four year experience requirement.

(c) The train control inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of the various train control systems used on board locomotives, locomotive air brake systems and test and inspection procedures;

(2) The ability to understand and detect deviations from:

(i) Train control maintenance standards accepted in the industry; and

(ii) Subpart E of the Rules, Standards and Instructions for Railroad Signal Systems (40 CFR Part 236);

(3) Knowledge of operating practices and train control systems sufficient to understand the safety significance of deviations and combinations of deviations; and

(4) Specialized knowledge of the requirements of Subpart E of the Rules, Standards and Instructions for Railroad Signal Systems, including the remedial action required to bring train control systems used on board locomotives into compliance with the standards.

§ 212.211 Apprentice signal and train control inspector.

(a) The apprentice signal and train control inspector must be enrolled in a program of training prescribed by the Associate Administrator leading to qualification as a signal and train control inspector. The apprentice inspector may not participate in the investigative and surveillance activities, except as an assistant to a qualified State or FRA inspector while accompanying that qualified inspector.

(b) Prior to being enrolled in the program the apprentice inspector shall demonstrate:

(1) Working knowledge of basic electricity and the ability to use electrical test equipment in direct current and alternating current circuits; and

(2) A basic knowledge of signal and train control inspection and maintenance methods and procedures.

§ 212.213 Motive power and equipment (MP&E) inspector.

(a) The MP&E inspector is required, at a minimum, to be able to conduct independent inspections of railroad equipment for the purpose of determining compliance with all sections of the Freight Car Safety Standards (49 CFR Part 215), Safety Glazing Standards (49 CFR Part 223), Locomotive Safety Standards (49 CFR Part 229), Safety Appliance Standards (49 CFR Part 231), and Power Brake Standards (49 CFR Part 232), to make reports of those inspections and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The MP&E inspector is required, at a minimum, to have at least four years of recent experience in the construction or maintenance of railroad rolling equipment. A bachelor's degree in engineering or a related technical specialization may be substituted for two of the four years of this experience requirement and successful completion of the apprentice training program may be substituted for the four year experience requirement.

(c) The MP&E inspector shall demonstrate the following qualifications:

(1) A comprehensive knowledge of construction, testing, inspecting and repair of railroad freight cars, passenger cars, locomotives and air brakes;

(2) The ability to understand and detect deviations from:

(i) Railroad equipment maintenance standards accepted in the industry; and

(ii) The Freight Car Safety Standards, Safety Glazing Standards, Locomotive Safety Standards, Safety Appliance Standards and Power Brake Standards.

(3) The knowledge of railroad operating procedures associated with the operation of freight cars, passenger cars, locomotives and air brakes sufficient to understand the safety significance of deviations and combinations of deviations; and

(4) Specialized knowledge of proper remedial action to be taken in order to bring defective freight cars, passenger cars, locomotives, and air brakes into compliance with applicable Federal standards.

§ 212.215 Locomotive inspector.

(a) The locomotive inspector is required, at a minimum, to be able to conduct independent inspections of locomotives and air brake systems for the purpose of determining compliance with applicable sections of the Safety Glazing Standards (49 CFR Part 223), Locomotive Safety Standards (49 CFR Part 229), Safety Appliance Standards (49 CFR Part 231) and Power Brake Standards (49 CFR Part 232), to make reports of those inspections and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The locomotive inspector is required, at a minimum, to have at least four years of experience in locomotive construction or maintenance. A bachelor's degree in mechanical engineering or a related technical specialization may be substituted for two of the four years of this experience requirement and successful completion of the apprentice training program may

be substituted for the four year experience requirement.

(c) The locomotive inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of construction, testing, inspecting and repair of locomotive and air brakes;

(2) The ability to understand and detect deviations from:

(i) Railroad equipment maintenance standards accepted in the industry; and

(ii) Safety Glazing Standards, Locomotive Safety Standards, Safety Appliance Standards and Power Brake Standards;

(3) The knowledge of railroad operating procedures associated with the operation of locomotives and air brakes sufficient to understand the safety significance of deviations and combinations of deviations; and

(4) Specialized knowledge of proper remedial action to be taken in order to bring defective locomotives, and air brakes into compliance with applicable Federal standards.

§ 212.217 Car inspector.

(a) The car inspector is required, at a minimum, to be able to conduct independent inspections of railroad rolling stock for the purpose of determining compliance with all sections of the Freight Car Safety Standards (49 CFR Part 215), Safety Glazing Standards (49 CFR Part 223), Safety Appliance Standards (49 CFR Part 231) and Power Brake Standards (49 CFR Part 232), to make reports of those inspections and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The car inspector is required, at a minimum, to have at least two years of recent experience in freight car or passenger car construction, maintenance or inspection. Successful completion of the apprentice training program may be substituted for this two year experience requirement.

(c) The car inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of the construction and testing of freight and passenger cars and air brakes;

(2) The ability to understand and detect deviations from:

(i) Railroad freight and passenger car maintenance standards accepted in the industry; and

(ii) The Freight Car Safety Standards (49 CFR Part 215), Safety Glazing Standards (49 CFR Part 223), Safety Appliance Standards (49 CFR Part 231) and Power Brake Standards (49 CFR Part 232);

(3) The knowledge of railroad operating procedures associated with the operation of freight and passenger cars and air brakes sufficient to understand the safety significance of deviations and combinations of deviations; and

(4) Specialized knowledge of proper remedial action to be taken in order to bring defective freight and passenger car equipment and air brakes into compliance with applicable Federal standards.

§ 212.219 Apprentice MP&E inspector.

(a) The apprentice MP&E inspector must be enrolled in a program of training prescribed by the Associate Administrator leading to qualification as an MP&E inspector. The apprentice may not participate in investigative and surveillance activities, except as an assistant to a qualified State or FRA inspector while accompanying that qualified inspector.

(b) An apprentice MP&E inspector shall demonstrate basic knowledge of railroad equipment and air brake inspection, testing and maintenance, prior to being enrolled in the program.

§ 212.221 Operating practices inspector.

(a) The operating practices inspector is required, at a minimum, to be able to conduct independent inspections for the purpose of determining compliance with all sections of the Federal operating practice regulations (49 CFR Parts 217, 218, 220, 221, 225 and 228) and the Hours of Service Act (45 U.S.C. 61–64b), to make reports of those inspections, and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The operating practices inspector is required at a minimum to have at least four years of recent experience in developing or administering railroad operating rules. Successful completion of the apprentice training program may be substituted for this four year experience requirement.

(c) The operating practices inspector shall demonstrate the following specific qualifications:

(1) A comprehensive knowledge of railroad operating practices, railroad operating rules, duties of railroad employees, and general railroad nomenclature;

(2) The ability to understand and detect deviations from:

(i) Railroad operating rules accepted in the industry; and

(ii) Federal operating practice regulations;

(3) Knowledge of operating practices and rules sufficient to understand the safety significance of deviations; and

(4) Specialized knowledge of the requirements of the Federal operating practices regulations listed in paragraph (a) of this section, including the remedial action required to bring railroad operations into compliance with the regulations.

§ 212.223 Operating practices compliance inspector.

(a) The operating practices compliance inspector is required, at a minimum, to be able to conduct independent inspections for the purpose of determining compliance with the requirements of the following:

(1) Operating Rules—blue Flag (49 CFR Part 218);

(2) Rear End Marking Device Regulations (49 CFR Part 221);

(3) Railroad accidents/incidents: reports classification and investigations (49 CFR Part 225); and

(4) Hours of Service Act (45 U.S.C. 61–64b) and implementing regulations (49 CFR Part 228); to make reports of those inspections and to recommend the institution of enforcement actions when appropriate to promote compliance.

(b) The operating practices compliance inspector is required, at a minimum, to have at least two years of recent experience in developing or administering railroad operating rules. Successful completion of the apprentice training program may be substituted for the two year experience requirement.

(c) The compliance inspector shall demonstrate the following specific qualifications.

(1) A basic knowledge of railroad operations, duties of railroad employees and general railroad safety as it relates to the protection of railroad employees;

(2) A basic knowledge of railroad rules and practices;

(3) The ability to understand and detect deviations from the requirements cited in paragraph (a) of this section; and

(4) Specialized knowledge of the requirements of the Federal operating practices regulations listed in paragraph (a) of this section, including the remedial action required to bring defective conditions into compliance with the applicable Federal standards.

§ 212.225 Apprentice operating practices inspector.

(a) The apprentice operating practices inspector must be enrolled in a program of training prescribed by the Associate Administrator leading to qualification as an inspector. The apprentice inspector may not participate in investigative and surveillance activities, except as an assistant to a qualified State or FRA

inspector while accompanying that qualified inspector.

(b) An apprentice operating practices inspector shall demonstrate basic knowledge of railroad operating practices, railroad operating rules and general duties of railroad employees prior to being enrolled in the program.

§ 212.227 Inapplicable qualification requirements.

The Associate Administrator may determine that a specific requirement of this subpart is inapplicable to an identified position created by a State agency if it is not relevant to the actual duties of the position. The determination is made in writing.

Subpart D—Grants in Aid

§ 212.301 Grant authority.

The FRA is authorized to pay, out of funds appropriated for the purpose, up to 50 percent of the cost of the personnel, equipment, and activities reasonably required for a State agency to carry out investigative and surveillance activities prescribed by the FRA as necessary for enforcement of the Federal railroad safety laws and regulations.

§ 212.303 Annual funding process.

(a) A State agency that is participating in investigative and surveillance and related administrative or supervisory activities under this part by agreement or certification, or any State agency making application for such participation, may apply for funding under this subpart. An application for funding for a full fiscal year should be submitted to the Associate Administrator not later than sixty (60) days prior to commencement of that fiscal year. Applications for funding may be submitted at any time during a fiscal year by a State agency that is initially commencing investigative and surveillance activities for the remainder of that fiscal year.

(b) An application shall contain:

(1) Assurance satisfactory to the Associate Administrator that:

(i) The State agency will provide the remaining cost of the safety program conducted with respect to the agreement or certification entered into under this part; and

(ii) The aggregate expenditure of funds of the State, exclusive of Federal grants, for the safety program conducted with respect to the agreement or certification entered into under this part will be maintained at a level which does not fall below the average level of equivalent expenditures by the States for the two fiscal years preceding October 16, 1970.

(2) A description of the State safety program conducted with respect to the agreement or certification entered into under this part, including a description of the personnel, equipment and activities to be involved in the State program; and

(3) A summary of estimated program costs for the fiscal year.

(Approved by the Office of Management and the Budget with control number 2130–0509)

(c) Approval of a funding application, in whole or in part, constitutes a conditional obligation of funds in the approved amount. Payment is made in reimbursement of allowable costs actually incurred, not to exceed the approved amount.

(d) The Associate Administrator determines the apportionment of Federal funds to be paid to each State agency which submits a funding application under this subpart.

§ 212.305 Reports.

Each State agency receiving funding under this subpart shall submit periodic reports of investigative and surveillance activities, and expenses incurred in relation to those activities, as required by the States Participation Program Manual.

(Approved by the Office of Management and the Budget with control number 2130–0509)

§ 212.307 Maximum reimbursement levels.

(a) *Agreement.* (1) The maximum level of inspection effort for which funding will be authorized with respect to a State agency participating by agreement is determined by the Associate Administrator, subject to paragraph (a)(2) of this section. In determining the maximum level of effort that will be funded, the Associate Administrator considers:

(i) The number of inspection points or miles of track requiring coverage;

(ii) Traffic levels of railroads operating in the State;

(iii) Accident history and accident potential of railroads in the State;

(iv) Any undertakings by the State agency to provide investigative and surveillance activities under the laws set forth at § 212.3(d)(2)–(6) of this part;

(v) The deployment of FRA personnel; and

(vi) Other relevant factors, including available obligational authority.

(2) Upon the request of a State agency providing all planned compliance inspections under the Federal Railroad Safety Act of 1970 and consistent with the provisions of this part, the minimum level of effort that FRA will authorize for funding is not less than that set forth in Appendices A, B and C to this part.

(b) *Certification.* (1) Except as provided in paragraph (b)(2) of this section, the maximum level of inspection effort for which reimbursement may be authorized with respect to a State agency participating by certification is set forth in Appendices A, B and C to this part.

(2) The Associate Administrator may authorize an increase in the maximum level of inspection effort for which reimbursement will be permitted under paragraph (a) of this section. This increase may not exceed more than double the maximum levels prescribed in Appendices A, B and C to this part and must be based on a showing by the State agency that special circumstances necessitate additional investigative and surveillance activities.

(c) *Allocation.* The FRA reserves the right to allocate available obligational authority among participating States in the event insufficient funds are appropriated to provide the full 50 percent Federal contribution authorized by the Federal Railroad Safety Act of 1970.

(d) *Additional participation.* A State agency participating by agreement or certification may elect to provide increments of inspection effort beyond the level established for purposes of maximum funding under this subpart. However, all investigative and surveillance activities conducted by a participating State agency must be carried out through personnel qualified under Subpart C of this part.

Appendix A.—Track Safety Standards—Level Of Inspection Effort And Reimbursement

As provided in this part, the minimum level of investigative and surveillance effort for a State agency participating by certification and the maximum reimbursement level for the Federal share of such activities with respect to the Track Safety Standards are specified for each State and are expressed in terms of man-years of effort.

State	Minimum inspection effort	Maximum reimbursement level
Alabama	1.66	2
Arizona	.88	1
Arkansas	1.19	2
California	3.38	4
Colorado	1.2	2
Connecticut	.21	1
Delaware	.1	1
Florida	1.41	2
Georgia	1.96	2
Idaho	.93	1
Illinois	5.30	6
Indiana	2.63	3
Iowa	2.54	3
Kansas	2.79	3
Kentucky	1.53	2
Louisiana	1.43	2
Maine	.58	1
Maryland	.47	1
Massachusetts	.48	1

State	Minimum inspection effort	Maximum reimbursement level
Michigan	.48	1
Michigan	2.40	3
Minnesota	2.40	3
Mississippi	1.18	2
Missouri	2.36	3
Montana	1.59	2
Nebraska	1.80	2
Nevada	.50	1
New Hampshire	.23	1
New Jersey	.76	1
New Mexico	.80	1
New York	2.15	3
North Carolina	1.32	2
North Dakota	1.64	2
Ohio	3.34	4
Oklahoma	1.65	2
Oregon	1.07	2
Pennsylvania	3.94	4
Rhode Island	.05	1
South Carolina	1.03	2
South Dakota	.99	1
Tennessee	1.24	2
Texas	4.94	5
Utah	.59	1
Vermont	.24	1
Virginia	1.52	2
Washington	1.92	2
West Virginia	1.54	2
Wisconsin	1.85	2
Wyoming	.70	1

Appendix B.—Freight Car Safety Standards—Level of Inspection Effort and Reimbursement

As provided in this part, the minimum level of investigative and surveillance effort for a State agency participating by certification and the maximum reimbursement level for the Federal share of such activities with respect to the Freight Car Safety Standards are specified for each State and expressed in terms of man-years of effort:

State	Minimum inspection effort	Maximum reimbursement level
Alabama	1.24	2
Arizona	.28	1
Arkansas	.50	1
California	1.76	2
Colorado	.51	1
Connecticut	.20	1
Delaware	.14	1
Florida	1.82	2
Georgia	1.19	2
Idaho	.41	1
Illinois	3.49	4
Indiana	1.77	2
Iowa	1.82	2
Kansas	.74	1
Kentucky	1.35	2
Louisiana	1.02	2
Maine	.33	1
Maryland	.54	1
Massachusetts	.40	1
Michigan	1.54	2
Minnesota	1.66	2
Mississippi	.47	1
Missouri	.99	1
Montana	.67	1
Nebraska	.54	1
Nevada	.13	1
New Hampshire	.07	1
New Jersey	.77	1
New Mexico	.18	1
New York	1.86	2
North Carolina	.79	1
North Dakota	.23	1
Ohio	4.67	5
Oklahoma	.49	1
Oregon	.66	1
Pennsylvania	3.47	4
Rhode Island	.04	1
South Carolina	.44	1
South Dakota	.15	1
Tennessee	.82	1
Texas	2.94	3
Utah	.85	1
Vermont	.10	1
Virginia	1.66	2
Washington	1.90	2
West Virginia	1.40	2
Wisconsin	1.16	2
Wyoming	.40	1

Appendix C.—Railroad Operating Practices—Level Of Inspection Effort And Reimbursement

As provided in this part, the minimum level of investigative surveillance effort for a State agency participating by certification and the maximum reimbursement level for the Federal share of such activities with respect to the Operating Practices Standards are specified for each State and expressed in terms of man years of effort:

State	Minimum inspection effort	Maximum reimbursement level
Alabama	0.63	1
Arizona	.29	1
Arkansas	.59	1
California	2.69	3
Colorado	.59	1
Connecticut	.29	1
Delaware	.16	1
Florida	.90	1
Georgia	1.16	2
Idaho	.29	1
Illinois	3.99	4
Indiana	1.27	2
Iowa	.79	1
Kansas	1.24	2
Kentucky	1.41	2
Louisiana	.66	1
Maine	.18	1
Maryland	.80	1
Massachusetts	.43	1
Michigan	1.35	2
Minnesota	1.24	2
Mississippi	.35	1
Missouri	1.45	2
Montana	.61	1
Nebraska	1.39	2
Nevada	.14	1
New Hampshire	.03	1
New Jersey	.67	1
New Mexico	.26	1
New York	2.27	3
North Carolina	.59	1
North Dakota	.28	1
Ohio	2.55	3
Oklahoma	.36	1
Oregon	.60	1
Pennsylvania	3.60	4
Rhode Island	.06	1
South Carolina	.34	1
South Dakota	.10	1
Tennessee	.89	1
Texas	2.54	3
Utah	.39	1
Vermont	.03	1
Virginia	1.19	2
Washington	.86	1
West Virginia	.74	1
Wisconsin	.90	1
Wyoming	.36	1

Issued in Washington, D.C. on July 27, 1982.

(Secs. 202, 205, 206 and 207, Pub. L. No. 91-458, 84 Stat. 971 et seq., as amended by sections 4 and 5, Pub. L. 96-423, 94 Stat. 1812 (45 U.S.C. 431, 434, 435, 436))

Robert W. Blanchette,

Administrator.

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Thursday
September 16, 1982

Part IV

Department of the Interior

Fish and Wildlife Service

Geological and Geophysical Exploration of the Coastal Plain, Arctic National Wildlife Refuge, Alaska

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 37

Geological and Geophysical Exploration of the Coastal Plain, Arctic National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking would establish guidelines governing the carrying out of exploratory activities on the coastal plain of the Arctic National Wildlife Refuge (ANWR). The promulgation of such guidelines by regulation is required by section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA). The proposed regulations would prescribe how to obtain approval to conduct exploratory activities and limitations on the ways in which they may be conducted. The purpose of such exploration is to obtain data and information about the oil and gas production potential of the coastal plain, which will be used in preparing a report to Congress. The report will contain, among other things, a recommendation on the desirability of further oil and gas exploration, development, and production in the area and an evaluation of their adverse effects on ANWR's fish and wildlife, their habitats, and other resources.

DATE: Comments on this proposed rulemaking must be received by November 1, 1982.

ADDRESS: Comments may be mailed to: Robert A. Jantzen, Director, U.S. Fish and Wildlife Service, Attention: Associate Director for Wildlife Resources, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. James Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202) 343-4791.

SUPPLEMENTARY INFORMATION: By memorandum, dated March 12, 1981, the Secretary of the Interior transferred responsibility for drafting the exploration guidelines required by section 1002 of ANILCA from the U.S. Fish and Wildlife Service (FWS) to the U.S. Geological Survey (GS). The Public Notice of Intent to draft regulations and prepare an Environmental Impact Statement (EIS) for oil and gas exploration on ANWR was published in the **Federal Register** on July 14, 1981 by the GS. Public meetings to identify issues and scope the EIS were conducted by GS in Anchorage, Fairbanks, Kaktovik, Arctic Village, and Barrow, Alaska; and Washington, D.C.; in August and September of 1981. The FWS will be the administering agency for this exploratory program, as a direct result of the ruling of the U.S. District Court for the District of Alaska on November 2, 1981 in a suit brought by the Trustees for Alaska and other plaintiffs, requiring that full responsibility for preparation of the regulations and EIS be assigned to FWS. "Trustees for Alaska v. Watt," Civ. No. A81-264 (D. Ak., Nov. 2, 1981). In the Court's declaratory judgment of December 4, 1981, the FWS was also directed to prepare documentation containing determinations by the Service as to which portions of the work, actions, and products to that date were approved or disapproved. The FWS reviewed the scoping process, as conducted by GS, and found that the hearings allowed for adequate participation by interested parties and adopted the results of the scoping process. These public meetings identified a number of issues related to oil and gas exploration on the AWR. All comments have been considered in the formulation of the proposed regulations.

Environmental groups suggested that exploration activities should be monitored by FWS personnel having the authority to rectify or stop activities that would result in significant adverse impacts to the surface resources of the ANWR. As suggested above, the FWS will be the permitting authority for the exploratory activities, and it plans to designate field monitors to monitor field operations. Furthermore, the rule proposed in § 37.43 allows for suspending or modifying exploratory activities at any time after determining that continuing further activities would significantly adversely affect the refuge's wildlife, habitat or the environment. A suspension would remain in effect until the basis for the suspension has been corrected. Under the proposed § 37.42, the field monitors would have the power to exercise the full authority of the FWS' Regional Director, who is the official proposed to administer the ANWR exploration program, except that they could normally not modify an approved exploration plan or plan of operation without his concurrence. Therefore, this limitation on their authority, which is found in the proposed § 37.42, would apply to certain of their actions under the proposed § 37.43 dealing with suspension and modification. This limitation would not, however, prevent the field monitors from suspending activities and/or modifying a permittee's special use permit pursuant to § 37.43 to the extent that their actions on the permit would not effect a modification in the associated plans.

Environmental and Native groups and industry representatives were in general agreement that all feasible alternative methods of oil and gas exploration should be considered, with selection of the one(s) that will provide the essential data with no significant adverse effect. This proposed rule allows the applicant to propose any geological and geophysical method or technique as long as the method or technique meets the environmental limitations and safeguards delineated in Subpart D and is otherwise consistent with the proposed regulations. This rule provides a moderate level of regulatory guidance on the actual methods employed and allows the applicant to consider the full array of available technologies in designing its exploratory activities to meet the Service's requirements. Furthermore, because the ANWR was established to conserve the wildlife resources found therein, the FWS encourages applicants to use their creativity in designing plans that will maximize resource protection, consistent with the data gathering objective proposed in § 37.1

Industry representatives suggested that the confidentiality of collected data should be protected for 10 years following leasing and environmental groups suggested seismic information should be made public immediately. The proposed § 37.54 proposes, as mandated by ANILCA, that the Department shall make raw data and information obtained as a result of carrying out exploratory activities available to the public. To do so, the FWS proposes to use the procedural requirements of the Freedom of Information Act, 5 U.S.C. Section 552, and 43 CFR Part 2. The Department shall withhold from the public all processed, analyzed, and interpreted information or data until 2 years after any lease sale including the area within the refuge from which they were obtained. Thereafter, such data or information would be treated like raw data and information. Oil and gas leasing within ANWR is presently prohibited by section 1003 of ANILCA.

