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Wednesday
June 20, 1979

Highlights

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36123 **Marihuana and Synthetic THC** Justice/DEA denies petitions to reschedule from Schedule I of the Controlled Substances Act

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36012 **Branching** FHLBB lifts 100-mile limitation of Federal savings and loan associations

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Highlights

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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the Idaho-Eastern Oregon Potato Committee. It enables the committee to collect assessments from first handlers on assessable potatoes and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 945, as amended (7 CFR Part 945), regulating the handling of Irish potatoes grown in designated counties in Idaho and in Malheur County, Oregon, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon other information, it is found that the expenses and rate of assessment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the Federal Register (5 U.S.C. 553) as the order requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open public meeting of the committee held May 31, 1979, in Twin Falls, Idaho. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

The budget and rate of assessment have not been determined significant under the USDA criteria for implementing Executive Order 12044.

7 CFR Part 945 is amended by adding a new § 945.232 as follows:

§ 945.232 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending May 31, 1980, by the Idaho-Eastern Oregon Potato Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate will amount to not more than $49,743.80.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0026 per hundredweight, or equivalent quantity, of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 945.44(b).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

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

Dated: June 15, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-19271 Filed 6-19-79; 8:45 am]
BILLING CODE 3410-02-M

Office of Secretary of Agriculture

7 CFR Part 16

[Amendment 8]

Restrictions on the Importation of Meat from Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulation set forth in this Subpart is amended to limit imports of certain meats from Nicaragua to no more than 64.1 million pounds during calendar year 1979. Such action is necessary to carry out the 1979 restraint program, including the agreement entered into by the United States with Nicaragua pursuant to Section 204 of the Agricultural Act of 1956, limiting the export from Nicaragua and the importation into the United States of certain meats.

EFFECTIVE DATE: June 20, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621, South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

This regulation established quantitative restrictions applicable to meat imported from Nicaragua which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 64.1 million pounds during calendar year 1979.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore this regulation falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and Executive Order 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to June 20, 1979, shall not be denied entry.

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204

Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended as follows:

Paragraph (a) is amended to read as set forth below and paragraphs (b) and (c) are deleted and reserved.

§ 16.5 Quantitative restrictions.

(a) *Imports from Nicaragua.* During calendar year 1979, no more than 64.1 million pounds of meat, exported from Nicaragua in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Nicaragua to the United States.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733)).

Issued at Washington, D.C. this 19th day of June 1979.

Bob Bergland,

Secretary.

[FR Doc. 79-19442 Filed 6-19-79; 10:57 am]

BILLING CODE 3410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 504]

[Docket No. ERA-R-78-19F]

Electric Utility System Compliance Option Under Section 501 of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is promulgating this rule under the authority of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, November 9, 1978 (FUA or the Act). On May 8, 1979, FUA became effective. Under the Act existing electric powerplants are prohibited from using natural gas as a primary energy source on or after January 1, 1990, and are prohibited from using natural gas as a primary energy source before 1990 unless they burned natural gas in 1977, and then in no greater proportion than the average percentage used in the base years 1974 through 1976. This rule sets forth the criteria and procedures by which owners and operators of existing powerplants may be considered in compliance by filing a system compliance plan in accordance with Section 501 of the Act.

DATES: This interim rule is effective June 20, 1979. Comments due by August 15, 1979.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-78-19F, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461 (202) 634-2170.

Stephen M. Stern, (Regulations and Emergency Planning), Economic Regulatory Administation, Department of Energy, 2000 M Street, NW., Room 2130, Washington, D.C. 20461 (202)254-9766.

Robert L. Davies, (Fuels Regulation—Program Office), Economic Regulatory Adminsitration, Department of Energy, 2000 M Street, NW., Room 7202, Washington, D.C. 20461 (202) 254-3910.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 7136, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633-8814.

SUPPLEMENTARY INFORMATION:

I. Background and Extended Comment Period

II. Comments

III. Procedural Matters

I. Background and Extended Comment Period.

Section 301(a) of FUA prohibits the use of natural gas as a primary energy source in an existing powerplant on or after January 1, 1990. Between May 8, 1979, and January 1, 1990, natural gas may only be used in an existing powerplant if it used that fuel as a primary energy source in calendar year 1977, and then in no greater proportion than the average proportion used in base years 1974 through 1976. The system compliance option provides the