Both the environmental groups and the Native representatives expressed their concern for protection of archeological, cultural and historical sites. The proposed section 37.31 contains specific provisions to protect these resources. Each permittee would be required to obtain cultural resource reconnaissance reports, maps and other

documents which identify all known cultural resource sites. Vehicles or seismic trains would not be allowed to pass through or over known cultural resources sites with standing structures, or to camp or to discharge petroleum or petroleum products on known cultural resource sites. The proposed § 37.31(d) would also require a permittee to conduct certain historic and archeological resource surveys and data recovery and to take other measures designed to protect such resources, if ordered by the FWS to do so.

Native representatives expressed concern over preserving subsistence species for continuing subsistence uses on the coastal plain of the ANWR. These regulations were developed in consideration of the probable impacts of aerial and surface geological and geophysical exploration methods. By designing the proposed guidelines so as to assure that authorized exploratory activities do not significantly adversely affect the ANWR's fish and wildlife, their habitats, or environment, the authors believe that they would have the additional result of protecting subsistence uses and needs. However, the proposed § 37.22(e) requires the Regional Director, who is the official proposed to have the power to approve or disapprove exploration plans, to evaluate the effect of proposed exploratory activities on subsistence uses and needs in the course of evaluating an exploration plan. If he were to determine that a plan would significantly restrict subsistence uses, the subsistence issue would be joined in any public hearing held on the exploration plan.

The general standards which would govern the conduct of exploratory activities are stated in the proposed § 37.11. They are amplified by the proposed provisions of Subpart D. Any applicant wishing to submit an exploration plan should ensure that the information provided to the FWS pursuant to the proposed § 37.21 (c) and (d) reflects how its proposed plan would satisfy these performance standards, as well as the objective and limitations stated in the proposed § 37.1 and any other proposed requirements.

The proposed § 37.22(a) would authorize the Regional Director to approve or disapprove an exploration plan in whole or part and to require applicants to conduct exploratory activities in assigned areas or jointly with other applicants. Joint exploration is distinct from group participation, which is covered in the proposed § 37.13. The proposed regulations would give the Regional Director the option of employing either or both in certain circumstances. The proposed § 37.22(a) would also authorize the Regional Director to disapprove an exploration plan if the applicant does not demonstrate to his reasonable satisfaction its adequate technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment and a history of responsible compliance with any prior exploration permits.

Under the proposed guidlines applicants would be given two opportunities to submit exploration plans. The proposed § 37.21(b) specifies the particular dates on which the plans would have to be submitted and the periods that they could cover. Applications wold not be received at any other times. The authors of these proposed regulations consider these limitations necessary and fair since the exploration program is a short-term assessment and the FWS needs to compare any exploration plans submitted in order to determine their potential for unnecessary duplication, but must make the determination of consistency required by subsection 1002(e)(2) of ANILCA within 120 days of each plan's submission. Any applicant would be able to apply on either occasion or both. If, however, an applicant that submits an exploration plan on the first date contemplates submitting another plan on the second date, it would have to describe in its first plan how its activities covered by that plan would be integrated with any activities to be covered in the future plan. All plans submitted on the second date must include a proposal for conducting an integrated program of explorations activities necessary to satisfy the proposed § 37.1. In other words, such plans would have to show how the applicant intended to conduct a coordinated and complete exploration program in order to produce the results described in § 37.1, by addressing such topics as the relationship between the various exploratory methods and techniques proposed, their sequence and location, and data quality and compatibility. The proposed regulations would not require exploration plans to be comprehensive, so that an applicant could apply for approval to explore the entire coastal plain or portions of it, as the applicant chooses. The proposed regulations, however, would allow the Regional Director to assign areas for exploration. This authority would permit the FWS to ensure that the entire coastal plain, excepting areas of special sensitivity, is explored, if it wishes to do so. The proposed regulations also do not limit the number of exploration plans that an applicant can submit. This feature would allow applicants to propose alternate exploration strategies. All exploration plans submitted would be published for public review and comment. The costs of the review process would be borne by the applicant under the proposed § 37.46.

An exploration plan is the way in which a program of exploratory activities is proposed to be arranged and carried out. A plan of operation is the detailed procedures, covering a period not to exceed 12 months, proposed for executing an exploration plan. The contents of a plan of operation are described in the proposed § 37.21(e). A plan of operation would not be part of the applicant's exploration plan. It would be a separate document showing how the exploration plan would be implemented. No plan of operation could be approved unless the Regional Director determines that it is consistent with the exploration plan to which it pertains and with the proposed regulations.

Subsection 1002(b)(2) of ANILCA defines "exploratory activity" to mean "surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain." The proposed guidelines would expand the allowable types of geophysical exploration techniques in order to allow for the collection of aeromagnetic and/or aerogravimetric data and information. Whether magnetic or gravimetric surveys are conducted by helicopter or fixed winged aircraft, surface impacts associated with these exploratory techniques would be very limited and would allow for reconnaissance-level data collection to assist in delineating the extent and major structural features of sedimentary basins. The overview provided by these surveys would provide a basis for a systematic and efficient exploration program for the coastal plain, which the authors believe is consistent with the intent of ANILCA.

The purpose of the definition of "exploratory activities" found in the proposed § 37.2(i) is to enable an applicant to satisfy the statutory requirement that an exploration plan must be consistent with the FWS' guidelines in order to be approved should its plan contemplate aerial exploration as a part of its overall exploration program. The proposed definition is not intended to suggest that the FWS is asserting under its proposed guidelines any regulatory control over aircraft traversing the navigable airspace above ANWR's coastal plain, provided that such aircraft is not

involved in any aircraft-supported exploration activities using or occupying the coastal plain's surface or in the harassment of wildlife.

Drilling of exploratory wells would be prohibited by the proposed § 37.11(d).

Subsection 1002(d)(1) of ANILCA requires that the guidelines established by the Department include certain provisions. The first and second provisions would require a prohibition on exploratory activities during caribou calving or post-calving seasons and a temporary or permanent closing of appropriate areas to activities where human activities may disturb the valuable surface resources. The proposed § 37.32 would provide a mechanism for satisfying these requirements. The third requirement is to specify the types of equipment, facilities, and manpower that is appropriate to carry out exploratory activities. The proposed §§ 37.12(b), 37.31(b)(2) and 37.31(e) (4), (5), and (8) address this requirement. The fourth specific requirement is to coordinate exploratory activities so as to avoid unnecessary duplication. The proposed regulations contain a number of mechanisms, discussed above, which are designed to meet this requirement.

In addition to complying with the regulations that are finally adopted, the FWS expects that applicants, permittees, and other persons whose activities would be governed by them will comply with all other applicable laws. Accordingly, the proposed § 37.3 states that nothing in the proposed Part 37 shall be construed to relieve them from complying with any applicable federal laws or any applicable state laws, the requirements of which are not inconsistent with the Part. For example, subsection 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, requires any applicant for a required federal permit to conduct an activity affecting land or water uses in the coastal zone of a state having an approved coastal zone management program to provide in its application to the permitting agency a certification that its proposed activity complies with the state's management program and that such activity will be conducted in a manner consistent with that program. At the same time the applicant is also required by subsection 307(c)(3)(A) to furnish the state with a copy of its certification, along with all necessary information and data. Therefore, any applicant submitting an exploration plan covering exploratory activities which would affect land or water uses in Alaska's coastal zone is encouraged to seek the assistance of the State of Alaska's Division of Policy Development and Planning early in its planning effort, so that in the submission of its exploration plan to the FWS it can satisfy subsection 307(c)(3)(A) to the extent that it applies to the applicant's proposed activities.

In accordance with subsection 1002(d)(2) of ANILCA the proposed guidelines are accompanied by an environmental impact statement (EIS) on exploratory activities. A separate notice informing the public of the availability of the draft EIS accompanying the guidelines is being published in the **Federal Register**. The EIS is available from the FWS at the same address given for submission of comments on the proposed rule. The FWS recommends the EIS be consulted for further discussion, explanation, and analysis of the anticipated environmental impacts of the proposed rule.

The Department has determined that this document is not a major rule under Executive Order 12991 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Furthermore, since the FWS anticipated that there will be fewer than ten applicants on respondents annually information collections are not subject to Office of Management and Budget clearances under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 50 CFR Part 37

Alaska, Oil and gas exploration, Wildlife refuges.

Under the authority of section 1002 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2449 (16 U.S.C. 3142), section 501 of Pub. L. 137, 65 Stat. 290 (31 U.S.C. 483a), 5 U.S.C. section 301, and 209 DM 6.1, it is proposed to establish new rules for Subchapter C of Chapter I, Title 50 of the Code of Federal Regulations as set forth below.

Dated: August 20, 1982.

G. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

PART 37—GEOLOGICAL AND GEOPHYSICAL EXPLORATION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

Subpart A—General Provisions

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Appendix I—Legal Description of Coastal Plain, Arctic National Wildlife Refuge, Alaska.

Authority: Sec. 1002, Pub. L. 96-487, 94 Stat. 2449 (16 U.S.C. 3142); Sec. 501, Pub. L. 137, 65 Stat. 290 (31 U.S.C. 483a); 5 U.S.C. 301; 209 DM 6.1.

Subpart A—General Provisions

§ 37.1 Purpose.

These regulations implement the requirement of section 1002(d) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2450, 16 U.S.C. section 3142(d), that the Secretary establish guidelines governing surface geological and geophysical exploration for oil and gas within the coastal plain of the Arctic National Wildlife Refuge. Section 1002 mandates an oil and gas exploration program for the refuge's coastal plain. The program shall culminate in a report to Congress which contains, among other things, the identification of those areas within the coastal plain that have oil and gas production potential, an estimate of the volume of oil and gas concerned, the description of the wildlife, its habitat, and other resources that are within the areas identified, and an evaluation of the adverse effects that the carrying out of further exploration for, and the

development and production of, oil and gas within such areas will have on the refuge's resources. It is the objective of this program to ascertain the best possible data and information concerning the probable existence, location, volume, and potential for further exploration, development, and production of oil and gas within the coastal plain. This objective is subject to the limitations that exploratory activities not significantly adversely affect the wildlife, its habitat, or the environment and that unnecessary duplication of exploratory activities be avoided. These regulations prescribe the requirements and procedures for obtaining authorization for and the conduct of such exploratory activities, and for submitting to the Department the resulting data and information. These regulations also describe other matters relating to the administration of the program.

§ 37.2 Definitions.

The following definitions are applicable to the sections of this part.

(a) "Act" means section 1002 of the Alaska National Interest Lands Conservaton Act, 94 Stat. 2449, 16 U.S.C. section 3142.

(b) "Adequate protective cover" means snow or a frostline, or both, sufficient to protect the vegetation and soil from significant adverse effects due to the operation of surface equipment, as determined by the Regional Director.

(c) "Coastal lagoons" means the waters and submerged lands between the mainland and the offshore barrier islands that lie between Brownlow Point and the Aichilik River within the coastal plain.

(d) "Coastal plain" means that area shown on the map entitled "Arctic National Wildlife Refuge", dated August 1980, and legally described in Appendix I hereto.

(e) "Cultural resource" means any district, site, building, structure, or object significant in American history, architecture, archeology, engineering or culture, as determined in accordance with 36 CFR 60.6.

(f) "Department" means the Department of the Interior and any of its component bureaus and offices.

(g) "Director" means the Director of the U.S. Fish and Wildlife Service or his authorized representative.

(h) "Exploration plan" means the way in which a program of exploratory activities is proposed to be arranged and carried out.

(i) "Exploratory activities" means aerial and surface geological exploration or geophysical exploration or both within the refuge's coastal plan, and all related activities and logistics required for either or both.

(j) "Harass" means an intentional or negligent act or omission which actually kills or injuries wildlife or which creates the likelihood of death or injury to wildlife, by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.

(k) "Hazardous substances" means petroleum, petroleum products, toxic materials, shot wire, chemical effluent, explosives, or other materials which are likely to cause adverse effects to the refuges wildlife, its habitat, the environment, or humans.

(l) "Permittee" means the person authorized by a special use permit issued pursuant to this part to conduct exploratory activities on the coastal plain; any official, employee, contractor, subcontractor or agent of the permittee or of the permittee's designee; and any participant to the permittee's permit.

(m) "Person" means any individual, partnership, firm, corporation, association, organization, or agency.

(n) "Plan of operation" means detailed procedures, covering a period not to exceed 12 months, proposed for executing an exploration plan.

(o) "Processed, analyzed and interpreted data or information" means any data or information which results from any subsequent modification, processing, analysis, or interpretation of raw data and information by human or electronic means, on or off the refuge.

(p) "Raw data and information" means all original observations and recordings in written or electronic form and samples obtained during field operations.

(q) "Refuge" means the Arctic National Wildlife Refuge.

(r) "Regional Director" means the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, or his authorized representative.

(s) "Rehabilitation" means the act of returning the landform and vegetation to as near its original shape and condition as practicable, as determined by the Regional Director.

(t) "Secretary" means the Secretary of the Interior or his authorized representative.

(u) "Service" means the U.S. Fish and Wildlife Service.

(v) "Solicitor" means the Solicitor of the Department of the Interior or his authorized representative.

(w) "Special use permit" means a revocable, nonpossessory privilege issued in writing by the Regional Director and authorizing the permittee to enter and use the refuge for a specified period not greater than 12 months to conduct exploratory activities, and other activities necessary thereto.

(x) "Support facilities" means facilities on or near the refuge used to provide logistical support for the field exploratory activities.

(y) "Third party" means any person other than a representative of the permittee or the United States government.

(z) "Waste" means all material for discard from exploratory activities. It includes, but is not limited to, human waste, trash, garbage, refuse, fuel drums, ashes, and functional and nonfunctional equipment.

(aa) "Wildlife" means fish or wildlife or both.

(bb) "Year" means, unless otherwise indicated by the context, the fiscal year, which shall begin on October 1 of any calendar year and end on September 30 of the following calendar year.

§ 37.3 Other applicable laws.

(a) Nothing in this part shall be construed to relieve an applicant, permittee or any person from complying with any applicable federal laws or any applicable state laws, the requirements of which are not inconsistent with this part.

(b) Until the litigation between the United States and the State of Alaska over title to the submerged lands of the coastal lagoons, "United States v. Alaska", Sup. Ct., No. 84, Orig. (1979), is resolved, the permittee shall satisfy both federal and state requirements for conducting oil and gas exploration in the coastal lagoons. In the event of an inconsistency between such requirements the permittee shall satisfy that requirement which provides the greatest environmental protection.

(c) Before conducting exploratory activities on lands in the coastal plain which have been conveyed to or selected by the Kaktovik Inupiat Corporation, a permittee must furnish to the Regional Director a letter of concurrence from the Corporation.

§ 37.4 Disclaimer.

Authorization granted under this part to conduct exploratory activities shall not confer a right to any discovered oil, gas, or other mineral in any manner.

Subpart B—General Requirements

§ 37.11 General standards for exploratory activities.

(a) No exploratory activities shall be conducted without a special use permit. Requirements and procedures for obtaining a special use permit are prescribed in §§ 37.21 through 37.24.

(b) Exploratory activities shall be conducted so that they do not:

(1) Significantly adversely affect the refuge's wildlife, its habitat, or the environment;

(2) Unnecessarily duplicate exploratory activities of the permittee or another permittee; and

(3) Unreasonably or significantly interfere with another permittee's activities.

(c) Reexamination of an area may be permitted by the Regional Director if necessary to correct data deficiencies or to refine or improve data or information already gathered.

(d) Drilling of exploratory wells is prohibited.

§ 37.12 Responsibilities of permittee.

(a) The permittee shall comply with the regulations of this section, the terms and conditions of its special use permit, the provisions of its approved exploration plan and plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director. All actions by the permittee inconsistent with this part are prohibited.

(b) The permittee shall designate a general representative who shall be the person primarily accountable for managing the permittee's authorized activities, and a field representative who shall be the person primarily accountable for supervising the permittee's field operations, and their alternates. The permittee shall notify the Regional Director promptly of any changes in such personnel or the procedures for contacting them.

(c) Field operations shall be conducted by the permittee or a designee approved by the Regional Director. Assignment of a designee shall be in a manner and form acceptable to the Regional Director. Acceptance of a designee to act for the permittee in matters relating to the conduct of exploratory activities does not relieve the permittee of responsibility for compliance with applicable laws, its special use permit, exploration plan, plan of operation, and all reasonable stipulations, demands and orders of the Regional Director. The designee will be considered the agent of the permittee and will be responsible for complying fully with the obligations of the permittee. The serving of stipulations, demands, orders, and notices on the permittee's designee, when delivered personally or by radio or mail, will be deemed to be service upon the permittee. The permittee shall notify the Regional Director in writing when assignment of a designee has been cancelled. A designee cannot reassign its designation to another party. The permittee or designee shall notify the Regional Director 5 working days in advance of its intention to commence field operations for each season that it conducts exploratory activities.

(d) The permittee shall submit to the Regional Director 30 days prior to the commencement of field operations for each year covered by its exploration plan an updated list of the names and addresses referred to in § 37.21(d)(3).

(e) The permittee shall perform operations and maintain equipment in a safe and workmanlike manner. The permittee shall take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property and to comply with any health and safety requirements prescribed by the Regional Director.

§ 37.13 Group participation.

(a) To avoid unnecessary duplication of exploratory activities, the permittee shall, if ordered by the Regional Director, afford all interested persons, through a signed agreement, an opportunity to participate in its exploratory activities and share the resulting data and information on a cost-sharing basis. The provisions of the agreement for sharing cost of exploratory activities may include a penalty for late participants of not more than 100 percent of the cost to each original participant in addition to the original share cost. The original share cost shall be computed by dividing the estimated total cost implementing the permittee's approved exploration plan by the number of orginal participant. The permittee shall assess and distribute penalties in accordance with the terms of the agreement.

(b) To allow for group participation in its exploratory activities, the permittee shall:

(1) Within 30 days of receiving the Regional Director's order, submit to the Regional Director for approval, a summary statement to be published by the permittee in newspapers of general circulation in the State of Alaska which describes the permitte's exploration plan;

(2) Within 30 days after receiving approval of its summary statement, cause to be published such statement in a manner approved of or prescribed by the Regional Director;

(3) Provide copies of the published statement to the Regional Director;

(4) Allow at least 30 days from the date of publishing the summary statement for other persons to join as late participants; and

(5) Furnish the Regional Director with the names and addresses of all original participants and all late participants, as they join.

(c) If, with the approval of the Regional Director, the permittee at any time changes any provsions of its approved exploration plan relating to areal extent, intensity of exploratory activities, or logistical support, and the Regional Director determines such changes to be significant, the Regional Director may require the permittee to afford all interested persons another opportunity to participate in the permitted exploratory activities in accordance with paragraph (a) and (b) of this section.

(d) The requirements of this section do not preclude the permittee from initiating field operations as authorized under its special use permit.

(e) All participants shall be bound by the regulations of this part, the permittee's special use permit, approved exploration plan and plan of operation and any reasonable stipulations, demands and orders issued by the Regional Director.

§ 37.14 Bonding.

(a) Within 30 days of the issuance of its special use permit, the permittee shall furnish to the Service a corporate surety bond of not less than $100,000, or other security satisfactory to the Service, to secure performance of its exploration plan and plan of operation and compliance with the permit and this part. Any bond furnished or maintained by a person under this section shall be on a form approved or prescribed by the Regional Director.

(b) Whenever a permittee's exploration plan, plan of operation, or special use permit is revised or modified, the permittee shall provide to the Regional Director within 30 days thereafter an acknowledgement by the surety that its bond continues to apply to the exploration plan, plan of operation or special use permit, as revised or modified, unless a waiver of notice to the surety is contained in the bond or the surety is not otherwise released by the revision or modification, or unless the permittee provides to the Service an increased or additional bond.

(c) Recovery of the amount specified in the permittee's bond or other security shall not preclude the Department from seeking specific performance by the permittee of any obligations not satisfied by enforcement of the bond or security, or compensation for any damages, losses or costs due to the permittee's activities which exceed the

amount recovered, by pursuing the Department's legal remedies.

Subpart C—Exploration Plans

§ 37.21 Application requirements.

(a) Prior to submitting an exploration plan, applicants may meet with the Regional Director to discuss their proposed plans and exploratory activities and the requirements of this part.

(b) Any person wanting to conduct exploratory activities may apply for a special use permit by submitting for approval one or more written exploration plans, in triplicate, to the Regional Director, Region 7, U.S. Fish and Wildlife Service, 1101 East Tudor Road, Anchorage, Alaska 99503. To be considered, exploration plans covering the period from the inception of the program through September 30, 1983 or any portion thereof must be received by the Regional Director during normal business hours on (the 31st day following the date of the final promulgation of these regulations) and exploration plans covering the period from October 1, 1983 through May 31, 1986 or any portions thereof must be received by the Regional Director during normal business hours on March 1, 1983. The Regional Director shall approve in accordance with § 37.22 any exploration plan which, in his judgment, is consistent with this part.

(c) In addition to containing the information required in paragraph (d) of this section, any exploration plan submitted shall describe the applicant's plan for carrying out a program of exploratory activities in such a manner as will satisfy the objective and limitations stated in § 37.1. Although the term of any exploration plan submitted on (the 31st day following the date of the final promulgation of these regulations) may not extend beyond September 30, 1983, the applicant shall describe in that plan how its future exploratory activities, if any are contemplated, will be integrated with those proposed under its initial plan. Any exploratory plan submitted on March 1, 1983 must entail an integrated program of exploratory activities necessary to satisfy section 37.1. Each exploration plan submitted must be published and be the subject of a public hearing in accordance with requirements of § 37.22(b).

(d) An exploration plan shall set forth in general terms such information as is required by this part and by the Regional Director in determining whether the plan is consistent with this part, including, but not limited to:

(1) The name and address of any person who will conduct the proposed exploratory activities, i.e., the applicant/permittee, and, if that person is an agency, partnership, firm, corporation, organization, or association, the names and addresses of the responsible officials and all partners or, in the case of a corporation, all shareholders of more than 5% interest therein, together with the number and percentage of any class of voting shares which each such shareholder is authorized to vote;

(2) The names, addresses, and telephone numbers of the persons to be designated in accordance with § 37.12(b), and a description of the procedures for contacting them on a 24-hour basis, which shall include the radio frequency for field operations;

(3) The names and addresses of all persons planning at the time of plan submittal to participate in the proposed exploratory activities or share in the data and information resulting therefrom through a cost-sharing or any other arrangement;

(4) Evidence of the applicant's technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment and of the applicant's responsibility in complying with any exploration permits previously held by it;

(5) A statement of the geographic areas in which exploratory activities are proposed and the applicant's proposed method of access and travel routes;

(6) A general description of the type of exploratory activities planned, including alternate exploratory methods and techniques proposed should those planned not work, and the manner and sequence in which such activities will be conducted;

(7) A decription of how various exploratory methods and techniques will be utilized in an integrated fashion to avoid unnecessary duplication of the applicant's own work and any other applicant's activities;

(8) A description of the applicant's proposed communication techniques;

(9) A description of the equipment, support facilities and personnel that will be used in carrying out exploratory activities;

(10) A hazardous substances control and contingency plan describing actions to be taken to control clean up, and dispose of these materials in the event of a spill or accident;

(11) A general description of the anticipated impacts that the proposed exploratory activities may have on the refuge's wildlife, its habitat, the environment, subsistence uses and needs and cultural resources; and a description of mitigating measures which will be implemented to minimize or avoid such impacts;

(12) A description of the proposed procedures for monitoring the environmental impacts of its operation and its compliance with all regulatory and permit requirements;

(13) A description of provisions for facilitating group participation in the exploration program in order to avoid unnecessary duplication of exploratory activities;

(14) A statement that, if authorized to conduct exploratory activities, the applicant shall comply with this part, its special use permit, its approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director;

(15) A statement on the type and quality of data and information to be obtained through the planned and alternate exploratory activities; and

(16) Such other pertinent information as the Regional Director may reasonably require.

(e) Each exploration plan shall be accompanied by a written plan of operation specifying the field operations proposed to be implemented during each year or portions thereof covered by the exploration plan, except that any plan of operation covering exploratory activities occurring after September 30, 1984 shall not be submitted to the Regional Director until 90 days before field operations are proposed to be commenced for that year or field season. A plan of operation shall set forth such site-specific information as is required by this part and by the Regional Director in determining whether the plan is consistent with the exploration plan to which it pertains and with this part, including, but not limited to:

(1) A statement as to whether the field operations are to be conducted by the permittee or its designee, and, if the latter, the name and address of the designee;

(2) A detailed description of the type of exploratory activities planned, including alternate exploratory methods and techniques proposed should those planned not work, and the manner and sequence in which such activities will be conducted;

(3) A detailed schedule for the exploratory activities proposed, including the dates on which the various types of exploratory activities are proposed to be commenced and completed;

(4) A detailed description of the major equipment, support facilities, methods of access and travel routes to and within the refuge, and personnel that will be

used, together with a map (1:250,000) of the proposed locations of travel routes, fuel caches, and major support facilities;

(5) A detailed description of any proposed storage and uses of explosives;

(6) The locations in the refuge where exploratory activities will be undertaken, including a separate map (1:250,000) of proposed exploratory areas and survey lines; and

(7) Such other pertinent information as the Regional Director may reasonably require.

§ 37.22 Approval of exploration plan.

(a) No exploration plan shall be approved by the Regional Director unless he determines that it satisfies the requirements of §§ 37.21(c) and 37.21(d) is otherwise consistent with the Act and the regulations of this part. In order to meet the objective and limitations stated in § 37.1, enforce the standards stated in § 37.11(b), or minimize adverse impacts on subsistence uses, the Regional Director may approve or disapprove any exploration plan in whole or in part or may require, as a condition of approval, an applicant to conduct its exploratory activities in an assigned area or jointly with other applicants or to make such modification in its exploration plan as he considers necessary and appropriate to make it consistent with this part. No plan shall be approved before December 3, 1982. Furthermore, no plan shall be approved if the applicant submitting it does not demonstrate to the reasonable satisfaction of the Regional Director its adequate technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment, and a history of responsible compliance with any exploration permits that it or its responsible officials, partners, or shareholders of more than 5% interest, may have previously held.

(b) Upon receipt of an exploration plan submitted in accordance with § 37.21(b), the Regional Director shall promptly publish notice of the application and text of the plan in the **Federal Register** and newspapers of general circulation in the State of Alaska. The Regional Director shall determine within 120 days after the plan is submitted whether the plan is consistent with this part. Before making his determination, the Regional Director shall hold at least one public hearing in the State for the purpose of receiving public comments on the plan. The Regional Director shall give the applicant written notice of his determination.

(c) Whenever the Regional Director disapproves an exploration plan in whole or on part, he shall notify the applicant in writing of the reasons for his disapproval. The applicant may request the Director to consider that which was disapproved by the Regional Director by filing a written request with the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, within 30 days from the date of disapproval. Such a request shall not operate to stay the Regional Director's disapproval. The request shall:

(1) State fully the basis for the applicant's disagreement with the Regional Director's determination;

(2) Include any statement or documentation, in addition to that already submitted by the applicant with its application, which demonstrates that the applicant's exploration plan is consistent with this part; and

(3) Indicate whether or not the applicant requests an informal hearing before the Director. The Director shall provide an informal hearing if requested by the applicant. Within 30 days of the receipt of the applicant's request for reconsideration or of the applicant's hearing, if any, whichever is later, the Director shall affirm, reverse, or modify the Regional Director's determination. Written notice of the Director's decision and the reasons therefor shall be provided promptly to the applicant. The Director's decision shall constitute the final administrative decision of the Secretary in the matter.

(d) The Regional Director, as a condition of approval of any exploration plan under this section, shall:

(1) require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Regional Director, as provided in § 37.53; and

(2) make such data and information available to the public, except that any processed, analyzed and interpreted data or information shall be held confidential by the Department for a period of not less than 2 calendar years following any lease sale including the area within the refuge from which the information was obtained, as provided in § 37.54.

(e) In the course of evaluating an exploration plan, the Regional Director shall also evaluate the effect of the proposed exploratory activities on subsistence uses and needs, the availability for exploration of alternate areas within the coastal plain, and alternatives to the proposed activities which would reduce or eliminate the use of areas within the coastal plain needed for subsistence purposes. If the Regional Director finds that the exploration plan, if approved, would significantly restrict subsistence uses, he shall satisfy the requirement to hold a hearing on this issue by incorporating it in any hearing held pursuant to subsection (b) of this section and shall otherwise satisfy the procedural requirements of § 810(a) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2427, 16 U.S.C. section 3120, before approving the plan.

§ 37.23 Special use permit.

Within 60 days, or sooner if practicable, of approving an exploration plan, the Regional Director shall, unless prohibited by law, issue a special use permit to authorize the permittee to proceed with those exploratory activities described in its exploration plan and delineated in the plan of operation accompanying the exploration plan. No exploratory activities will be authorized by any permit unless they are described and approved in both the permittee's exploration plan and plan of operation. The special use permit may contain such terms and conditions as the Regional Director deems necessary and appropriate to carry out the Act and this part. The Regional Director shall authorize exploratory activities solely on an annual basis, but may annually reauthorize activities described in an approved exploration plan covering more than one year as they are further described and approved in any supplemental plans of operation. Such reauthorization shall be granted by the issuance of a new special use permit within 60 days of the receipt of a supplemental plan of operation approved by the Regional Director.

§ 37.24 Approval of plan of operation.

No plan of operation shall be approved by the Regional Director unless he determines that it is consistent with the approved exploration plan to which it pertains and with this part. To ensure such consistency, the Regional Director may require such modifications in the plan of operation as he deems necessary and appropriate. Reconsideration of a plan of operation which has been disapproved in whole or in part may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's disapproval.

§ 37.25 Revision.

A permittee may request the Regional Director for permission to revise its approved exploration plan or plan of operation. Such request shall be automatically granted on the 8th day

following its receipt unless the Regional Director denies the request; advises the permittee that the proposed revision, if of the exploration plan, is major and, therefore, must satisfy the publication and hearing requirements of § 37.22(b) before it can be acted upon; by timely written notice extends the period for considering the request; conditionally approves the proposed revision with such modifications as he stipulates as necessary and appropriate; or, unconditionally approves the proposed revision within a shorter period. No revision of an exploration plan or plan of operation shall be approved that is inconsistent with the Act, this part, or, if of a plan of operation, the exploration plan to which the plan of operation pertains. Approval of any revision is subject to the conditions stated in §§ 37.22(b) and 37.22(c) to the extent that they are pertinent. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's actions unless such stay is granted in writing by the Director.

Subpart D—Environmental Protection

§ 37.31 Environmental protection.

(a) The permittee shall conduct operations in a manner which avoids significant adverse effects on the refuge's wildlife, its habitat, and environment. The Regional Director may impose stipulations to supplement the permittee's special use permit and issue other orders as needed to ensure that the permittee's activities are conducted in a manner consistent with this part. If, after 30 days, or in emergencies such shorter periods as shall not be unreasonable, following a demand by the Regional Director, the permittee shall fail or refuse to perform any action required by this part, its exploration plan, plan of operation, special use permit, or a stipulation or order of the Refuge Manager, the Department shall have the right, but not the obligation, to perform any or all such actions at the sole expense of the permittee. Prior to making such demand, the Regional Director shall confer with the permittee, if practicable to do so, regarding the required action or actions included in the demand. Reconsideration of the Regional Director's demands under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's demands or the Department's performance pursuant to this section unless such stay is granted in writing by the Director.

(b) Terrestrial environment. (1) Vehicles shall be operated in a manner such that the vegetative mat or soil is not significantly damaged or displaced. Blading of snow on trails or campsites shall be limited to the minimum amount necessary.

(2) Ground vehicles shall be of the type causing the least practicable harm to the surface, such as Nodwell FN-110 or FN-60 or Bombardier track vehicles, mobile camps on flexible tracks or skids, vibrator units on flexible tracks or wheels, D-7 tractors, or their equivalent. They shall be operated only in the winter and where there is adequate protective cover. Vehicle operation shall cease in the spring when the Regional Director determines that the protective cover is no longer adequate. Operation of ground vehicles in the summer is prohibited.

(3) Movement of equipment through riparian willow stands shall be avoided, except when approved by the Regional Director.

(4) Above ground explosive charges shall be utilized in a manner to minimize damage to the vegetative mat.

(5) Campsites may be located on durable ground or lakes or lagoons which are frozen throughout, including bottom sediments, but shall not be located on river ice. Durable ground can include gravel or sand bars or vegetated frozen ground with adequate protective cover.

(6) Campsites and trails shall be kept clean.

(7) Gray water may be discharged to the surface provided it is filtered, disinfected, and not discharged directly into lakes and rivers.

(8) The permittee shall take all precautionary measures necessary to prevent and suppress man-caused tundra fires and shall notify the Regional Director of the occurrence of any tundra fires immediately or as soon as communication can be established.

(9) Rehabilitation of disturbed surface areas shall be accomplished by the permittee in accordance with schedules and a plan required and approved by the Regional Director. Revegetation shall be accomplished exclusively with endemic species.

(10) The permittee shall not harass wildlife in any manner, including, but not limited to, close approach by surface vehicles or aircraft. Aircraft should maintain an altitude of 1500 feet above ground level whenever practicable.

(11) No explosives shall be detonated within ½ mile of any known denning brown or polar bear or any muskoxen herd.

(12) The permittee shall operate in such a manner as not to impede or restrict the free passage and movement of large mammals, including caribou, muskoxen, moose, polar bear, and brown bear.

(13) Feeding of wildlife is prohibited. This includes the leaving of garbage or edibles in a place which would attract wildlife. Garbage shall be kept in covered animal-proof containers while awaiting incineration.

(14) Hunting, fishing, and trapping by the permittee within the refuge are prohibited during the conduct of exploratory activities. Employees firearms in defense of life and property is allowed.

(c) Aquatic environment. (1) The permittee shall not significantly adversely affect the banks of streams, rivers, or lakes while conducting exploratory activities. Crossing of stream river, or lake banks shall utilize a low angle approach or, if appropriate, snow bridges. Snow bridges shall be removed after use or prior to breakup each year.

(2) No water shall be removed from any stream, lake, river, or subsurface source without the written permission of the Regional Director.

(3) No explosives shall be detonated closer than ⅛ mile from any river, stream, spring, or lake identified by the Regional Director to support fish populations in any life stage. However, during the winter, the permittee may utilize explosive on lakes or rivers which are frozen throughout, including bottom sediments.

(4) All operations shall be conducted in manner that will not impede the passage of fish, disrupt spawning areas identified by the Regional Director or block or change the character or course of, or cause significant siltation or pollution of any stream, river, pond, pothole, lake, lagoon, or drainage system.

(5) No removal or compaction of snow shall occur on frozen river pools.

(6) Ground vehicles shall not cross active spring areas.

(7) No helicopters shall be operated in the summer within areas of waterbird nesting or staging, as designated by the Regional Director.

(d) Human environment. (1) Prior to implementing any plan of operation, the permittee shall obtain from the Regional Director copies of the cultural resources reconnaissance reports, maps and other available documents which identify all known cultural resource sites and areas of predicted high probabiity of

containing cultural resources. The Regional Director may reasonably restrict exploratory activities in these areas to mitigate, minimize or avoid any adverse effects thereon.

(2) Unless otherwise specified by the Regional Director, the following prohibitions shall be in effect:

(i) No vehicle of any type shall pass over or through a known cultural resource site with standing stuctures;

(ii) No seismic train shall camp on a known cultural resource site; and

(iii) No discharge of petroleum or petroleum products shall be made on the surface of a known cultural resource site.

(3) If, after September 30, 1983, any exploratory activities require entry into areas known to contain historic or archeological resources, high probability areas, or areas previously unsurveyed for cultural resources, prior to the initiation of such activities, the permittee shall, if ordered by the Regional Director, locate, identify and evaluate properties eligible for listing on the National Register of Historic Places, recover for the Department archeological data contained in such properties, and take other measures designed to mitigate, minimize or avoid to the extent practicable any significant adverse effects on them. Such efforts shall be done in a manner prescribed or approved by the Regional Director and without expense or liability to the Department.

(e) General. (1) All spills or leakages of any hazardous substance, fires, fatalities, and any other conditions which threaten the refuge's resources, the environment, or human safety, shall be reported by the permittee to the Regional Director immediately or as soon as communication can be established. Other notifications shall be made by the permittee as required by applicable laws.

(2) All solid waste shall be incinerated and/or transported to a solid waste disposal site approved by the Regional Director. All other waste shall be removed or otherwise disposed of in a manner acceptable to the Regional Director and consistent with applicable federal and state standards.

(3) All hazardous substances utilized and/or generated in conducting exploratory activities shall be contained, controlled, and cleaned up in accordance with the permittee's approved hazardous substances control and contingency plan. Such measures shall take precedence over all other matters except human safety.

(4) Unless exigencies warrant, in any field operations employing seismic exploration methods, the equipment, facilities, and personnel used shall not exceed that necessary to support a maximum of 6 simultaneously operating seismic crews per year.

(5) No fuel storage facilities shall be placed within the annual floodplain of fish bearing water courses or within 100 feet of any other water body, and no vehicle refueling shall occur within such areas except when approved by the Regional Director. All fuel storage sites shall be approved by the Regional Director. Fuel containers shall be properly stored and marked with the permittee's name, type of fuel, and last date of filling. All fuel containers, including those emptied, shall be capped when not in actual use.

(6) The permittee shall not disturb or damage any geodetic land survey monuments. If any monument is disturbed or damaged, the permittee shall reestablish it in a manner acceptable to the Regional Director.

(7) The timing and location of the detonation of explosives shall be approved in advance by the Regional Director.

(8) No permanent structures will be erected within the refuge. The type and location of temporary structures, including, but not limited to, airstrips, for use in support of exploratory activities must be approved by the Regional Director.

§ 37.32 Special use areas.

The Regional Director may designate zones of restricted activity in important fish and wildlife areas within the refuge in which exploratory activities will be restricted to protect wildlife, its habitat, or the environment from significant adverse effects during periods of biological sensitivity or other appropriate periods. The Regional Director will include such site-specific restrictions in the permittee's special use permit. In the event that the Regional Director determines that further site-specific restrictions are necessary during exploration operations, the Regional Director shall provide the permittee, as far in advance of such restriction as is possible, an updated list of those areas where such restrictions are required, together with the dates and types of restriction. Such restrictions are in addition to the following restrictions, which shall be observed in preparation of any exploration plan and plan of operation:

(a) Muskox Calving Special Area.

Area: See map on file at the refuge office in Fairbanks, Alaska.

Effective dates: April 15 through May 30.

Restrictions: Limited exploratory activities, as specified by the Regional Director. No helicopter overflight should be below 1500 feet in order to avoid harassment of wildlife.

(b) Polar Bear Denning Special Area.

Area: See map on file at the refuge office in Fairbanks, Alaska.

Effective dates: November 1 through April 15.

Restrictions: Limited exploratory activities, as specified by the Regional Director.

(c) Sadlerochit Spring Special Area.

Area: See map on file at the refuge office in Fairbanks, Alaska.

Effective dates: All year.

Restrictions: Limited exploratory activities, as specified by the Regional Director. No helicopter overflight should be below 1500 feet in order to avoid harassment of wildlife.

(d) Caribou Calving and Postcalving Special Area.

Area: See map on file at the refuge office in Fairbanks, Alaska.

Effective dates: May 10 through July 15.

Restrictions: No exploratory activities. No helicopter overflight should be below 1500 feet in order to avoid harassment of wildlife.

§ 37.33 Environmental briefing.

The permittee shall provide opportunities for the Regional Director to conduct environmental and other pertinent briefings for all of its personnel involved in field operations prior to commencement of field work. The permittee shall require the attendance of its personnel and arrange the time and place for such briefings upon the request of the Regional Director. In addition, the permittee shall provide a copy of this part to each employee involved with its exploratory activities.

Subpart E—General Administration

§ 37.41 Responsibilities of the Regional Director.

The Regional Director is authorized to approve exploration plans; issue special use permits; inspect and regulate exploratory activities; require compliance with the permittee's approved exploration plan, approved plan of operation, this part, and other statutes and regulations under which the refuge is administered; and perform all other duties assigned to the Regional Director by this part. The Regional Director may issue written or oral stipulations, demands and orders to carry out his responsibilities, and amend and terminate them as he deems appropriate. Any oral stipulation, demand or order shall be confirmed in writing within 3 working days from its issuance.

§ 37.42 Inspection and monitoring.

The Regional Director may designate field representatives, hereinafter known as Field Monitors, to monitor the exploratory activities in the field. The Field Monitors may exercise the full authority of the Regional Director, provided that any stipulation, demand or order issued by a Field Monitor which modifies an existing provision of a permittee's approved plan of operation or approved exploration plan shall, except in emergencies, require the concurrence of the Regional Director. The Regional Director shall have a continuing right of access to any part of the exploratory activities at any time for inspection or monitoring and for any other purpose that is consistent with this part. A permittee, upon request by the Regional Director, shall furnish lodging, food, and reasonable use of its communication and surface and air transportation systems, to the Field Monitors and other representatives of the United States for the purposes of inspecting and monitoring the permittee's exploration activities in the field and for any other purpose consistent with this part. Whenever possible, the Regional Director shall give advance written notice of the need for such services and facilities, including the names of persons to be accommodated.

§ 37.43 Suspension and modification.

If at any time while exploratory activities are being carried out under an approved exploration plan and special use permit, the Regional Director, on the basis of information available to him, determines that continuation of further activities under the plan or premit will significantly adversely affect the refuge's wildlife, its habitat, or the environment, or significantly restrict subsistence uses, that such activities are no longer necessary to accomplish the objective and limitations stated in § 37.1, or that the permitted has failed to comply with its approved exploration plan, plan of operation, special use permit, any reasonable stipulation, demand or order of the Regional Director, or any regulation of this part, the Regional Director may, without any expense or liability to the Department, suspend activities under the plan and/or permit for such time, or make such modifications to the plan and/or permit, or both suspend and so modify, as he determines necessary and appropriate. Such suspensions shall state the reasons therefore and be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action within 3 days, and all written notices will be sent by messenger or registered mail, return receipt requested. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Regional Director. For good cause, the Regional Director may also grant at the permittee's request, a written waiver of any provision of its special use permit, so long as such waiver will not be likely to result in significant adverse effects on the refuge's resources. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's actions unless such stay is granted in writing by the Director.

§ 37.44 Revocation and relinquishment.

For nonuse, for failure to comply with § 37.14, or for any action of the permittee not consistent with this part, the Regional Director may revoke or a permittee may relinquish a special use permit to conduct exploratory activities at any time by sending to the other a written notice of revocation or relinquishment. Such notice shall state the reasons for the revocation or relinquishment and shall be sent by registered mail, return receipt requested, at least 30 days in advance of the date that the revocation or relinquishment will be effective. Revocation of a permit to conduct exploratory activities shall not relieve the permittee of the obligation to comply with all other obligations specified in this part and in its special use permit, approved exploration plan and approved plan of operation. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director actions unless such stay is granted in writing by the Director.

§ 37.45 Exploration by the U.S. Geological Survey.

Notwithstanding the requirement found in § 37.21(b) on when exploration plans shall be submitted, the U.S. Geological Survey may at any time apply for a special use permit to conduct exploratory activities by submitting for approval one or more exploration plans in accordance with the requirements of this part and the Act. No plan submitted by the Survey will be approved unless (1) no other person has submitted a plan for the area involved which satisfies the regulations of this part and (2) the information which would be obtained from the Survey is needed to make an adequate report to Congress pursuant to the Act. Sections 37.13, 37.14, 37.46, and 37.47 shall not apply to the Survey. If authorized to conduct exploratory activities, the Survey shall comply with this part in all other respects.

§ 37.46 Cost reimbursement.

(a) Each applicant for or holder of a special use permit issued under this part shall reimburse the Department for its actual costs incurred, including, but not limited to, its direct costs and indirect costs as established by the indirect cost rate of the charging bureau or office, in publishing, reviewing (which includes, but is not limited to, conducting any public hearings thereon), modifying, and approving or disapproving the applicant's or permittee's exploration plan(s); reviewing and approving or disapproving the permittee's summary statement, if any, under § 37.13; preparing and issuing the permittee's special use permit(s); reviewing and approving or disapproving the permittee's plan(s) of operation; special use permit(s) and this part; performing the permittee's obligations pursuant to § 37.13(a); and identifying, evaluating and preserving historic, archeological and cultural resources in areas to be explored by the permittee; as further delineated by the Regional Director.

(b) Each applicant shall submit with each exploration plan submitted a payment, the amount of which shall be an estimate made by the Regional Director of the costs which will be incurred by the Department in publishing, reviewing, modifying and approving or disapproving the applicant's exploration plan.

(1) If the applicant's plan is disapproved or if the applicant withdraws its application before a decision is reached on its plan, the applicant shall be responsible for such costs incurred by the Department in processing the applicant's application up to the date on which the plan is disapproved or the Regional Director receives written notice of the applicant's withdrawal, and for costs subsequently incurred by the Department in terminating the application review process. If the costs actually incurred exceed the estimate paid at the time of application, reimbursement by the applicant of such additional costs shall be due within 30 days of receiving notice from the Regional Director of the additional amount due. If the actual costs incurred are less than the estimate paid by the applicant, the excess shall be refunded to the applicant.

(2) If the applicant's plan is approved, the applicant shall pay an estimate made by the Regional Director of the

costs which will be incurred by the Department in preparing and issuing to the applicant a special use permit. The first quarterly payment made by the applicant pursuant to paragraph (c) of this section will be adjusted upward or downward, as warranted, to accurately reflect the actual costs incurred by the Department in processing the permit.

(3) When two or more applications are filed which the Regional Director determines to be in competition with each other, each applicant shall reimburse the Department for such actual costs incurred in processing its exploration plan and special use permit, if issued, except that those costs which are not readily identifiable with one of the applicants, shall be paid by each of the applicants in equal shares.

(c) Upon issuance of a special use permit, the permittee shall make an initial advance payment covering that current fiscal year quarter and quarterly payments thereafter to cover the actual costs incurred by the Department in administering the permittee's permit or any special use permit(s) subsequently issued to the permittee for the duration of the exploration program covered by this part. Such costs shall include, but are not limited to, those direct costs and indirect costs, as established by the indirect costs rate of the charging bureau or office, incurred in reviewing and approving the permittee's plan(s) of operation; reviewing and approving or disapproving the permittee's summary statement, if any, under § 37.13; preparing and issuing the permittee's special use permit(s); inspecting, monitoring, and enforcing the permittee's compliance with its approved exploration plan, plan(s) of operation, special use permit(s) and this part; performing the permittee's obligations pursuant to § 37.31(a); and identifying, evaluating and preserving historic, archeological and cultural resources in areas to be explored by the permittee. Each quarterly payment will be paid at the outset of the quarter and will cover the estimated cost of that quarter as adjusted by the Regional Director by reason of any adjustment warranted by paragraph (b) of this section or by overpayments or underpayments in previous quarters for which adjustment has not already been made. Upon conclusion of the exploration program or termination of the permittee's special use permit, whichever is later, reimbursement or refundment of any outstanding amounts due the Department or the permittee shall be made within 180 days.

(d) Estimates required by this section shall be made by the Regional Director on the basis of the best available cost information. However, reimbursement shall not be limited to the Regional Director's estimate if actual costs exceed projected estimates.

(e) All payments required by this subsection shall be made payable to the Service. No applicant or permittee shall set off or otherwise deduct any debt due to or any sum claimed to be owed to it by the United States from any payment required by this section. Overpayments shall be credited or refunded to the person making them.

(f) When through partnership, joint venture or other business arrangement more than one person applies for or participates in a special use permit, each shall be jointly and severally liable for reimbursing the Department's costs under this section.

(g) Any lodging, food, communication, and transportation provided by a permittee under § 37.42 shall be deemed to be costs paid to the Department in kind for services rendered in inspecting and monitoring the permittee's exploratory activities. At the end of each quarter, the permittee shall furnish the Regional Director with a report, in a format approved or prescribed by him, on the goods and services provided during that quarter, and the names of the individuals to whom they were provided.

(h) Any dispute between an applicant or permittee and the Regional Director as to costs actually incurred by the Department and charged to the applicant or permittee shall be finally decided for the Secretary by the Director, using the procedures described in § 37.22(c).

§ 37.47 Civil penalties.

(a) This section prescribes the procedures for assessing a civil penalty for the violation of any provision of an approved exploration plan, any term or condition of the special use permit issued under § 37.23, or any prohibition contained in this part. The civil penalty remedy afforded by this section is in addition to all other remedies available to the Secretary.

(b) Notice of violation. (1) the notice of violation shall be issued by the Solicitor and served personally or by mail upon the person named in the notice (hereinafter the respondent). The notice shall contain:

(i) A summary of the facts believed to show a violation by the respondent;

(ii) A specific reference to the provision, term, condition or prohibition allegedly violated; and

(iii) The amount of the penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the action.

(2) The notice of violation shall also advise resondent of his right to:

(i) Respond to the notice within 45 calendar days from the date of its issuance by:

(A) Undertaking informal discussions with the Solicitor:

(B) Accepting the proposed penalty or the compromise, if any, offered in the notice; or

(C) Filing a petition for relief in accordance with subsection (c) of this section; or

(ii) Take no action and await the Solicitor's notice of assessment. Such response must be received by the Solicitor on or before the 45th day during normal business hours at the address stated in the notice.

(3) Any notice of violation may be amended, but any nontechnical amendment will extend the running of the respondent's 45 day period for response from the date of the notice to the date of the amendment.

(4) Acceptance of the proposed penalty or the compromise, if any, stated in the notice of violation shall be deemed to be a waiver of the notice of assessment required in paragraph (d) of this section and of the respondent's right to an opportunity for a hearing described in paragraph (e) of this section.

(c) Petition for relief. If the respondent choses, he may ask that no penalty be assessed or that the amount be reduced and he may admit or contest the legal sufficiency of the Solicitor's charges and allegations of facts, by filing a petition for relief at the address specified in the notice within 45 calendar days from the date thereof. Such petition must be received by the Solicitor on or before the 45th day during normal business hours. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, partnership, association or agency, the petition must be signed by an officer or official authorized to sign such document. It must set forth in full the legal or other reasons for the relief requested.

(d) Notice of assessment. (1) After 45 calendar days from the date of the notice of violation or any amendment thereof, the Solicitor may proceed to determine whether the respondent committed the violation alleged and to determine the amount of civil penalty to be assessed, taking into consideration the information available and such showing as may have been made by the respondent. The Solicitor shall notify the respondent of his determinations by a written notice of assessment, which

shall also set forth the basis for his determinations. The notice of assessment shall be served on the respondent personally or by mail.

(2) The notice of assessment shall also advise the respondent of his right to request a hearing on the matter in accordance with paragraph (e) of this section.

(e) Request for a hearing. Within 45 calendar days from the date of the issuance of the notice of assessment, the respondent may request a hearing to be conducted on the matter in accordance with 5 U.S.C. sections 554 through 557 by filing a dated, written request for hearing with the Hearings Division, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203. Such request must be received at this address on or before the 45th day during normal business hours. The respondent shall state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and the notice of assessment. A copy of the request shall be served upon the Solicitor personally or by mail at the address specified in the notice of assessment.

(f) Finality of decision. If no request for a hearing is filed in accordance with this section, the assessment stated in the notice of assessment shall be effective and constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment. If the request for hearing is timely filed in accordance with this section, the date of the final administrative decision in the matter shall be as provided in paragraphs (g) or (h) of this section. When a civil penalty assessed under this section becomes final, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in the Office of the Solicitor during normal business hours on or before the 20th day.

(g) Hearing. (1) Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge who shall have all the powers accorded by law and necessary to preside over the parties and the hearing and to make decisions in accordance with 5 U.S.C. sections 554 through 557. Notice of such assignment shall be given promptly to the respondent and to the Solicitor at the address stated in the notice of assessment. Upon notice of the assignment of an administrative law judge to the case, the Solicitor shall file all correspondence and petitions exchanged between the Solicitor and the respondent which shall become a part of the hearing record.

(2) The hearing shall be conducted in accordance with 5 U.S.C. sections 554 through 557 and with 43 CFR Part 4 to the extent that it is not inconsistent with this part. Subject to 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel. The hearing shall be held in a location established by the administrative law judge, giving due regard to the convenience of the parties, their representatives and witnesses. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the decision on the record made at the hearing. The judge shall render a written decision on the record, which shall set forth his findings of facts and conclusions of law and the reasons therefore, and an assessment of a civil penalty if he determines that the respondent committed the violation charged.

(3) Discovery shall be obtained by employing the procedures described 43 CFR 4.1130 through 4.1141. In addition, discovery of facts known and opinions held by experts, otherwise discoverable under 43 CFR 4.1132(a) and acquired and developed in anticipation of administrative adjudication or litigation, may be obtained only as follows:

(i)(A) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (B) Upon motion, the administrative law judge may order further discovery by other means, subject to such restrictions as to scope and such provisions under subparagraph (iii) of this paragraph concerning fees and expenses as the administrative law judge may deem appropriate.

(ii) A party may discover facts known or opinions held by an expert, who has been retained or employed by another party in anticipation of administrative adjudication or litigation or preparation therefor and who is not expected to be called as a witness, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(iii) Unless manifest injustice would result, (A) the administrative law judge shall require the party seeking discovery to pay the expert, or the Department if the expert is an employee of the United States, a reasonable fee for time spent in responding to subparagraphs (i) (B) of this paragraph; and (B) with respect to discovery under paragraph (g)(3)(i)(B) of this section (A)(ii) the administrative law judge may require and with respect to discovery under paragraph (g)(3)(ii) of this section the administrative law judge shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(4) Unless the notice of appeal is filed in accordance with paragraph (h) of this section, the administrative law judge's decision shall constitute the final administrative decision of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

(h) Appeal, (1) Either the respondent of the Solicitor may seek an appeal from the decision of an administrative law judge as to the respondent's violation or penalty or both by the filings of a notice of appeal with the Director, Office of Hearings and Appeals, United States Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(2) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of 43 CFR Part 4, Subpart G shall apply to appeal proceedings under this subsection. The determination of the board to grant or deny an appeal, as well as it decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the matter on the date it is rendered, unless otherwise specified therein.

(i) Amount of penalty. The amount of any civil penalty assessed under this section shall not exceed $10,000 for each violation. Each day of a continuing violation shall, however, constitute a separate offense. In determining the amount of such penalty, the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the respondent, his history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require shall be considered.

(h) Petition for remission. The Solicitor may modify or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or for recovery of the civil penalty assessed. A petition for remission may be filed by the respondent with the Solicitor at any time from the date of the notice of violation referred to in subsection (b) of this section until 90 days after the date of final administrative decision assessing civil penalty. The petition must set forth in full the legal and other reasons for the relief requested. Any petition that is not timely filed will not receive consideration. The Solicitor's decision shall be the final administrative decision for the Secretary on the petition.

Subpart F—Reporting and Data Management

§ 37.51 Operational reports.

(a) Each permittee shall submit bi-weekly reports on the progress of exploratory activities during the preceding 2 weeks in a manner and format approved or prescribed by the Regional Director. These shall include, but are not limited to, a daily log of operations, and a report on the discovery of any springs, hydrocarbons seeps, and other unusual phenomena.

(b) Each permittee shall submit to the Regional Director a semiannual report of exploratory activities conducted within the periods from December through May and June through November. These semiannual reports shall be submitted on July 1 and January 1 and shall contain the following:

(1) A description of the work performed;

(2) Charts, maps, or plats depicting the areas in which any exploratory activities were conducted, specifically identifying the seismic lines and the locations where geological exploratory activities were conducted, and the locations of campsites, airstrips and other support facilities utilized;

(3) The dates on which exploration was actually performed;

(4) A narrative summary of any: (i) surface occurrences of hydrocarbon or environmental hazards, and (ii) adverse effects of the exploratory activities on the refuge's wildlife, its habitat, the environment, cultural resources, or other uses of the area in which the activities were conducted; and

(5) Such other information as may be reasonably specified by the Regional Director.

(c) Each permittee shall also submit such other reports as are specified in this part.

§ 37.52 Records.

The permittee shall keep accurate and complete records relating to its exploratory activities and to all data and information, including, but not limited to, raw, processed, reprocessed, analyzed and interpreted data and information, obtained as a result thereof. Until September 2, 1989, the Secretary shall have access to and the right to examine and reproduce any records, papers, or other documents relating to such activities, data and information in order to ascertain the permittee's compliance with this part, ability to perform under any special use permit, and reliability and accuracy of all data, information and reports submitted to the Regional Director.

§ 37.53 Submission of data and information.

(a) The permittee shall submit to the Regional Director free of charge all data and information obtained as a result of carrying out exploratory activities. Such data and information include, but are not limited to, copies of all original observations and recordings made in written or electronic form during field operations and copies of all data and information which results from any subsequent modification, processing, analysis, or interpretation thereof or of samples obtained during field operations by human or electronic means on or off the refuge. The permittee shall submit such data and information within 30 days after the end of the month during which they become available to it at every level of data gathering or utilization, i.e., acquisition, processing, reprocessing, analysis, and interpretation.

(b) Each submission of geophysical data or information shall contain, unless otherwise specified by the Regional Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the permittee's permit, including digital navigational data and final location maps of all survey stations; and,

(2) All seismic data developed under permit, presented in a format and of a quality suitable for processing.

(c) Processed geophysical information shall be submitted with extraneous signals and interference removed, and presented in a format and of a quality suitable for interpretive evaluation, reflecting state-of-the-art processing techniques.

(d) Processed, analyzed and interpreted data or information required to be submitted by the Act and this section shall include, but not be limited to, seismic record sections, and interpretations thereof; geologic maps, cross sections, and interpretations thereof; maps of gravitational and magnetic fields and interpretations thereof; and chemical or other analyses of rock samples collected on the refuge and interpretations thereof.

(e) If the permittee proposes to transfer any data or information covered by this section to a third party or the third party proposes to transfer such data or information to another third party, the transferor shall notify the Regional Director at least 10 days in advance and shall require the receiving third party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of such data or information.

§ 37.54 Disclosure.

(a) The Department shall make raw data and information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party available to the public in accordance with the Act and procedural requirements of the Freedom of Information Act, 5 U.S.C. section 552, and 43 CFR Part 2. Until 2 years after any lease sale including the area within the refuge from which such data or information were obtained, the Department shall withhold from the public all processed, analyzed and interpreted data or information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party, if they have been properly marked and correctly identified in accordance with paragraph (b), by invoking subsection (e)(2)(C) of the Act and exemption 3 to the Freedom of Information Act, 5 U.S.C. section 552(b)(3). Thereafter, the Department shall treat such data or information as raw data and information. The Department shall make all other records submitted by a permittee or a third party relating to the activities covered by Acts this part available to the public in accordance with the Freedom of Information Act, 5 U.S.C. 552, and 43 CFR Part 2.

(b) Any permittee or other person submitting processed, analyzed and interpreted data or information to the Regional Director shall clearly identify them by marking the top of each page bearing such data or information with the words "PROCESSED, ANALYZED AND INTERPRETED DATA OR

INFORMATION". All pages so marked shall be physically separated by the person submitting them from those not so marked, unless doing so will destroy the value or integrity of the data or information presented. In that event, the document submitted will be accompanied by a summary identifying the location of all processed, analyzed and interpreted data or information which are not segregated, and explaining the reasons therefore. All pages not marked with this legend and all other data and information incorrectly identified as bearing such data or information shall be available to the public upon request. The Department reserves the right to determine whether any page so marked is correctly identified.

(c) The Department reserves the right to disclose any processed, analyzed and interpreted data or information obtained from a permittee or a third party to an agent or third party for the purpose of reproducing, processing, reprocessing, analyzing or interpreting such data or information, and the right to disclose any other information obtained from a permittee or a third party which may be exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552, to an agent or third party in order to carry out the Department's statutory authorities. When practicable, the Department shall notify the permittee who provided the data or information of its intent to disclose the data or information to an agent or third party. Prior to any such disclosure, the recipient shall be required to execute a written commitment not to transfer or to otherwise disclose any data or information to anyone without the express consent of the Department. The recipient shall be liable for an unauthorized use by or disclosure of such data or information to other third parties.

(d) The Department reserves the right to disclose any processed, analyzed and interpreted data and information and any other confidential information to the Congress and any committee or subcommittee of the Congress having jurisdiction over the refuge or this exploration program and to any part of the Executive and Judicial Branches of the United States for official use. The recipient shall be responsible for maintaining the confidentiality of such data and information in accordance with the Act.

Appendix I—Legal Description of Coastal Plain, Arctic National Wildlife Refuge, Alaska.

Beginning at the meander corner of section 35 on the First Standard Parallel North on the line of mean high water on the left bank of the Canning River, T. 5 N., R. 23 E., Umiat Meridian;

Thence easterly, along the First Standard Parallel North, approximately 40¾ miles to the closing corner of T. 4 N., Rs. 30 and 31 E., Umiat Meridian;

Thence southerly, between Rs. 30 and 31 E., approximately 6 miles to the corner of Tps. 3 and 4 N., Rs. 33 and 34 E., Umiat Meridian;

Thence easterly, between Tps. 3 and 4 N., approximately 18 miles to the corner of Tps. 3 and 4 N., Rs. 33 and 34 E., Umiat Meridian;

Thence southerly, between Rs. 33 and 34 E., approximately 6 miles to the corner of Tps. 2 and 3 N., Rs. 33 and 34 E., Umiat Meridian;

Thence easterly, between Tps. 2 and 3 N., approximately 21 miles to the meander corner of sections 4 and 33, on the line of mean high water on the left bank of the Aichilik River, Tps. 2 and 3 N., R. 37 E., Umiat Meridian;

Thence northeasterly, along the line of mean high water on the left bank of the Aichilik River, approximately 32 miles to a point at the line of mean high [illegible] of the Beaufort Lagoon, located in [illegible] 28, T. 6 N., R. 40 E., Umiat Meridian;

Thence on an approximate forward bearing of N. 65 degrees E., approximately 7,600 feet to a point on the northerly boundary of the Arctic National Wildlife Refuge located in section 22, T. 6 N., R. 40 E., Umiat Meridian at the line of extreme low tide:

Thence northwesterly, along the northerly boundary of the Arctic National Wildlife Refuge at the line of extreme low tide on the seaward side of all offshore bars, reefs and islands, approximately 28 miles, to a point in section 33, T. 9 N., R. 36 E., that is due north of the corner of T. 8 N., Rs. 36 and 37 E., Umiat Meridian;

Thence due South, approximately ¾ miles to the corner of T. 8 N., Rs. 36 and 37 E., Umiat Meridian;

Thence southerly between Rs. 36 and 37 E., approximately 3 miles to the corner of sections 13, 18, 19, and 24, T. 8. N., Rs. 36 and 37 E., Umiat Meridian;

Thence westerly, between sections 13 and 24, approximately 1 mile to the corner of sections 13, 14, 23 and 24, T. 8 N., R. 36 E., Umiat Meridian;

Thence northerly, between sections 13 and 14, approximately 1 mile to the corner of sections 11, 12, 13 and 14, T. 8 N., R. 36 E., Umiat Meridian;

Thence westerly, between sections 11 and 14, 10 and 15, 9 and 16, 8 and 17, approximately 1 mile to the corner of sections 7, 8, 17 and 18, T. 8 N., R. 36 E., Umiat Meridian;

Thence southerly, between sections 17 and 18, 19 and 20, 29 and 30 to the corner of sections 29, 30, 31 and 32, T. 8 N., R. 36 E., Umiat Meridian;

Thence westerly, between sections 30 and 31, approximately 1 mile to the corner of sections 25, 30, 31 and 36, T. 8 N., Rs. 36 E., Umiat Meridian;

Thence southerly, between sections 31 and 36, approximately 1 mile to the corner of Tps. 7 and 8 N., Rs. 35 and 36 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 1 mile to the corner of sections 1, 2, 35 and 36, Tps. 7 and 8 N., R. 35 E., Umiat Meridian;

Thence northerly, between sections 35 and 36, 25 and 26, 23 and 24, approximately 3 miles to the corner sections 13, 14, 23 and 24, T. 8 N., R. 35 E., Umiat Meridian;

Thence westerly, between sections 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, approximately 10 miles to the corner of sections 17, 18, 19, and 20, T. 8 N., R. 34 E., Umiat Meridian;

Thence northerly, between sections 17 and 18, approximately 1 mile to the corner of sections 7, 8, 17 and 18, T. 8 N., R. 34 E., Umiat Meridian;

Thence westerly, between sections 7 and 18, approximately 1 mile to the corner of sections 7, 12, 13 and 18, T. 8 N., Rs. 33 and 34 E., Umiat Meridian;

Thence southerly, between Rs. 33 and 34 E., approximately 1 mile to the corner of sections 13, 18, 19 and 24, T. 8 N., Rs. 33 and 34 E., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, approximately 3 miles to the corner of sections 15, 16, 21 and 22, T. 8 N., R. 33 E., Umiat Meridian;

Thence southerly, between sections 21 and 22, approximately 1 mile to the corner of sections 21, 22, 27 and 28, T. 8 N., R. 33 E., Umiat Meridian;

Thence westerly, between sections 21 and 28, approximately 1 mile to the corner of sections 20, 21, 28 and 29, T. 8 N., R. 33 E., Umiat Meridian;

Thence southerly, between sections 28 and 33, 29 and 32, approximately 2 miles to the corner of sections 4, 5, 32 and 33, Tps. 7 and 8 N., R. 33 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 2 miles to the corner of Tps. 7 and 8 N., Rs. 32 and 33 E., Umiat Meridian;

Thence southerly, between sections 1 and approximatley 1 mile to the corner of sections 1, 6, 7, and 12, T. 7 N., Rs. 32 and 33 E., Umiat Meridian;

Thence westerly, between sections 1 and 12, approximately 1 mile to the corner of sections 1, 2, 11 and 12, T. 7 N., R. 32 E., Umiat Meridian;

Thence northerly, between sections 1 and 2, 35 and 36, approximately 2 miles to the corner of sections 25, 26, 35 and 36, T. 8 N., R. 32 E., Umiat Meridian;

Thence westerly, between sections 26 and 27, 34 and 35, approximately 2 miles to the corner of sections 27, 28, 33 and 34, T. 8 N., R. 32 E., Umiat Meridian;

Thence southerly, between sections 33 and 34, approximately 1 mile to the corner of sections 3, 4, 33 and 34, Tps. 7 and 8 N., R. 32 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 3 miles to the corner of Tps. 7 and 8 N., Rs. 31 and 32 E., Umiat Meridian;

Thence northerly, between 31 and 32 E., approximately 3½ miles to a point on the northerly boundary of the Arctic National Wildlife Refuge at the line of extreme low tide located between sections 13 and 18, T. 8 N., Rs. 31 and 32 E., Umiat Meridian;

Thence westerly, along the northerly boundary of the Arctic National Wildlife Refuge approximately 57 miles along the line of extreme low water of the Arctic Ocean, including all offshore bars, reefs, and islands,

to the most westerly tip of the most northwesterly island, westerly of Brownlow Point, section 6, T. 9 N., R. 25 E., Umiat Meridian;

Thence on an approximate forward bearing of S. 56½ degree W. approximately 3¼ miles to the mean high water line of the extreme west bank of the Canning River in section 15, T. 9 N., R. 24 E., Umiat Meridian;

Thence southerly, along the mean high water line of the west bank of the Canning River approximately 32 miles to the meander corner on the First Standard Parallel North at a point on the southerly boundary of section 35, T. 5 N., R. 23 E., Umiat Meridian, the point of beginning.

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September 16, 1982

Part V

Department of Transportation

Federal Aviation Administration

Operations Review Program: Amendment No. 12: Aircraft Maintenance

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43 and 91

[Docket No. 21071; Amdt. Nos. 43-23, and 91-181]

Operations Review Program: Amendment No. 12: Aircraft Maintenance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to Parts 43 and 91 make them compatible with other rules, consolidate the inspection requirements to make them easier to use and more understandable, specify the conditions under which the terms "rebuilt" and "overhaul" may be used in maintenance records, and allow Canadian Nationals to perform certain aircraft inspections on U.S.-registered aircraft. The amendments are part of the Operations Review Program and are based on a compilation of proposals made at the Operations Review Conference.

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT: Charles W. Schaffer, Jr., General Aviation and Commercial Branch, AWS-344, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 426-8203.

SUPPLEMENTARY INFORMATION:

History

This amendment is issued as part of the Operations Review Program. The following amendments have previously been issued as part of this program:

Title and Federal Register (FR) Citation

Amendment No. 1: Clarifying and Editorial Changes (41 FR 47227; October 28, 1976).

Amendment No. 2: Rotorcraft External-Load Operations (42 FR 24196; May 12, 1977 and 42 FR 32531; June 27, 1977).

Amendment No. 2A: Special Federal Aviation Regulation No. 36, Development of Major Repair Data (43 FR 3084; January 23, 1978).

Amendment No. 3: Airspace, Air Traffic, and General Operating Rules (44 FR 15654; March 15, 1979).

Amendment No. 4: Miscellaneous Amendments (43 FR 22636; May 25, 1978).

Amendment No. 5: Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft (43 FR 22643; May 25, 1978, 43 FR 28403; June 29, 1978, and 44 FR 25201; April 30, 1979).

Amendment No. 6: General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training (43 FR 46230; October 5, 1978).

Amendment No. 8: Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft; Operation of Scheduled Air Carriers with Helicopters; and, Airworthiness Standards for Transport Category Airplanes (45 FR 41586; June 19, 1980).

Amendment No. 9: Operations Review Program: Amendment No. 9 (45 FR 46736; July 10, 1980).

Amendment No. 10: Airworthiness, Equipment, and Operating Rules (44 FR 61323; October 25, 1979).

Amendment No. 11: Operations Review Program: Amendment No. 11 (47 FR 33384; August 2, 1982).

These amendments are based on Notice of Proposed Rulemaking 80-22 published in the **Federal Register** November 20, 1980 (45 FR 76894). Interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all comments presented. A number of changes of an editorial and clarifying nature have been made to the proposed rules based on relevant comments received and upon further consideration by the FAA. Except for these minor changes, the amendments and the reasons for their adoption are the same as those contained in Notice 80-22. Some comments received made recommendations for changes which are beyond the scope of the notice and cannot be considered without further notice and public consideration.

Discussion of Comments

The following discussions are keyed to the like-numbered proposals contained in Notice 80-22.

Proposal 12-1. This change clarifies the meaning of the terms "rebuilt" and "overhauled" for aircraft owners and operators by adding a new § 43.2 which specifies the conditions under which maintenance personnel may use the terms in maintenance records.

Several commenters object stating that there is no demonstrated need for the definitions. Others suggest that § 43.2 should appear as § 43.8 to be near § 43.9, or be made a part of § 43.9, since it deals with recordkeeping requirements. Aircraft owners and operators need to know what work has been accomplished on their equipment when they see these words in their maintenance records. Moreover, § 43.2 is neither a definition nor a recordkeeping requirement. Instead, the rule specifies the conditions which must be met before the terms "rebuilt" and "overhauled" may be used in required maintenance records.

Other commenters suggest that the phrase "supplemental type certificate" be added to the proposed language of § 43.2 (a)(2) and (b) to clarify the position of supplemental type certificate holders. Since this addition to § 43.2(a)(2) clarifies the regulatory requirement, the phrase has been included in the final rule.

Two commenters state that § 43.2(a) requires cleaning, and is inconsistent with § 43.2(b) which does not. Cleaning is a standard practice in both instances, and the word "cleaning" has been added to § 43.2(b).

One commenter recommends the phrase "specified by the manufacturer holding the type certificate or a material, part, process, or appliance approved under § 21.305 of this chapter" be added following the phrase "tolerances and limits" in § 43.2(b) because "new parts" is not specific. "New parts" is adequate since it is known that the tolerances and limits for new parts are established during original certification by the product or part manufacturer. Accordingly, the suggested phrase has not been included.

Several commenters state the term "completely disassembled" is inappropriate because in numerous instances "complete" disassembly would damage the product beyond further service. The word "complete" is deleted. However, it is intended that disassembly should be to the extent required to make a complete determination of conformity with the product's original qualities.

A commenter states that the word "approved" as used in § 43.2(b) should be clarified to indicate that it means "manufacturer approved." The FAA disagrees since undersize and oversize parts are FAA approved through the product approval procedure.

One commenter suggests a complete rewording of § 43.2. The suggested wording would not achieve the objective of § 43.2 as proposed. Accordingly, § 43.2 is adopted as proposed with the changes discussed above.

Proposal 12-2. This change to § 43.3(a) adds the phrase "and § 43.17" to recognize that mechanical work may be performed on U.S.-registered aircraft in Canada by appropriately certificated Canadian mechanics under § 43.17.

Additionally, § 43.3(d) is amended to prohibit noncertificated persons, working under the supervision of the holder of a mechanic or repairman certificate, from performing any inspections required by Parts 91 and 125.

Section 43.3(h), as amended, permits manufacturers to perform any inspection required by Part 91 or Part 125 in addition to the 100-hour, annual, and progressive inspections previously allowed.

One commenter points out that the language of the proposal is inconsistent with that of SFAR-38 and will introduce confusion when applied to Parts 121, 127, 129, and 135. Clarifying changes have been made to § 43.3(f) which eliminate the need for existing paragraph (g). Similarly, existing paragraph (h) is clarified and redesignated paragraph (g).

A number of commenters object to the proposed use of the phrase "However, this paragraph does not authorize the performance of any inspection required by this chapter" in § 43.3(d), stating that the phrase precludes the use of noncertificated personnel when conducting inspections under § 121.367, and when an airline conducts inspections under § 91.169(e). It was also stated that it would prevent use of noncertificated personnel under § 145.59. The language has been changed by use of the phrase "required by Parts 91 and 125 of this chapter" in lieu of the proposed "required by this chapter."

Proposal 12-3. This change clarifies the difference between the terms "approve for return to service" and "return to service." The term "approve for return to service" is inserted in § 43.5 and "return to service" is inserted in Part 91.

One commenter points out that proposed § 43.5(a) makes reference to entries required by § 43.9 but not to those required by § 43.11 and that without such reference, entries regarding inspection would no longer be required. It was not intended that existing requirements be changed. Rather, as explained in the NPRM, the intent was to relocate the requirements to the maintenance or operations rules most closely associated with the user. Accordingly, the phrase "or § 43.11, as appropriate," has been inserted in § 43.5(a)(2) and makes no change to existing requirements. The rule is otherwise adopted as proposed.

Proposal 12-4. This change to § 43.7 requires persons holding at least a private pilot certificate to approve an aircraft for return to service after performing preventive maintenance under the provisions of § 43.3(g). This will result in more complete maintenance records since present § 43.5(b) does not require pilots to record, or approve for return to service, work accomplished as preventive maintenance. The provision "and in § 43.17" is added to § 43.7(a) to reflect that mechanical work may be performed on U.S.-registered aircraft by Canadian mechanics under § 43.17 as discussed under the explanation for § 43.3 (Proposal 12-2).

A number of commenters suggest that insertion of the phrase "or component part" in § 43.7(a) alone could lead to the interpretation that approval for return to service of component parts would be limited to the Administrator. It is not the intent of the FAA to limit such approvals and, consistent with present industry practice, the phrase is incorporated in all except the last paragraph of § 43.7 to make it clear that items other than a complete airframe, engine, propeller, or appliance may be approved for return to service.

A number of commenters object to proposed § 43.7(g) stating that pilots should not be permitted to approve maintenance for return to service. This is an apparent misunderstanding since the proposal permits a pilot to approve only preventive maintenance that that pilot accomplishes under § 43.3(g). Pilots may do this under the present rule. Another commenter states that the proposed wording would prohibit a student pilot from performing preventive maintenance. This is correct. The restatement clarifies this limitation on student pilots.

One commenter points out the inconsistency between § 43.7(e) and recent changes to Part 121. For explanation, see change to § 43.1 following Proposal 12-24.

Section § 43.7(g) as proposed (redesignated (f)) contained a reference to § 43.3(h). For consistency, changes to § 43.3 require that this reference be changed to § 43.3(g). Changes made to § 43.7(e) eliminate the need for paragraph (f), since commercial operators are included in the term "an operating certificate issued under Part 121, 127, or 135", and accordingly, present § 43.7(f) is deleted.

Proposal 12-5. This change to § 43.9 will, in addition to present requirements, require maintenance record entries to identify the kind of certificate held by the person who approved the aircraft, engine, propeller, appliance, or component for return to service. With this change, all persons, including pilots performing preventive maintenance, are required to record approval for return to service in accordance with § 43.9(a). This change also requires pilots, mechanics, and air agencies, to indicate the kind of certificate under which the actions were taken, that is, repair station, mechanic, private pilot, etc. This information will provide the owners or operators of aircraft with identification of the person who released the aircraft for return to service after maintenance, preventive maintenance, or alterations and should indicate that the person is properly certificated and rated to do so.

In recognition of the fact that maintenance can be performed on component parts, the phrase is added to the list in § 43.9(a).

A provision is added stating that the signature of the person approving the aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service signifies only that the work described has been satisfactorily performed. This change makes it clear that the person making the approval is approving only the maintenance performed

Under Part 135, certain aircraft are maintained under continuous airworthiness maintenance programs that are similar to programs approved under Parts 121 and 127. Section 43.9(b) is revised to allow Part 135 operators to use the recordkeeping procedures required of Part 121 and Part 127 operators.

Finally, § 43.9(c) excepts all aircraft inspections required by Part 91, Part 123, Part 125, and § 135.411(a)(1) from § 43.9, since requirements for these entries are contained in § 43.11.

One commenter suggests that § 43.9 be revised to include a requirement that "time in service" be made a part of the maintenance record and that the rule specify when the record entry must be made. The first suggestion is beyond the scope of this notice. While § 43.9 will not specifically require recording of "time in service" by the person performing the work, § 91.173 already requires the owner to maintain this data. A correlation may be drawn between dated "time in service" entries and dated maintenance entries when the time in service entries are properly kept. The second recommendation, if included, would be redundant since § 43.5 requires the entry be made prior to approval for return to service.

Another commenter states the term "approved for return to service" should be substituted for "has been performed satisfactorily." The signature signifies approval for return to service and the use of the term "has been performed satisfactorily" is an additional certification as to performance in accordance with §§ 43.13 and 43.15. This commenter also suggests that legibility

requirements be included in § 43.9. Since legibility is a practical necessity and entries which are not legible do not satisfy the purpose of § 43.9, such requirements have not been incorporated.

One commenter suggests that § 43.9(a)(4) be broken into two paragraphs to highlight the additional requirements when major repairs or alterations are involved. The suggestion is incorporated.

Another commenter states that the revisions to § 43.9 would prohibit much of the preventive maintenance presently accomplished under Part 121. Preventive maintenance as used in § 43.9 deals only with that maintenance which a pilot may do on an aircraft owned or operated by that pilot. It is not synonymous with the term as used in Part 121 and the change made to § 43.9 will not require changes to procedures used under Part 121.

Proposal 12–6. This change to § 43.11 adds the inspection recording requirements of § 91.217, Part 123, Part 125, and § 135.411(a)(1) to § 43.11. (See last paragraph of explanation for § 43.9, Proposal 12–5.) Additionally, it requires the person approving an item for return to service after inspection, to include the applicable kind of certificate held by that person and provides consistency between the requirements of § 43.11 and § 43.9.

The inclusion of the kind of certificate in maintenance record entries under § 43.11(a)(3) is explained under the explanation for § 43.9 (Proposal 12–5).

The change also requires that a list of discrepancies be provided to the owner or lessee when an aircraft is found unairworthy as a result of any inspection conducted under Part 91, Part 123, Part 125, or § 135.411(a)(1). Owners and lessees, under several inspection systems, are provided lists of discrepancies and use them to analyze previous inspections and recurring discrepancies. Owners and lessees having their aircraft inspected under the 100-hour inspection system should also be given this advantage, and a requirement for such lists in the 100-hour inspection is included.

Inspections required by § 135.419 are excluded since these approved inspection programs specify the means by which the operator will control the repair of defects found during inspections. Except for inclusion of the 100-hour inspections under these provisions, the rule is essentially unchanged.

For an explanation of the addition of "component parts" to the list of items set forth in § 43.11(c), see the explanation for § 43.9 (Proposal 12–5).

One commenter suggests that requirements be added in § 43.11 to include the rating held in all maintenance record entries and to establish legibility standards. The rule as amended contains a requirement for ratings and certificate numbers to be made a part of entries under § 43.11. Entries which are not legible may not be construed as satisfying § 43.11.

Another commenter suggests that the second time the phrase "in accordance with a progressive inspection" appears in § 43.11(a)(6) is redundant. The commenter is correct and the phrase is deleted.

One commenter objects to the disapproval provisions in § 43.11(a) stating that such entries are detrimental to future sales, prevent the owner from getting a second opinion, prevent continued operation of the aircraft if inspections are performed earlier than required, and prevent the pilot from operating with equipment inoperative.

When disapproval entries are made they must be followed by an entry showing correction of the item prior to operation. The FAA does not agree that a record showing discovery and proper correction of a discrepancy would devalue an aircraft. Neither would such entries prevent second opinions. If a second opinion is desired, the aircraft may be operated under a special flight authorization (ferry permit), another mechanic may be called in, or the local FAA inspectors may also be available. Further, any operation subsequent to the discovery of a discrepancy is presently prohibited by § 91.165.

This commenter also objects to reporting discrepancies to the FAA. The FAA's primary use of these discrepancy lists has been to prevent violations by aircraft owners and operators from inadvertent operation of their aircraft prior to correction of the discrepancies. Discrepancy lists have not been submitted to the FAA for the other inspection systems provided by Part 91 or Part 125. The number of violations under these other inspection systems is not significantly greater than experienced with the annual inspection system. Therefore, upon further consideration and in response to comments, the proposed requirement to submit discrepancy lists to the FAA is not incorporated in the rule.

Proposal 12–7. Although § 43.12 presently prohibits fraudulent entries in maintenance records, fraud or proof of fraud is frequently absent. This change to § 43.12 provides a prohibition against intentionally false entries in required maintenance records and reports similar to the prohibitions found in §§ 61.59(a)(1) and 65.20(a)(1) and provides a uniform standard in the application of the regulations. Aircraft owners and operators rely on the accuracy of these records in meeting their airworthiness responsibilities and as a detailed record of maintenance performed on their aircraft. Note that Title 18 U.S.C. Section 1001 provides severe sanctions in the form of a $10,000 fine or imprisonment of not more than 5 years, or both for anyone who knowingly makes such fraudulent or false entries.

Proposal 12–8. The inspection requirements of § 91.217 through § 91.219 are moved to § 91.169, and the additional performance rules for inspections are consolidated in § 43.15. The need for § 43.13(d), which provided performance rules for inspections conducted under § 91.217, no longer exists, and § 43.13(d) is deleted.

Section 43.13(c) is revised to use language consistent with § 43.3 and to make it compatible with the terminology of Parts 121, 127, and 135 introduced by SFAR 38. The changes are not substantive as to requirements or applicability.

Proposal 12–9. This change extends the applicability of §§ 43.15 (a) and (b) to all inspections instead of only 100-hour, annual, and progressive inspections.

It is important that all inspections performed provide a determination that the aircraft inspected meets all applicable airworthiness requirements. It is also important that the rotorcraft systems, defined in §§ 43.15(b) (1) through (4), be inspected in accordance with the maintenance manual of the manufacturer concerned. Rotorcraft inspected in accordance with Part 121 or Part 127 are exempt from the requirements of § 43.15(b). The reference to inspections required by Part 135 is added to § 43.15(a) since § 135.411(a)(1) requires that aircraft type certificated for a passenger seating configuration of nine seats or less, excluding any pilot seat, be maintained under Part 91, Part 43, and certain sections of Part 135.

One commenter states that §43.15(b) could be interpreted to mean that each time any kind of inspection is accomplished on a helicopter the items listed in §§ 43.15(b) (1), (2), (3) and (4) must be inspected and thus, result in redundant inspection. In response to this comment, the language has been clarified. The same commenter states that Part 135 certificate holders operating helicopters for 10 or more passengers should be afforded the same privileges as Part 121 and Part 127 operators. The language change affords such privileges and is consistent with

Part 135 requirements. On further consideration, language has been added to that proposed as § 43.17(a) to make § 43.13(a) consistent with § 43.11(a)(7). The language makes it clear that instructions and procedures contained in inspection programs provided for under Parts 123, 125, 135, and § 91.169(e) must be followed while conducting those inspections.

Proposal 12-10. This amendment to § 43.17 allows certain Canadians, as defined in § 43.17(a), to perform any inspection, except an annual inspection, required by amended § 91.169 of this chapter. The previous rule allowed Canadians to perform only the 100-hour inspection. These changes permit owners and operators of all types of U.S.-registered aircraft the privilege of having work accomplished while the aircraft are in Canada. However, only U.S. certificated mechanics with inspection authorizations who comply with §§ 65.91 through 65.95 may perform annual inspections.

Proposal 12-11. This amendment to Appendix A of Part 43 changes the paragraph or preventive maintenance to explicitly state that preventive maintenance is limited to the work listed, provided it does not involve complex assembly operations. Additional items have also been included.

A number of commenters suggest that the term "small fabric repairs" would be subject to abuse and recommend more specific language. A parenthetical insert is added to the sentence directing the owner/operator to the balloon manufacturer's instructions regarding the specific balloon repair contemplated.

One commenter points out that the word "gondola" is not used in Part 31, which instead employs the term "basket." Accordingly, the term, "basket" has been substituted for gondola in items (9) and (28).

A number of commenters state that the inclusion of burners in item (28) would appropriately recognize what has been standard practice in the ground transport of balloons. Inclusion of burners would not be detrimental and this change is made.

One commenter objects to preventive maintenance being limited to only those items listed under Appendix A of Part 43. The contention is that this will unnecessarily restrict preventive maintenance in the case of Part 121 certificate holders. The term "preventive maintenance," as used in Appendix A, refers to only that maintenance which may be accomplished by a pilot under § 43.3(g). The term "preventive maintenance" as used in Part 121 is unchanged.

One commenter recommends that item (24) be broken into two items, separating replacement of lead acid and nickle cadmium batteries into two categories, and limiting service to lead acid type batteries. The FAA does not agree since there is no demonstrated problem with the present servicing rule. The phrase "checking fluid levels and specific gravity" has been replaced by "servicing" to make the item compatible with all battery types.

Proposal 12-12. This amendment adds a new paragraph (c) to Appendix E of Part 43 which provides a total system integration test requirement which will insure that altitude reporting equipment and ATC transponders perform their intended functions when integrated in an airplane as a system.

The paragraph, as proposed in Notice 80-22, incorporated part of Proposal No. 67 of the Operations Review which was submitted by the Air Transport Association (ATA). It was proposed in part that, in addition to the 23 test points appearing in Table 1 of Appendix E of Part 43, two additional test points, 1,100 feet and 1,800 feet, be added. It was explained that this would insure proper function of the automatic pressure altitude reporting equipment and freedom from latent defects which would otherwise go undetected. The explanation also indicated that this proposal would impose a minimum burden on the users since tests could be conducted simultaneously with existing altimeter tests and using the same personnel and test equipment.

While the ATA supports the proposal as an improvement over the existing regulation, it points out that the proposal does not include their recommendation that the transition points for both the "on" and "off" position for each output bit (channel) be checked in both increasing and decreasing altitude and that, at transition, the displayed pressure altitude be within ±75 feet of the nominal pressure altitude for that transition point.

The ATA also comments that one airline suggests there is no need to test the altimeter and encoder at all of the points specified in Appendix E. The airline suggests that tests of each altitude code segment of the encoder—2300, 2500, 3800, 4300, 4800, 6800, 14800, and 30800 are sufficient to ensure proper operation of each altitude code segment of the encoder.

Another commenter questions requiring a check at 23 points each time an altimeter or transponder is replaced and suggests instead, that a check at 2 or 3 points would provide the necessary accuracy assurance.

A third commenter states that based on their experience the specified check at 23 different altitudes is excessive. The commenter states that they have been using 12 points and consider even that excessive.

In consideration of the comments, the FAA has amended proposed Appendix E, paragraph (c), to require that only a sufficient number of test points be checked to ensure that the altitude reporting equipment and ATC transponder perform their intended functions through their entire range while both ascending and descending.

A number of commenters speak to the correspondence value of 125 feet. This value is based on the requirement of § 91.36(b) and its reasonable achievability when a single source (aneroid) is used to feed the pilot's display and the pressure altitude digitizer. The value represents three elements: a variation of ±50 feet which may exist between the pressure information from the aneroid and the information actually digitized; an uncertainty factor of ±50 feet which can exist because of reporting in 100-foot increments; and, in installations where the altitude reporting equipment has an optional pilot's display, the difference of 25 feet allowed between aneroid output feeding the digitizer and the pilot's display.

The achievement of correspondence is difficult when separate aneroids are used for the pilot's altimeter and the digitizer input. Careful matching of aneroids is necessary to achieve a correspondence value of 125 feet or less.

Proposal 12-13. This amendment makes § 91.161 more specific regarding the continuous airworthiness maintenance programs of Part 135 by reference to § 135.411(a)(2). In addition, even though progressive inspections are moved to § 91.169 from § 91.171, § 91.171 is still referenced since the new § 91.171 deals with altimeters and altitude reporting equipment tests and inspections.

Proposal 12-14. This amendment to § 91.165 removes the reference to aircraft inspected under Subpart D since those inspection requirements are transferred to the presently referenced § 91.169. The provisions of § 91.177, concerning ATC transponder tests and inspections are transferred to § 91.172, and reference to § 91.172 is added as an aircraft inspection procedure. Also, to conform this section to other sections in this chapter, the term "approved for return to service" is substituted for the term "release to service." One

commenter suggests that the words "aircraft and" following "appropriate entries in" in the second sentence be deleted. Deletion of these words would leave the appropriate location of aircraft inspection entries unspecified. This is inappropriate and the suggestion is not incorporated.

Proposal 12-15. This amendment to § 91.167 changes the heading and rule to set forth specific conditions which must be met after maintenance, preventive maintenance, rebuilding, or alterations have been performed, and before the aircraft is operated. The word "repairs" is deleted as redundant since the word "maintenance", by definition, includes repairs. Because § 43.5 is amended to make it clear that "approval for return to service" does not involve operation of the aircraft, § 91.167(a) is changed to prohibit any person from operating an aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless it has been approved for return to service by a person authorized under § 43.7 of this chapter and the maintenance record entries required by § 43.9 or § 43.11 have been made. That is, the aircraft must be approved for return to service prior to any operation, including test flights provided for in § 91.167(b). See Proposal 12-3 for further explanation.

One commenter states that a requirement to log the flight required by § 91.167(b) is of no value unless the results of the operational check are indicated. Although the language is not specific, a requirement that the operational check results be part of the entry is clearly implied. Therefore, the section is unchanged.

One commenter suggests that the language change to § 91.167 would introduce a question as to what part of repairs, alterations etc., would require flight tests. The commenter states that the mere fact that the change was made would raise the question. Sections 91.167(a), (a)(1), and (a) (2) were added for the reasons stated in the second paragraph of this explanation. While § 91.167(b) has the word "maintained" substituted for "repair" because it is a defined term, the FAA does not intend to require reevaluation of existing programs or procedures. Rather, it restates when flight tests are required without change to those requirements.

Proposal 12-16. This amendment to § 91.169 transfers the inspection and maintenance requirements of §§ 91.171, 91.217, and 91.219 to § 91.169, consolidating the inspection requirements of Part 91 in one section. Transferring the inspection requirements of § 91.217 to § 91.169 removes the provisions from the applicability statement of § 91.181, which did not provide for use of a § 91.217 inspection program when a U.S.-registered airplane is leased to a foreign operator engaged in common carriage. In recent years, the FAA has frequently issued exemptions to foreign operators engaged in common carriage to allow use of a § 91.217 inspection program. Transferring the inspection requirements into Subpart C permits the use of the continuous inspection program by these foreign operators and exemptions will no longer be required. These changes do not affect aircraft subject to Part 125. This action is consistent with Executive Order 12291 and the FAA's continuing effort to reduce unnecessary administrative burdens on the public.

Additionally, § 91.172 allows the Administrator to require revision of any inspection program approved under § 91.169(f)(5). This provides a regulatory procedure for requiring changes in programs when needed to ensure an adequate level of safety. See also the discussion of Proposal 12-19.

The reporting requirements of §§ 91.217 (c) and (d) were established in 1972 with adoption of Subpart D of Part 91. These reporting requirements have proven cumbersome and ineffective and are replaced by § 91.169(f) which substitutes a maintenance record entry identifying the inspection option selected under § 91.169 and the name and address of the person responsible for scheduling the required inspections. This is consistent with the FAA's continuing effort to reduce reporting requirements and is in accordance with Executive Order 12291 and the Department of Transportation regulatory policies and procedures to reduce unnecessary administrative burdens on the public.

Section 91.169(h) provides that if an owner or operator changes inspection programs, the time in service, calendar time, or cycles of operation accumulated under the old program must be applied in determining inspection due times under the new program. This prevents operation under one program until the major inspection of an item is due, then changing programs and starting at zero inspection time to delay or avoid a major inspection of the item.

One commenter points out that Part 125 should be included in § 91.169(c)(2) as aircraft not subject to the section. The FAA agrees. Part 125 was not a rule when the proposal for § 91.169 was published in the **Federal Register** and the number 125 is added following "Part 123" in § 91.169(c)(2).

One commenter remarks on the slight change in terminology in the proposal when dealing with "turbojet multi-engine" airplanes and suggests that since no change was intended, identical language be used. In response, the proposed terminology change is not adopted.

Proposal 12-17. This amendment to § 91.170 redesignates it as § 91.171 and requires tests and inspections, within the preceding 24-calendar months, of: pressure altitude reporting equipment; tests and inspections whenever such systems are opened and closed; and data correspondence checks between altitude and reporting transponder each time the altimeter or the encoding function has been subjected to maintenance where data correspondence error could be introduced.

Accurate altitude reporting is essential to safety. Previous regulations required accuracy checks upon initial installation of the system, but there was no provision for checks following maintenance which could affect the integrity of the system. Calibration or maintenance functions on the altimeter or the reporting equipment could lead to improper data correspondence. Therefore, this equipment should be checked for accuracy any time an error could be introduced.

Similarly, the static pressure system could be adversely affected following an opening of the system. Accordingly, this amendment requires test and inspection of the static pressure system after any opening and closing. This amendment also provides that altimeters and transponders approved under Technical Standard Orders are considered to be tested and inspected as of the date of their manufacture. However, even if the altimeter (or transponder) has been manufactured and bench checked within the preceding 24-calendar months, the integrated system would require test and inspection at the time of installation and, thereafter, as specified in § 91.171(a).

A number of commenters point out that the term "any opening" as it appears in § 91.171(a)(2) could be interpreted to require a static system test after opening system drain valves, alternate static source valves, or when a system is opened to attach test equipment. In response to these comments, an exception is included regarding these valves. No exception is made for opening the lines to attach test equipment. It would be illogical to require a system test anytime a system is opened and not require a test when opened to attach test equipment. The same or similar type system fittings are involved in both instances and would, therefore, be equally subject to leakage.

A number of commenters state that compliance with all of Appendix E of Part 43 is not required when a static system is opened or closed and that only paragraph (a) of the appendix should be required. The rule is made specific in this regard.

One commenter suggests that reference to ATC transponder equipment in § 91.171(a)(3) be deleted since a properly maintained transponder will not effect altimeter-encoder correlation and retention of this language would require unnecessary testing. The phrase, "which may effect data correspondence" adequately limits the instances in which transponder maintenance will require system tests. The reference is, therefore, retained. Except for the changes noted, the rule is adopted as proposed.

Proposal 12–18. The progressive inspection requirements of § 91.171 are transferred to § 91.169. (See Proposal 12–16, § 91.169.) This amendment also transfers the ATC transponder tests and inspection requirements of § 91.177 to new § 91.172 in order to consolidate all of the inspection requirements of Part 91 into consecutively numbered sections. This is consistent with Executive Order 12291. The phrase "after January 1, 1976" has been removed from former § 91.177 (now § 91.172(a)), and "must" is substituted for "may" in § 91.172(c).

A number of comments state that Part 135 certificate holders should be granted the same privileges regarding maintenance as Parts 121 and 127 certificate holders. Inasmuch as Part 135 certificate holders are authorized, under certain circumstances, to accomplish maintenance on aircraft, aircraft engines, propellers and appliances, they should be authorized to conduct these tests. Section 91.172(c)(2) is changed to include this privilege. The language is also changed to be consistent with other sections of Parts 91 and 43.

One commenter suggests that § 91.172 be added to the list of sections not applicable to Part 121 operators. This may be desirable, however, it is beyond the scope of Notice No. 80–22 and should be given consideration in a separate action.

Proposal 12–19. Section 91.170(a) establishes a procedure by which the Administrator may require revision of an inspection program approved under § 91.169(f)(5) as operational experience is gained. Inspection programs approved under §§ 91.169(f)(1) through (f)(4) are programs approved under Parts 121, 123, and 135, or recommended by the manufacturer. The FAA's significant experience with these programs does not indicate a need to revise them on an individual basis. They are continually revised by the holders as experience requires. Section 91.169(f)(5), on the other hand, permits the registered owner or operator of an aircraft to have an individual inspection program approved. Neither the owners/operators, nor the FAA has experience with these programs. Accordingly, revision may be necessary as operating experience is gained. This procedure provides for this revision.

Sections 91.170(b), (c), and (d) provide procedures for seeking reconsideration of any notice of required revision by the Administrator to an operator having an aircraft inspection program approved under § 91.169(f)(5). These procedures are consistent with those provided by §§ 121.373 and 135.431.

One commenter states that while the rule provides for an appeal from a notification to change a program, this is not realistic relief since the appeal must be made to the Flight Standards District Office (which is usually the office requesting the change). As the commenter states, the rule requires the petition to be submitted to the office making the request. However, internal directives require that it be forwarded to a higher level for disposition and the fears of the commenter are unfounded.

Proposal 12–20. Previous § 91.173(a) required each registered owner or operator to keep a list of the major alterations made to each airframe, engine, propeller, rotor, and appliance. However, such lists do not contain sufficient details of alterations to provide for continued maintenance and inspection subsequent to the alteration. This amendment requires that copies of the forms prescribed by § 43.9 for major alterations, which contain the necessary details, be made a part of the aircraft records.

One commenter correctly points out that the reference to § 91.177 in proposed § 91.173(a) is in error due to redesignation of § 91.177 and § 91.171. Accordingly, § 91.173 has been editorially amended for consistency with these amendments.

Similarly, another commenter correctly points out that the reference to § 43.9 in proposed § 91.173(b)(3) is in error and this is corrected to read § 43.11.

Proposal 12–21. See the explanation for 12–18 (§ 91.171).

Proposal 12–22. This amendment changes § 91.181(a) to refer to § 91.169 since the requirements of §§ 91.217, 91.219 and 91.169 are consolidated as § 91.169. Part 135 specifies inspection requirements for all aircraft operated thereunder and reference to Part 135 here is redundant and deleted.

This amendment also replaces the word "subpart," in the last sentence of § 91.181(a) with the word "part." When issuing Amendment 91–101 (37 FR 14758; July 25, 1972) the FAA stated "there is no demonstrated need at this time to require small turbopropeller-powered multiengine airplanes to be operated under the rules of Subpart D." The FAA further stated this decision "does not apply to the inspection program requirements which should be required for all turbine-powered multiengine airplanes (turbopropeller and turbojet powered airplanes) as proposed in the notice regardless of whether they are large or small." Section 91.181 of Subpart D provides that small turbopropeller-powered multiengine airplanes do not have to be operated under that subpart. However, the regulation provides that these airplanes are to be inspected in accordance with §§ 91.217 and 91.219 of Subpart D, but qualifies it by adding "when they are operated under this subpart." This qualification is incorrect since, except as otherwise provided in Part 135, they are to be inspected under this subpart whether or not they are operated under it. Therefore, the word "subpart" is changed to "part" to correct the error.

Proposal 12–23. The inspection provisions of § 91.217 have been transferred to § 91.169. See Proposal 12–16 for explanation.

Proposal 12–24. The inspection provisions of § 91.219 are transferred to § 91.169. See Proposal 12–16 for explanation.

Economic Evaluation

The rule changes reviewed above are either relieving, clarifying or they greatly improve the value of maintenance records to aircraft owners or prospective aircraft owners. Each change is covered in the following summary.

Proposal 12–1—Records of Overhaul and Rebuilding. This amendment establishes conditions which must be met before the terms "overhaul" and "rebuilt" may be used in maintenance records. There is no cost associated with this rule, as it sets no new standard or requirement. There is a nonquantifiable benefit—protection of purchasers of aircraft equipment or services by more fully documenting aircraft, engine, propeller or appliance maintenance histories.

Proposal 12–2—Persons Authorized to Perform Maintenance. This amendment makes three changes to § 43.3: one which references other regulations; one which is clearly relieving; and a third which clearly states that only

certificated persons may conduct inspections.

First, a change to § 43.3(a) provides consistency between this rule and § 43.17.

Second, a change to § 43.3(h) extends the privileges of manufacturers by allowing them to perform any inspection required by Part 91 or Part 125, instead of only 100-hour, annual, and progressive inspections. This change is clearly relieving.

Finally, a change to § 43.3(d) prevents noncertificated persons, working under the supervision of the holder of a mechanic or repairman certificate, from conducting any inspection required under Parts 91 and 125. Air carrier and manufacturers' association comments related to this amendment argue an economic need associated with continuing certain work with noncertificated persons. These comments have been basically accommodated by a change in the applicability of the rule. No details as to the economic impact of these few situations were provided by the commenters.

There may be a few instances where inspections covered by regulations have been done by noncertificated persons under the supervision of a certificated mechanic, but the real impact of this change is *de minimis* since in present practice the majority of these inspections are currently conducted by certificated persons.

Proposal 12-3—Return to Service After Maintenance. This amendment clarifies the difference between "approve for return to service" and "return to service." This clarification involves no cost, and sets no new standard.

Proposal 12-4—Persons Authorized to Approve Aircraft etc. for Return to Service. This amendment involves several clarifications to existing § 43.7, plus an added recordkeeping requirement for those persons who wish to perform preventive maintenance on private aircraft they own or operate.

The clarifications involve referring to § 43.17, which concerns mechanical work done by Canadians, and the addition of component parts in the list of items which can be returned to service by the various parties subject to this amendment. These are no-cost clarifications and do not set any new standard.

This amendment requires that records be kept for preventive maintenance, as well as maintenance, rebuilding and alteration. This is dealt with in Proposal 12-5.

Proposal 12-5—Maintenance Records. This amendment adds to maintenance reporting requirements in two ways. First, it requires the person approving maintenance for return to service to indicate, in the maintenance record, the kind of certificate that person holds. Second, it adds preventive maintenance to the types of maintenance requiring formal documentation in the relevant maintenance record.

Both of these changes, while they add to recordkeeping, involve *de minimis* costs which are well outweighed by benefits.

Present § 43.9 specifies that when a person performs maintenance, that person must enter a description of the work performed, the date of completion of the work, the name of the person performing the work, the signature of the person approving for return to service and his or her certificate number. This amendment requires a certificated mechanic to note on the record the type of certificate he or she has. This should take less than 5 seconds and is truly a minor cost.

While there is no current requirement for pilot/owners who do preventive maintenance to enter such maintenance in the maintenance record, most pilot/owners now enter such information in the maintenance record of the aircraft. It will take less than a minute to add an item to the maintenance record, and it is, therefore, a minor cost. While there is not sufficient information to estimate the cost, FAA believes that any moderate cost is balanced by the benefit of a more accurate record of maintenance performed on aircraft. The absence of comments on this aspect of the amendment supports the conclusion that its cost impact is minor.

These changes, and a similar one in Proposal 12-16, involve minor additions to the recordkeeping process which are balanced by general benefits associated with the improved equipment record that results from the minor changes. While the benefits are real, they cannot be directly quantified.

There are identifiable benefits, though they are not quantifiable. In assessing the aircraft's maintenance record, a prospective purchaser cannot always determine that appropriate persons always performed the maintenance. This situation is corrected by the amendment. Also, accidents could be caused by failure to perform preventive maintenance properly, and without a requirement to record preventive maintenance, investigative authorities might not discover the true causes of an accident. Likewise, without a complete record of maintenance including preventive maintenance, the causes of accidents may be improperly placed.

Proposal 12-6—Inspection Recording Requirements. This amendment accomplishes three basic things. First, it acts to clarify the inspection recording requirements of § 43.11. Second, it requires that the person approving an item for return to service indicate in the maintenance record the applicable kind of certificate held by that person. Third, a list of discrepancies must be provided to the owner or lessee when an aircraft is found unairworthy under an inspection required by Part 91.

The change to inspection recording requirements involves the addition of "component part" to the list of items for which entries must be made in the maintenance record after maintenance, etc. This change does not cause any party to incur a new cost, since it only adds one item to a list of items currently required to be entered in the maintenance record.

The requirement to show the type of certificate held by the person approving an item for return to service is the same as the requirement in Proposal 12-5 and involves only a minor cost.

Except for 100-hour inspections, present rules require that the owner or lessee be provided a signed and dated copy of a list of discrepancies, if the aircraft is not approved for return to service. This allows the owner of such an aircraft to "shop around" for the required part or service required to correct the discrepancy, and immediately have the aircraft returned to service after a "sign off" by the person performing the service or installing the required part. The owner whose aircraft fails a 100-hour inspection has no list of discrepancies, and, if he wishes to shop around for the required parts or service, he may have to have the aircraft fully inspected again before it can be returned to service. Therefore, allowing the same system for 100-hour and other inspections provides a consumer protection benefit to owners.

In addition, the final rule eliminates a requirement to provide the Administrator with copies of lists of discrepancies for inspections conducted in accordance with § 91.169. This change is clearly relieving.

Proposal 12-7—Intentionally False Maintenance Entries. This change to § 43.12 changes the legal criteria for prosecution of persons who make false statements in maintenance records.

This amendment provides an unquantifiable benefit to society since it makes engaging in such illegal practices more likely to result in enforcement action, and should, therefore, decrease the frequency of such activity.

Proposal 12-8—Inspection Requirements Moved. This amendment moves certain inspection requirements within the FAR, and deletes a present requirement. The changes are not substantive as to requirements or applicability, and thus is a no-cost modification.

Proposal 12-9—Inspection Required. This amendment involves no new requirements for inspection. The amendment provides references to inspection requirements under Parts 91, 123, 125 and 135. Since there are no new requirements, this amendment is a no-cost clarification of current regulations.

Proposal 12-10—Canadian Inspections. This amendment relaxes regulations concerning who may perform certain aircraft inspections. The amendment involves no new requirements, and, therefore, no costs. It improves competition and relaxes regulation, therefore, providing a positive though unquantifiable benefit.

Proposal 12-11—Preventive Maintenance. This amendment expands the list of items defined as preventive maintenance. In particular, it updates the list to include balloon preventive maintenance, on which previous regulations were silent. The proposal involves no new requirements, and, therefore, no costs.

Proposals 12-12, 12-17, 12-18 Altimeter Systems Tests (Associated deletions 12-21, 12-23, and 12-24). These amendments involve a common aircraft system, the altimeter/encoder/transponder system. The function of these instruments is to determine the altitude at which the aircraft is operating, and to encode this altitude into a radio signal and transmit a signal to the ground properly identifying the aircraft altitude. Proper functioning of the altimeter/transponder system is of critical importance to airspace control and aircraft separation.

There are three major components to the altimeter/transponder system, and several secondary components. The three major components are the altimeter, the digitizer or altitude encoder, and the transponder. The secondary components are the static system, cables connecting altimeters, encoders, transponders, and the antenna which transmits the radio signal with the encoded altitude.

Both the altimeter and the transponder are required to be checked at least each 24 months. The tests required are spelled out in Appendix E and Appendix F of Part 43. The present regulations do not spell out specific standards for tests of the system, and while these proposals specify such a test, this is not really a new requirement.

The original proposal (Notice No. 80-22) would have required full Appendix E and F tests after maintenance or repair of the altimeter or transponder. This requirement was eliminated in response to comments and after review of the proposal in light of Executive Order 12291. The amendment adopted will require only a modified test of the equipment as installed. This is a minimum test which must presently be performed before an aircraft can be returned to service after repair or maintenance of the altimeter or transponder. The test is simply a formalization of the Part 43 requirement that, after maintenance and installation of aircraft systems, the parts must be tested to determine whether they are capable of performing their intended function (§ 43.13(b)). The test also restates an already existing Part 91 regulation relating to tests of installed altimeter transponders (§ 91.36).

Proposal 12-13—Applicability of § 91.161. This amendment involves only internal consistency with the FAR, and clarifies the applicability of certain sections of Part 91 to aircraft maintained in accordance with a continuous airworthiness maintenance program. There is no new requirement, and the proposal is a no-cost editorial clarification of the rule required by other changes.

Proposal 12-14—Maintenance Required. This amendment changes references within the FAR and clarifies the disposition of maintenance for aircraft which are maintained and inspected under provisions of §§ 91.169, 91.171, and 91.172. This is not a new requirement, and the amendment is editorial and involves no cost.

Proposal 12-15—Operation after Maintenance. This amendment changes § 91.167 to prohibit any person from operating an aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless it has been approved for return to service by an authorized person, and the proper maintenance record entries have been made in the aircraft records. There is no substantive change implied by the amendment, and no new costs are incurred.

Proposal 12-16—Inspection and Maintenance Requirements. This amendment involves a consolidation of several inspection and maintenance requirements into one section of Part 91. It also provides relief to foreign operators who operate leased U.S.-registered airplanes by allowing them to use a continuous inspection program without the need for exemptions.

The amendment is clarifying and relieving, and involves no new requirements.

Proposal 12-19—Procedures for Revision of an Inspection Program. This amendment is directly related to Proposal 12-16, which consolidates a number of inspection options for operators in § 91.169. One of those options, § 91.169(f)(5), allows the owner or operator of an aircraft to establish his own individual inspection program, which must be approved by the Administrator.

The FAA has found need to require changes to individually tailored inspection programs as experience is gained, to ensure safety of operations. This amendment gives the Administrator the authority to require any such changes and sets up a procedure by which operators can petition the Administrator for reconsideration of changes required.

Proposal 12-20—Details of Maintenance Records. This amendment modifies § 91.173 in order to correct certain references and in order to require that the maintenance records of an aircraft include certain information for each major alteration to the airframe, engines, rotors, propellers and appliances. This information is already provided to aircraft owners, and most owners incorporate the information into maintenance records. It requires no new work or reporting and is, therefore, a no-cost modification. No substantive comments were received concerning this proposal to modify aircraft records.

Proposal 12-22—Changes to § 91.181. This amendment makes several changes to § 91.181 to correct a number of references to conform to the previously discussed proposals. No substantive change results from adoption of this amendment.

Amendment to § 43.1 and § 43.16

Amendment 121-165, effective October 16, 1980, changed Part 121 (by adding § 121.153) to permit U.S. air carriers to use foreign-registered aircraft, subject to certain conditions and limitations. Similar changes were made to Parts 127 and 135. These changes implemented the International Air Transportation Competition Act of 1979 (Pub. L. 96-192). This amendment makes § 43.1 compatible to new Parts 121, 127, and 135 and other amendments to Parts 43 by extending maintenance privileges and procedures to these foreign-registered aircraft when they are used under the provisions of Parts 121, 127, and 135. Notice 80-22 did not propose amendment of § 43.16 which became effective September 11, 1980,

subsequent to the notice. However, since the provisions of § 91.217 are now lodged in § 91.169, the reference in § 43.16 to § 91.217(e) is changed to read "§ 91.169(e)."

These amendments are clarifying and editorial in nature and do not impose a burden on the public, notice and public procedure are unnecessary, and this change is adopted as noted.

Paperwork Reduction Act

Information collection requirements contained in this regulation for §§ 43.9 and 43.11 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2120-0020. Information collection requirements for §§ 91.167, 91.169, and 91.173 have been assigned OMB control number 2120-0005.

List of Subjects

14 CFR Part 43

Air carriers, Air transportation, Aircraft, Aviation safety, Safety

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Liquor, Narcotics, Pilots, Airspace, Air transportation, Cargo, Smoking, Airports, Airworthiness directives and standards

Adoption of the Amendments

Accordingly, Parts 43 and 91 of the Federal Aviation Regulations (14 CFR Parts 43 and 91) are amended as follows, effective Oct. 15, 1982.

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

1. § 43.1 paragraphs (a)(1) and (2) are revised and (a)(3) is added to read as follows:

§ 43.1 Applicability.

(a) * * *

(1) Aircraft having a U.S. airworthiness certificate;

(2) Foreign-registered civil aircraft used in common carriage or carriage of mail under the provisions of Part 121, 127, or 135 of this chapter; and

(3) Airframe, aircraft engines, propellers, appliances, and component parts of such aircraft.

* * * * *

2. (12-1) By adding a new § 43.2 to read as follows:

§ 43.2 Records of overhaul and rebuilding.

(a) No person may describe in any required maintenance entry or form an aircraft, airframe, aircraft engine, propeller, appliance, or component part as being overhauled unless—

(1) Using methods, techniques, and practices acceptable to the Administrator, it has been disassembled, cleaned, inspected, repaired as necessary, and reassembled; and

(2) It has been tested in accordance with approved standards and technical data, or in accordance with current standards and technical data acceptable to the Administrator, which have been developed and documented by the holder of the type certificate, supplemental type certificate, or a material, part, process, or applicance approval under § 21.305 of this chapter.

(b) No person may describe in any required maintenace entry or form an aircraft, airframe, aircraft engine, propeller, appliance, or component part as being rebuilt unless it has been disassembled, cleaned, inspected, repaired as necessary, reassembled, and tested to the same tolerances and limits as a new item, using either new parts or used parts that either conform to new part tolerances and limits or to approved oversized or undersized dimensions.

3. (12-2) By revising the first sentence of § 43.3(a), and the last sentence of § 43.3(d); by revising § 43.3(f); by deleting § 43.3(g); by revising § 43.3(h) and redesignating it as § 43.3(g); redesignating § 43.3(i) as § 43.3(h); and by revising § 43.3(h)(3), to read as follows:

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

(a) Except as provided in this section and § 43.17, no person may maintain, rebuild, alter, or perform preventive maintenance on an aircraft, airframe, aircraft engine, propeller, appliance, or component part to which this part applies. * * *

* * * * *

(d) * * * However, this paragraph does not authorize the performance of any inspection required by Part 91 or Part 125 of this chapter or any inspection performed after a major repair or alteration.

* * * * *

(f) The holder of an air carrier operating certificate or an operating certificate issued under Part 121, 127, or 135, may perform maintenance, preventive maintenance, and alterations as provided in Part 121, 127, or 135.

(g) The holder of a pilot certificate issued under Part 61 may perform preventive maintenance on any aircraft owned or operated by that pilot which is not used under Part 121, 127, 129, or 135.

(h) A manufacturer may—

* * * * *

(3) Perform any inspection required by Part 91 or Part 125 of this chapter on aircraft it manufacturers, while currently operating under a production certificate or under a currently approved production inspection system for such aircraft.

4. (12-3) By amending § 43.5 by inserting the phrase "approve for" before the words "return to service" in § 43.5(a) introductory text; by deleting § 43.5(a)(1); by deleting § 43.5(b); by inserting the phrase "or § 43.11, as appropriate," following "§ 43.9" in § 43.5(a)(2); by redesignating § 43.5(a) as the introductory text of the section; by redesignating § 43.5(a) (2), (3), and (4) as § 43.5 (a), (b), and (c), respectively; and by revising the heading of § 43.5 to read as follows:

§ 43.5 Approval for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

* * * * *

5. (12-4) By revising § 43.7 to read as follows:

§ 43.7 Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

(a) Except as provided in this section and § 43.17, no person, other than the Administrator, may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service after it has undergone maintenance, preventive maintenance, rebuilding, or alteration.

(b) The holder of a mechanic certificate or an inspection authorization may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service as provided in Part 65 of this chapter.

(c) The holder of a repair station certificate may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service as provided in Part 145 of this chapter.

(d) A manufacturer may approve for return to service any aircraft, airframe, aircraft engine, propeller, appliance, or component part which that manufacturer has worked on under § 43.3(h). However, except for minor alterations, the work must have been done in accordance with technical data approved by the Administrator.

(e) The holder of an air carrier operating certificate or an operating

certificate issued under Part 121, 127, or 135, may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service as provided in Part 121, 127, or 135 of this chapter, as applicable.

(f) A person holding at least a private pilot certificate may approve an aircraft for return to service after performing preventive maintenance under the provisions of § 43.3(g).

6. (12–5) By revising § 43.9 to read as follows:

§ 43.9 Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records (except inspections performed in accordance with Part 91, Part 123, Part 125, § 135.411(a)(1), and § 135.419 of this chapter).

(a) *Maintenance record entries.* Except as provided in paragraphs (b) and (c) of this section, each person who maintains, performs preventive maintenance, rebuilds, or alters an aircraft, airframe, aircraft engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment containing the following information:

(1) A description (or reference to data acceptable to the Administrator) of work performed.

(2) The date of completion of the work performed.

(3) The name of the person performing the work if other than the person specified in paragraph (a)(4) of this section.

(4) If the work performed on the aircraft, airframe, aircraft engine, propeller, appliance, or component part has been performed satisfactorily, the signature, certificate number, and kind of certificate held by the person approving the work. The signature constitutes the approval for return to service only for the work performed.

In addition to the entry required by this paragraph, major repairs and major alterations shall be entered on a form, and the form disposed of, in the manner prescribed in Appendix B, by the person performing the work.

(b) Each holder of an air carrier operating certificate or an operating certificate issued under Part 121, 127, or 135, that is required by its approved operations specifications to provide for a continuous airworthiness maintenance program, shall make a record of the maintenance, preventive maintenance, rebuilding, and alteration, on aircraft, airframes, aircraft engines, propellers, appliances, or component parts which it operates in accordance with the applicable provisions of Part 121, 127, or 135 of this chapter, as appropriate.

(c) This section does not apply to persons performing inspections in accordance with Part 91, 123, 125, § 135.411(a)(1), or § 135.419 of this chapter.

(Approved by the Office of Management and Budget under OMB control number 2120–0020)

7. (12–6) By revising § 43.11 to read as follows:

§ 43.11 Content, form, and disposition of the records for inspections conducted under Parts 91, 123, 125, § 135.411(a)(1), and § 135.419 of this chapter.

(a) *Maintenance record entries.* The person approving or disapproving for return to service an aircraft, airframe, aircraft engine, propeller, appliance, or component part after any inspection performed in accordance with Part 91, 123, 125, § 135.411(a)(1), or § 135.419 shall make an entry in the maintenance record of that equipment containing the following information:

(1) The type of inspection and a brief description of the extent of the inspection.

(2) The date of the inspection and aircraft total time in service.

(3) The signature, the certificate number, and kind of certificate held by the person approving or disapproving for return to service the aircraft, airframe, aircraft engine, propeller, appliance, component part, or portions thereof.

(4) Except for progressive inspections, if the aircraft is found to be airworthy and approved for return to service, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and was determined to be in airworthy condition."

(5) Except for progressive inspections, if the aircraft is not approved for return to service because of needed maintenance, noncompliance with applicable specifications, airworthiness directives, or other approved data, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and a list of discrepancies and unairworthy items dated (date) has been provided for the aircraft owner or operator."

(6) For progressive inspections, the following or a similarly worded statement—"I certify that in accordance with a progressive inspection program, a routine inspection of (identify whether aircraft or components) and a detailed inspection of (identify components) were performed and the (aircraft or components) are (approved or disapproved) for return to service." If disapproved, the entry will further state "and a list of discrepancies and unairworthy items dated (date) has been provided to the aircraft owner or operator."

(7) If an inspection is conducted under an inspection program provided for in Part 91, 123, 125, or § 135.411(a)(1), the entry must identify the inspection program, that part of the inspection program accomplished, and contain a statement that the inspection was performed in accordance with the inspections and procedures for that particular program.

(b) *Listing of discrepancies.* If the person performing any inspection required by Part 91, 123, 125, or § 135.411(a)(1) of this chapter finds that the aircraft is unairworthy or does not meet the applicable type certificate data, airworthiness directives, or other approved data upon which its airworthiness depends, that person must give the owner or lessee a signed and dated list of those discrepancies.

(Approved by the Office of Management and Budget under OMB control number 2120–0020)

8. (12–7) By revising § 43.12(a)(1) to read as follows:

§ 43.12 Maintenance records: Falsification, reproduction, or alteration.

(a) * * *

(1) Any fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part;

* * * * *

9. (12–8) By deleting § 43.13(d) and revising § 43.13(c) to read as follows:

§ 43.13 Performance rules (general).

* * * * *

(c) *Special provisions for holders of air carrier operating certificates and operating certificates issued under the provisions of Part 121, 127, or 135.* Unless otherwise notified by the administrator, the methods, techniques, and practices contained in the maintenance manual or the maintenance part of the manual of the holder of an air carrier operating certificate or an operating certificate under Part 121, 127, or 135 (that is required by its operating specifications to provide a continuous airworthiness maintenance and inspection program) constitute acceptable means of compliance with this section.

10. (12–9) By revising §43.15(a) and the introductory text of (b) to read as follows:

§ 43.15 Additional performance rules for inspections.

(a) *General.* Each person performing an inspection required by Part 91, 123, 125, or 135 of this chapter, shall—

(1) Perform the inspection so as to determine whether the aircraft, or portion(s) thereof under inspection, meets all applicable airworthiness requirements; and

(2) If the inspection is one provided for in Part 123, 125, 135, or § 91.169(e) of this chapter, perform the inspection in accordance with the instructions and procedures set forth in the inspection program for the aircraft being inspected.

(b) *Rotorcraft.* Each person performing an inspection required by Part 91 on a rotorcraft shall inspect the following systems in accordance with the maintenance manual or Instructions for Continued Airworthiness of the manufacturer concerned:

* * * * *

§ 43.16 [Amended]

11. By amending § 43.16 by deleting the reference to § 91.217(e) and substituting § 91.169(e) in its place.

12. (12–10) By revising § 43.17(a)(2) to read as follows:

§ 43.17 Mechanical work performed on U.S.-registered aircraft by certain Canadian persons.

(a) * * *

(2) Except for an annual inspection, perform any inspection required by § 91.169 of this chapter, if the inspection is done in accordance with § 43.15 and the maintenance record entries are made in accordance with § 43.11.

* * * * *

13. (12–11) By amending Appendix A of Part 43 by revising the introductory text of (c) and (c) (7), (9), (11) and (24); and adding (c) (26), (27), and (28) to read as follows:

Appendix A—Major Alterations, Major Repairs, and Preventive Maintenance

* * * * *

(c) *Preventive maintenance.* Preventive maintenance is limited to the following work, provided it does not involve complex assembly operations:

* * * * *

(7) Making simple fabric patches not requiring rib stitching or the removal of structural parts or control surfaces. In the case of balloons, the making of small fabric repairs to envelopes (as defined in, and in accordance with, the balloon manufacturers' instructions) not requiring load tape repair or replacement.

(8) * * *

(9) Refinishing decorative coating of fuselage, balloon baskets, wings tail group surfaces (excluding balanced control surfaces), fairings, cowlings, landing gear, cabin, or cockpit interior when removal or disassembly of any primary structure or operating system is not required.

(10) * * *

(11) Repairing upholstery and decorative furnishings of the cabin, cockpit, or balloon basket interior when the repairing does not require disassembly of any primary structure or operating system or interfere with an operating system or affect the primary structure of the aircraft.

* * * * *

(24) Replacing and servicing batteries.

(25) * * *

(26) Cleaning of balloon burner pilot and main nozzles in accordance with the balloon manufacturer's instructions.

(27) Replacement or adjustment of nonstructural standard fasteners incidental to operations.

(28) Removing and installing balloon baskets and burners that are specifically designed for quick removal and installations and when such removal and installation can be accomplished by the pilot, provided that baskets are not interchanged except as provided in the type certificate data sheet for that balloon.

14. (12–12) By amending Appendix E of Part 43 by redesignating paragraph (c) as (d) and adding a new (c) to read as follows:

Appendix E—Altimeter System Test and Inspection

* * * * *

(c) Automatic Pressure Altitude Reporting Equipment and ATC Transponder System Integration Test. The test must be conducted by an appropriately rated person under the conditions specified in paragraph (a). Measure the automatic pressure altitude at the output of the installed ATC transponder when interrogated on Mode C at a sufficient number of test points to ensure that the altitude reporting equipment, altimeters, and ATC transponders perform their intended functions as installed in the aircraft. The difference between the automatic reporting output and the altitude displayed at the altimeter shall not exceed 125 feet.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

15. (12–13) By revising § 91.161(b) to read as follows:

§ 91.161 Applicability.

(a) * * *

(b) Section 91.165, 91.169, 91.171, 91.173, and 91.174 of this subpart do not apply to an aircraft maintained in accordance with a continuous airworthiness maintenance program as provided in Part 121, 127, or § 135.411(a)(2) of this chapter.

* * * * *

16. (12–14) By revising § 91.165 to read as follows:

§ 91.165 Maintenance required.

Each owner or operator of an aircraft shall have that aircraft inspected as prescribed in §§ 91.169, 91.171, and 91.172 and shall, between required inspections, have discrepancies repaired as prescribed in Part 43 of this chapter. In addition, each owner or operator shall ensure that maintenance personnel make appropriate entries in the aircraft maintenance records indicating that the aircraft has been approved for return to service.

17. (12–15) By revising § 91.167 to read as follows:

§ 91.167 Operation after maintenance, preventive maintenance, rebuilding, or alteration.

(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless—

(1) It has been approved for return to service by a person authorized under § 43.7 of this chapter; and

(2) The maintenance record entry required by §43.9 or §43.11, as applicable, of this chapter has been made.

(b) No person may carry any person (other than crewmembers) in an aircraft that has been maintained, rebuilt, or altered in a manner that may have appreciably changed its flight characteristics or substantially affected its operation in flight until an appropriately rated pilot with at least a private pilot certificate flies the aircraft, makes an operational check of the maintenance performed or alteration made, and logs the flight in the aircraft records.

(c) The aircraft does not have to be flown as required by paragraph (b) of this section if, prior to flight, ground tests, inspections, or both show conclusively that the maintenance, preventive maintenance, rebuilding, or alteration has not appreciably changed the flight characteristics or substantially affected the flight operation of the aircraft.

(Approved by the Office of Management and Budget under OMB control number 2120–0005)

18. (12–16) By revising § 91.169(c) and by adding new §§ 91.169(d), (e), (f), (g), and (h) to read as follows:

§ 91.169 Inspections.

* * * * *

(c) Paragraphs (a) and (b) of this section do not apply to—

(1) An aircraft that carries a special flight permit, a current experimental certificate, or a provisional airworthiness certificate;

(2) An aircraft inspected in accordance with an approved aircraft inspection program under Part 123, 125, or 135 of this chapter and so identified by the registration number in the operations specifications of the certificate holder having the approved inspection program; or

(3) An aircraft subject to the requirements of paragraph (d) or (e) of this section.

(d) *Progressive inspection.* Each registered owner or operator of an aircraft desiring to use a progressive inspection program must submit a written request to the FAA Flight Standards district office having jurisdiction over the area in which the applicant is located, and shall provide—

(1) A certificated mechanic holding an inspection authorization, a certificated airframe repair station, or the manufacturer of the aircraft to supervise or conduct the progressive inspection;

(2) A current inspection procedures manual available and readily understandable to pilot and maintenance personnel containing, in detail—

(i) An explanation of the progressive inspection, including the continuity of inspection responsibility, the making of reports, and the keeping of records and technical reference material;

(ii) An inspection schedule, specifying the intervals in hours or days when routine and detailed inspections will be performed and including instructions for exceeding an inspection interval by not more than 10 hours while en route and for changing an inspection interval because of service experience;

(iii) Sample routine and detailed inspection forms and instructions for their use; and

(iv) Sample reports and records and instructions for their use;

(3) Enough housing and equipment for necessary disassembly and proper inspection of the aircraft; and

(4) Appropriate current technical information for the aircraft.

The frequency and detail of the progressive inspection shall provide for the complete inspection of the aircraft within each 12-calendar months and be consistent with the manufacturer's recommendations, field service experience, and the kind of operation in which the aircraft is engaged. The progressive inspection schedule must ensure that the aircraft, at all times, will be airworthy and will conform to all applicable FAA aircraft specifications, type certificate data sheets, airworthiness directives, and other approved data. If the progressive inspection is discontinued, the owner or operator shall immediately notify the local FAA Flight Standards district office, in writing, of the discontinuance. After the discontinuance, the first annual inspection under § 91.169(a) is due within 12-calendar months after the last complete inspection of the aircraft under the progressive inspection. The 100-hour inspection under § 91.169(b) is due within 100 hours after that complete inspection. A complete inspection of the aircraft, for the purpose of determining when the annual and 100-hour inspections are due, requires a detailed inspection of the aircraft and all its components in accordance with the progressive inspection. A routine inspection of the aircraft and a detailed inspection of several components is not considered to be a complete inspection.

(e) *Large airplanes (to which Part 125 is not applicable), turbojet multiengine airplanes, and turbopropeller-powered multiengine airplanes.* No person may operate a large airplane, turbojet multiengine airplane, or turbopropeller-powered multiengine airplane unless the replacement times for life-limited parts specified in the aircraft specifications, type data sheets, or other documents approved by the Administrator are complied with and the airplane, including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment, is inspected in accordance with an inspection program selected under the provisions of paragraph (f) of this section.

(f) *Selection of inspection programs under paragraph (e) of this section.* The registered owner or operator of each airplane described in paragraph (e) of this section must select, identify in the aircraft maintenance records, and use one of the following programs for the inspection of that airplane:

(1) A continuous airworthiness inspection program that is part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier operating certificate or an operating certificate issued under Part 121, 127, or 135 of this chapter and operating that make and model airplane under Part 121 or 127 or operating that make and model under Part 135 and maintaining it under § 135.411(a)(2).

(2) An approved aircraft inspection program approved under § 135.419 of this chapter and currently in use by a person holding an operating certificate issued under Part 135.

(3) An approved continuous inspection program currently in use by a person certificated under Part 123 of this chapter.

(4) A current inspection program recommended by the manufacturer.

(5) Any other inspection program established by the registered owner or operator of that airplane and approved by the Administrator under paragraph (g) of this section. However, the Administrator may require revision to this inspection program in accordance with the provisions of § 91.170.

Each operator shall include in the selected program the name and address of the person responsible for scheduling the inspections required by the program and make a copy of that program available to the person performing inspections on the airplane and, upon request, to the Administrator.

(g) *Inspection program approval under paragraph (e) of this section.* Each operator of an airplane desiring to establish or change an approved inspection program under paragraph (f)(5) of this section must submit the program for approval to the local FAA Flight Standards district office having jurisdiction over the area in which the airplane is based. The program must be in writing and include at least the following information:

(1) Instruction and procedures for the conduct of inspections for the particular make and model airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including survival and emergency equipment required to be inspected.

(2) A schedule for performing the inspections that must be performed under the program expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(h) *Changes from one inspection program to another.* When an operator changes from one inspection program under paragraph (f) of this section to another, the time in service, calendar times, or cycles of operation accumulated under the previous program must be applied in determining inspection due times under the new program.

(Approved by the Office of Management and Budget under OMB control number 2120-0005)

19. (12-19) By deleting the subject matter of existing § 91.171; by redesignating § 91.170 as § 91.171 and adding a new § 91.170 to read as follows:

§ 91.170 Changes to aircraft inspection programs.

(a) Whenever the Administrator finds that revisions to an approved aircraft inspection program under § 91.169(f)(5) are necessary for the continued adequacy of the program, the owner or operator shall, after notification by the Administrator, make any changes in the program found to be necessary by the Administrator.

(b) The owner or operator may petition the Administrator to reconsider the notice to make any changes in a program in accordance with paragraph (a) of this section.

(c) The petition must be filed with the FAA Flight Standards district office which requested the change to the program within 30 days after the certificate holder receives the notice.

(d) Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

20. (12–17) By revising redesignated § 91.171 to read as follows:

§ 91.171 Altimeter system and altitude reporting equipment tests and inspections.

(a) No person may operate an airplane in controlled airspace under IFR unless—

(1) Within the preceding 24 calendar months, each static pressure system, each altimeter instrument, and each automatic pressure altitude reporting system has been tested and inspected and found to comply with Appendices E and F of Part 43 of this chapter:

(2) Except for the use of system drain and alternate static pressure valves, following any opening and closing of the static pressure system, that system has been tested and inspected and found to comply with paragraph (a), Appendix E, of Part 43 of this chapter; and

(3) Following installation or maintenance on the automatic pressure altitude reporting system or the ATC transponder where data correspondence error could be introduced, the integrated system has been tested, inspected, and found to comply with paragraph (c), Appendix E, of Part 43 of this chapter.

(b) The tests required by paragraph (a) of this section must be conducted by—

(1) The manufacturer of the airplane on which the tests and inspections are to be performed;

(2) A certificated repair station properly equipped to perform those functions and holding—

(i) An instrument rating, Class I;

(ii) A limited instrument rating appropriate to the make and model of appliance to be tested;

(iii) A limited rating appropriate to the test to be performed;

(iv) An airframe rating appropriate to the airplane to be tested; or

(v) A limited rating for a manufacturer issued for the appliance in accordance with § 145.101(b)(4) of this chapter; or

(3) A certificated mechanic with an airframe rating (static pressure system tests and inspections only).

(c) Altimeter and altitude reporting equipment approved under Technical Standard Orders are considered to be tested and inspected as of the date of their manufacture.

(d) No person may operate an airplane in controlled airspace under IFR at an altitude above the maximum altitude at which all altimeters and the automatic altitude reporting system of that airplane have been tested.

21. (12–18) By adding a new § 91.172 to read as follows:

§ 91.172 ATC transponder tests and inspections.

(a) No person may use an ATC transponder that is specified in Part 125, § 91.24(a), § 121.345(c), § 172.123(b) or § 135.143(c) of this chapter unless, within the preceding 24 calendar months, that ATC transponder has been tested and inspected and found to comply with Appendix F of Part 43 of this chapter; and

(b) Following any installation or maintenance on an ATC transponder where data correspondence error could be introduced, the integrated system has been tested, inspected, and found to comply with paragraph (c), Appendix E, of Part 43 of this chapter.

(c) The tests and inspections specified in this section must be conducted by—

(1) A certificated repair station properly equipped to perform those functions and holding—

(i) A radio rating, Class III;

(ii) A limited radio rating appropriate to the make and model transponder to be tested;

(iii) A limited rating appropriate to the test to be performed;

(iv) A limited rating for a manufacturer issued for the transponder in accordance with § 145.101(b)(4) of this chapter; or

(2) A holder of a continuous airworthiness maintenance program as provided in Part 121, 127, or § 135.411(a)(2) of this chapter; or

(3) The manufacturer of the aircraft on which the transponder to be tested is installed, if the transponder was installed by that manufacturer.

22. (12–20) By deleting the references to § 91.170 and § 91.177 in the introductory text of § 91.173(a) and inserting "§ 91.171" in their place; by deleting the reference to § 43.9 in § 91.173(b)(3) and inserting "§ 43.11" in its place; by revising § 91.173(a)(2)(vi) to read as follows:

§ 91.173 Maintenance records.

(a) * * *

(1) * * *

(2) * * *

(vi) Copies of the forms prescribed by § 43.9(a) of this chapter for each major alteration to the airframe and currently installed engines, rotors, propellers, and appliances.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 2120–0005)

§ 91.177 [Reserved]

23. (12–21) By deleting § 91.177 and marking it [Reserved].

§ 91.181 [Amended]

24. (12–22) By amending § 91.181 by deleting the phrase "Sections 91.217 and 91.219 prescribe" in § 91.181(a) and substituting the phrase "Section 91.169 prescribes" in its place; by deleting the phrase "and for small turbine-powered multiengine airplanes operated under Part 135 of this chapter" in the last sentence of § 91.181(a); and substituting the word "part" for the word "subpart" in the last sentence of § 91.181(a).

§ 91.217 [Reserved]

25. By deleting § 91.217 and marking it [Reserved].

§ 91.219 [Reserved]

26. By deleting § 91.219 and marking it [Reserved].

(Secs. 313, 314, 601 through 610 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—These amendments are generally relieving, clarifying, or editorial in nature and will have minimal impact. Where additional requirements are imposed, their imposition results in increased value of maintenance records for aircraft owners or increased reliability of critical aircraft systems. I certify that the amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The Federal Aviation Administration has determined that this document involves a regulation which is not a major rule under Executive Order 12291 or a significant regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on July 29, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-25471 Filed 9-15-82; 8:45 am]

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federal register

Thursday
September 16, 1982

Part VI

Department of Health and Human Services

Health Care Financing Administration

Health Financing Research and Demonstration Grants; Availability of Funds

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Health Financing Research and Demonstration Grants; Availability of Funds for Grants

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice announces the availability of HCFA funds for certain priority research and demonstration grants for fiscal year 1983. It contains information about the subject areas for grants that will be given priority, project requirements, application procedures, amounts and duration of grants, and waiver of State plan requirements for demonstration projects. HCFA makes funds available for activities that will help to resolve major health financing policy and program issues or to develop innovative methods for the administration of Medicare and Medicaid.

DATES: Closing dates for submission of grant applications are presented in section VI of this Notice.

FOR FURTHER INFORMATION CONTACT: Frances Lariviere, 301-594-7474.

If you choose, you may write for information to the following address: Health Care Financing Administration, Office of Research and Demonstrations, Program Support Office, Area 2-D-6, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

SUPPLEMENTARY INFORMATION: This notice solicits grant applications for HCFA research and demonstration grants in new priority areas and announces the amount of funds available for grants in the priority areas during fiscal year (FY) 1983. In addition, the notice also describes applications procedures, general policy considerations, and selection criteria for HCFA grants that replace those previously described in a notice that was published in the **Federal Register** on February 25, 1980 (45 FR 12362). On December 1, 1981, we issued a subsequent notice in the **Federal Register** (46 FR 58368) to cancel the priority areas that were originally established in that standing grants solicitation of February 25, 1980.

This notice does not change the quarterly review of waiver-only applications, as established in the December 1, 1981 notice. These are applications that do not include a request for discretionary grant funds, but rather include requests only for waivers of statutory provisions necessary to conduct the project. In addition, "waiver-only" projects include projects that involve only requests to consider as reimbursable or matchable those expenditures that are normally not reimbursable or matchable under the statute but which, by virtue of an authority such as section 1115(a)(2) of the Social Security Act (42 U.S.C. 1302(a)(2)), may be so considered. While these latter types of requests do not involve waivers, we have classified them together with waiver requests since they do not involve requests for the use of discretionary research and demonstration grant funds.

As explained in the December 1, 1981 notice, closing dates for waiver-only applications are the first Monday of January, April, July and October of each year.

I. Availability of Funds for Grants

A. General

A review of the requirements of existing projects and our expected FY 83 budget indicates that up to $2 million may be available to HCFA's Office of Research and Demonstrations (ORD) to fund new grants for research or demonstration projects in the priority areas listed below.

Applications for grants may be submitted to HCFA by non-profit, private, or public agencies or organizations, including State agencies that administer the Medicaid program. Private-for-profit organizations may apply only under section 222(a) of the Social Security Amendments of 1972.

B. Authorities

Our authority for making these grants is based on—

1. The Social Security Act, title XI—sections 1110, Cooperative Research or Demonstration Projects (42 U.S.C. 1310) and 1115(a), Demonstration Projects (42 U.S.C. 1315(a)).
2. The Social Security Act, title XVIII—section 1881(f), End Stage Renal Disease Experiment and Pilot Projects (42 U.S.C. 1395rr(f)).
3. Section 222(a) of the Social Security Amendments of 1972, Experiments and Demonstration Projects (42 U.S.C. 1395b-1 (note)).
4. Section 402(a) of the Social Security Amendments of 1967, Experiments and Demonstration Projects (42 U.S.C. 1395b-1).

In the discussion below, we refer to the Social Security Act simply as "the Act."

C. Regulations

General policies and procedures that govern the administration of all Department of Health and Human Services' (HHS) grants are located in Title 45 of the Code of Federal Regulations (CFR), Part 74. All applicants are urged to review the uniform grants requirements established in those regulations.

D. Number and Size of Grants

Most grants range from $25,000 to $250,000 per year. The number, size and type of grants depends on the—

1. Availability of funds;
2. Needs of projects that are continuing from prior years;
3. Priority interest areas established by HCFA; and
4. Quality of applications and the proposed evaluation design contained in the application.

E. Duration of Funding

We fund projects for a period of one year at a time and may continue funding on a non-competing basis, generally for up to three years, if we awarded the original grant as a multiple year project. Continuation funding is contingent on the availability of future year funds, the applicant's ability to meet prior year project objectives, and the continued relevance of the project to HCFA programs.

We treat applications that seek to continue a project for a longer period of time than that stated in the original grant award as new projects. Thus, they must compete for available funds, and we will review these applications competitively along with all other new grant applications.

F. Special Solicitations

As the need arises for special projects, we will announce special solicitations in the **Federal Register**.

II. Grants Subject Matter

A. General Policy Considerations

The grants we make are intended to assist in the resolution of major health financing policy and program issues or in developing new methods for the administration of HCFA programs.

The HCFA grants program focuses primarily on analyses, experiments, and pilot projects that provide information useful for the administration of the Medicare and Medicaid programs. For FY 83, we have identified a number of areas where specific information or operational experience is necessary to improve program effectiveness or guide decisions anticipated in the near future.

A detailed description of these priority areas is set forth below. Applications for priority area grants must be limited to one priority.

Applications which fit one of the priority areas will be considered as solicited. Applications which do not fit one of the priority areas will be considered unsolicited grant applications and will be reviewed by a special panel, as discussed below in section V.

B. Waivers

Generally, researchers who wish to conduct studies that would require that Medicaid rules be waived must coordinate their applications with the appropriate State Medicaid agency. If Medicare waivers are involved, researchers should contact the appropriate Medicare intermediary or carrier. State or private agencies that wish to ask for Medicaid or Medicare waivers are highly encouraged to coordinate with researchers or research firms in order to ensure that the experimental design and evaluation protocol are of the highest quality.

1. *Section 1115(a) Projects.* Under section 1115(a)(1) of the Act, compliance with statutory Medicaid State plan requirements may be waived to enable a State Medicaid agency to carry out a significant demonstration project that will further the general objectives of the Medicaid program.

Under section 1115(a)(2) of the Act, we may consider costs of an 1115(a) project, which otherwise would not be included properly as expenditures under section 1903 of the Act, as proper expenditures under the State plan and thus subject to Federal financial participation.

We will review section 1115(a) waiver only applications (that is, applications that seek only waivers of statutory requirements governing a State plan for medical assistance and of HCFA regulations or that only involve requests under section 1115(a)(2) of the Act), concurrently with other grant applications (with or without requests for waivers) requesting direct financial support. We will also use the closing, review and award dates established for grant applicants in this notice for section 1115(a) waiver-only projects, unless we state otherwise in a **Federal Register** notice.

All requirements of the Social Security Act, the Code of Federal Regulations, and other issuances that pertain to the Title XIX categorical (State formula grant) program apply to a project approved under section 1115(a), unless they are specifically waived.

If a State Medicaid agency applies for a section 1115(a) project, special attention should be given to the preparation of the budget. The agency must provide estimates of the cost or savings attributable to the demonstration project, as opposed to the normal Federal program costs. That is, the agency must furnish the estimated yearly cost before waivers, and after waivers, for both operational and administrative costs. These budgets are substantially more extensive than the budget for other grant applications (see HCFA-PG-11A, Instructions for Completion of Federal Assistance Application, form HCFA-PH-11).

2. *Other Waivers.* Waivers of the requirements of titles XVIII and XIX of the Act, and of corresponding HCFA regulations, may be requested for projects conducted under section 222(a) of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967 as part of an experimental or demonstration project that involves only increases in benefit payments but does not involve additional grants for administration or research costs. In applying for these waivers or changes in reimbursement or Federal financial participation, the applicant must provide sufficient budgeting information to permit estimates of the likely cost or savings of the project compared to the normal Federal program costs. That is, the application must furnish the estimated yearly cost, before waivers and after waivers, for both program and administrative costs.

C. Current Priorities

A description of our current priorities for this general solicitation follows. However, as noted above, if the need for a special project arises in addition to these priorities, we will publish a special solicitation in the **Federal Register.** The priority areas may be modified at any time prior to 60 days before the closing date presented in section VI below.

1. *End Stage Renal Disease (ESRD) Treatment.* HCFA is interested in studying kidney transplantation as an alternative to lifetime dialysis. The following are areas of particular interest:

a. An analysis of differences in outcomes and related factors in kidney transplants (for example: Patient survival rates, analyzed by such factors as geography, demography and patient selection factors; graft rejection rates; and cost variations).

b. Development and testing of systems that include incentives to promote availability of kidneys.

2. *Long Term Care.* The development and testing of prospective reimbursement systems and other means of reducing the cost and maintaining the quality of long term care services, including the Medicare skilled nursing facility (SNF) benefit, is also a priority area. Various researchers have conducted initial descriptive studies concerning the design of alternative reimbursement systems, case-mix methodologies, and other approaches that affect cost and quality of long term care. Additional information is sought on the practical application and performance of the systems and methodologies already designed, as they relate to projects that—

a. Analyze and compare the experience of the various States in implementing Medicaid prospective payment for long term care services (for example, how the payment systems are designed and operate as well as the design and efficiency of the administrative systems necessary to support the payment system).

b. Analyze and/or test the Medicare SNF benefit, especially with respect to administratively necessary hospital days (that is, hospital days due to lack of nursing home beds), comparisons with the Medicaid SNF benefit, and alternative payment methodologies (for example, prospective payment and capitation).

c. Compare the differences among cases (for example, degree of impairment) in various settings such as skilled nursing homes, intermediate care facilities, home health systems, free-standing versus hospital-based facilities.

d. Determine the effects of innovative State or local programs to promote home care by the family (for example, State or local respite care programs, tax incentives, or housing and transportation support).

e. Assess the competitive effects (for example, utilization, care, cost/substitutive effects) of expanding the role of nurses and geriatric nurse practitioners in long term care programs.

3. *Hospital Outpatient Reimbursement Systems.* HCFA is interested in developing additional information about the payment for, and delivery of, services in hospital outpatient departments, other hospital-based ambulatory care units, and freestanding ambulatory care units. Significant research and demonstration activity in the area of alternative payment methodologies for hospital inpatient care services has been supported or performed by HCFA. Our interest includes research and demonstrations that would develop and/or test alternative payment systems for hospital outpatient services other than those currently in use. We are seeking information on issues related to the design of such systems from projects that—

a. Collect, analyze and compare data concerning:

1. Services being delivered.
2. Cost of these services.
3. Utilization of services.
4. Quality of services.
5. Case mix differences.
6. Administrative arrangements (for example, provision of physician services).
7. Provider characteristics.
8. Patient characteristics in both hospital-based and freestanding units.

b. Analyze and compare the experience of other payers that utilize alternative payment systems for services provided in hospital outpatient departments and other hospital-based ambulatory care units.

c. Develop and/or test the effects of alternative payment systems on the cost, utilization and access to services delivered in hospital outpatient departments and other hospital-based ambulatory care units (for example, prospective payment, methods of comparing costs in hospitals in order to establish prospective limits, and payment based on comparable fee for service levels).

4. *Competition.* HCFA is interested in supporting research and demonstration projects that involve systems that provide incentives to beneficiaries to be informed purchasers of health care services. The following broad areas are of particular interest:

a. *Consumer Information Needs.* Current information systems have been developed to support cost-based payment systems. For a more market-oriented health care system to work efficiently, a different set of information is needed than is now generally available, especially for the consumer. Therefore, we are soliciting projects that:

1. Explore the use of information by the consumer as well as by the provider in a variety of settings.
2. Explore the availability of information and its actual use by consumers under conditions of competition.
3. Develop and test information sets in terms of acceptability and ability to affect consumer/provider behavior.

b. *Reimbursement barriers.* Research and demonstration projects are solicited which encourage financial risk sharing by consumers, providers, insurers and/or local governments. Vouchers, capitated rate systems, and the broker concept are of continuing interest. Also of interest are demonstrations of alternative payment methods that can improve the cost-efficiency of health care services (for example, physician reimbursement experiments).

c. *Other barriers.* Projects are sought that explore the extent to which other barriers exist that prevent entry into the market of additional or innovative providers and systems of health care delivery, thus reducing competition. We also want to test the success, or potential success, of changes that allow or promote competition.

d. *Administrative structure.* Projects are encouraged that would examine the information required to administer various competition models efficiently. Information concerning the following questions is desired:

1. Assuming HCFA pays *only* for health care via a capitated rate system (for example, vouchers or capitation), what information would be required to administer the system?
2. What regulations and quality control system would be required?
3. To what extent would fraud and abuse be a problem?
4. What would the probable role of other parties of interest (for example, State and county governments, professional associations, provider and consumer organizations)?

5. *Prevention.* HCFA is interested in studying the extent to which preventive services reduce the overall cost of health care, particularly for children. Research and demonstration projects are solicited that will analyze the effects of Medicaid coverage of preventive health care for children and adults.

6. *Capital.* Projects are solicited which would examine the effects that Federal reimbursement policies have, or could have, on capital financing decisions in both the hospital and nursing home industries. HCFA is interested in examining the effects of the treatment of capital within the present cost-reimbursement system, as well as the effects that present State prospective payment systems have on the formation and distribution of capital. Projects are encouraged that would examine the probable effects that alternative financing policies (for example, competition, total cost limits for hospitals, or prospective payment systems) could have on both of these issues. In addition, projects are encouraged that would develop or test alternative means of paying for capital. HCFA is also interested in projects that would examine the effects of lease versus purchase decisions.

7. *Durable Medical Equipment.* Under section 1833(f) of the Act (42 U.S.C. 1395l), we issued regulations (42 CFR 405.514) in July, 1980 that change the reimbursement method under Medicare for durable medical equipment to permit purchase as well as leasing of the equipment.

We are soliciting projects to analyze the overall effects, if any, of these new provisions on beneficiaries and providers or suppliers of the equipment, and on program costs in general.

8. *Appropriate Utilization.* Preliminary review of Medicare claims data indicates that there is wide variation in utilization of services in various regions of the country. In addition, there is some evidence to indicate that patients with non-physical health problems are inappropriately treated in facilities. We are interested in supporting projects that will further explore the extent of the variation, the reasons for utilization differences, methods to assure more appropriate use, and implications for public policy.

In particular, two new HCFA-funded approaches to detect inappropriate hospital utilization have recently been developed (that is, Appropriateness Evaluation Protocol (AEP) developed at Boston University under HCFA grant #18-P-97513 and the Standardized Medreview Instrument (SMI) developed under contract HCFA 500-80-0053). One or both of these approaches could be used by States, health insurers, or provider organizations to test their effectiveness in controlling inappropriate utilization.

III. Selection Criteria

A. General Criteria for Funding New Projects

The Director of ORD, HCFA determines which projects will be funded based on the recommendations of technical review panels and the comments of other Department components. More specifically, the criteria employed in arriving at the award decision include—

1. The availability of HCFA staff and fiscal resources combined with the relative importance of the proposed project;
2. Whether the project addresses an area of declared interest, and the relevance of the anticipated results to HCFA programs;
3. The adequacy and creativity of the research or demonstration design and hypotheses, the validity and appropriateness of the methods and data base(s) proposed, and the experience and competence of the proposed staff;
4. Whether there is a realistic expectation that the project can be carried out within the times specified;
5. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the

state of the art, project design and analytical methods;

6. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project;

7. The documentation of a commitment of the parties necessary to the success of the planned project, if the project requires the cooperation of multiple parties; and

8. Whether results are of general applicability and would be of value in other settings, or are of national importance.

B. Specific Project Requirements

In addition to meeting the general criteria described above, we require grants applicants to include specific information about the project in the application, as follows:

1. The project goals and objectives must be clearly stated and must be measurable.

2. The research design, including the questions to be addressed, and the methods and the data to be used must be explicitly described. The methodology must be well defined and scientifically valid.

3. A demonstration or experimental project must include demonstration design, objectives, and proposed analytical and evaluation methods. All demonstration projects must have an evaluation component. This must describe data collection and analysis procedures for an evaluation that will assess the degree to which the objectives of the project were met. (HCFA reserves the right to conduct an independent evaluation of any experiment or demonstration.) The evaluation component may, at the discretion of HCFA, be performed separately. Therefore, the evaluation effort must be separately and distinctly budgeted.

4. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA.

5. The application must contain information specifying the availability of the data to be used. If data are to be collected, the discussion must describe the nature of the data sought, the sample design and size, controls and comparisons (if any), and the problems that might be encountered. Data that are collected under a HCFA grant must be available to HCFA or its agents. However, the applicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA grant. (See item 13 below for more information about confidentiality.)

6. The application must include a description of the qualifications and experience of the personnel and demonstrate how their qualifications make the individuals capable of performing the tasks in the project. Specific information must also be provided concerning how the personnel are to be organized in the project, to whom they report and how they will be used to accomplish specific objectives or portions of the project.

7. The application must include information specifying the avilability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

8. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results. Applicants must directly share in the costs of the projects (see Procedures to Apply, Item C, Grant Policies below). The budget may not include costs for construction or remodeling, or for project activities that take place before the applicant has received official notification of HCFA approval of the project.

9. Projects that require waivers (for example, those under section 1115(a) of the Social Security Act, section 222(a) of the Social Security Amendments of 1972, and section 402(a) of the Social Security Amendments of 1967) must define the services, list the waivers, discuss the implications, if such waivers are granted, state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project.

In addition, these types of applications must contain estimates of the amount of program and administrative expenditures that will occur under the waivers and a comparison of these expenditures to those that currently occur in the programs.

If the project involves both Medicare and Medicaid waivers, a request for Medicaid waivers from the State agency administering the Medicaid program must be included with the application. Applicants should contact HCFA for further information if questions arise in these cases.

10. Plans for utilization of the project's results must be discussed.

11. The application must include the applicant's assurance of willingness to comply with the human subjects regulations (45 CFR Part 46) by the inclusion of a completed form "Protection of Human Subjects" (HHS-596, Rev. 5/80). However, HHS issued a proposed rule on March 22, 1982 (47 FR 12276) that, if adopted, would exempt these types of projects from the requirements of 45 CFR Part 46. Final revisions to these regulations may be issued shortly. Therefore, applicants may contact HCFA for information on whether a final rule has been published and, if so, its content as early in the planning process as appropriate.

12. While HCFA does not require review under Office of Management and Budget Circular No. A-95, all applicants must nevertheless determine whether review by the appropriate State and areawide clearinghouse is required. This review is designed to promote coordination of Federal and Federally assisted programs and projects with each other, and with State and local plans and programs.

13. The application must contain detailed plans to protect the confidentiality of all information tending to identify individuals under the project. The plans must specify that such information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that informed written consent of the individual must be obtained for any disclosure.

14. Additional specific project requirements may be included in individual special grant solicitations.

C. Other Requirements

When a project is completed, each applicant must submit a final report. The report must contain a project description, and must, as a minimum, include—

1. Identification of the project director, principal investigator, grant number, grantee, and title of the project;

2. A description of the initial hypotheses and objectives, the study methodology and the findings;

3. A list of and copies of publications resulting from the project;

4. Acknowledgement of the support received from HCFA, and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA; and

5. An executive summary of the report in camera-ready format.

VI. Procedures to Apply

A. A standard application form is available for the HCFA research and demonstration grants program. The application form has been approved under OMB #0938-0078 for use through July 1984. Application kits and guidance for the completion of the forms are available from: Health Care Financing Administration, Division of Procurement

Services, Projects Grants Branch, Room 389 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; 301-594-3333. Priority grant applications must be limited to one priority area. The application must include, in the project title block, the priority area title and number to which the applicant is responding. The priority area designation must also be clearly marked on the outside of the package/envelope.

B. Multiple Applications

The applicant must indicate when the same or a similar application is submitted to another HHS agency; for example, the Social Security Administration, the Office of Human Development Services, or the Public Health Service.

C. Grant Policies

Projects are funded through a competitive process based on a choice of applications submitted in response to this notice. All grantees are expected to share directly in the costs of the projects. This sharing must be at least five percent of the total project cost or must be institutional cost sharing when the applicant has such cost sharing established with HHS.

For section 1115(a) projects, the amount the single State agency will be expected to provide generally must be at least five percent of special Federal project funds. This amount may not be met by in-kind contributions.

Other requirements including grantee responsibilities, awarding and payment procedures, special provisions and assurances may be found in the following documents that are included in the application kit:

HCFA Grants Policy Handbook, DHHS Publication No. (HCFA) 79-04001 (Rev. 6/79)

45 CFR Part 74
Administration of Grants

V. Review of Applications

An independent review will be conducted by a panel of not less than three experts (who are not staff members of ORD). The panel will include experts from both DHHS and the private sector.

In most cases, there will be at least one independent review panel for each priorty, including one designated to review unsolicited applications. An ORD chairperson will coordinate the panel's review but will not vote. This individual will also prepare the panel's recommendation to the Director, ORD. The panel's recommendations will contain numerical ratings, ranking of all applications, and a written assessment of each application.

VI. Closing Dates and Times

We process grant applications twice a year and make award announcements approximately five to six months after the closing date. The following closing dates apply for grant applications with or without requests for waivers:

FY 83

Monday, November 1, 1982
Monday, May 2, 1983

FY 84

Monday, November 7, 1983
Monday, May 7, 1984

As previously noted, closing dates for quarterly reviews of waiver-only applications are the first Monday of January, April, July and October of each year. For all dates, the closing time is not later than 4:30 P.M., local Baltimore, Maryland time.

Mailed applications will be "on time" if they are either postmarked (first class mail) or received by the deadline. Because of the importance of the postmark, we encourage applicants to request the post office to provide a legible U.S. Postal Service postmark. If express mail or certified or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing. Applications submitted by any means other than mailing first class through the U.S. Postal Service are considered as meeting the deadline only if they are physically received at the place specified in this notice on or before the deadline date. We will acknowledge receipt of each application, and will carry over late applications until the next closing date unless the applicant notifies HCFA's Project Grant Branch that it is being withdrawn.

(Sec. 1110, 1115, 1875, and 1881(f) of the Social Security Act (42 U.S.C. 1310, 1315, 1395ll, 1395rr(f)); sec. 222(a) of the Social Security Amendments of 1972 (42 U.S.C. 1395b-1(note)); sec. 402 of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1)

(Catalog of Federal Domestic Assistance Program No. 13,766 Health Financing Research, Demonstrations and Experiments)

Dated: September 3, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-24885 Filed 9-15-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

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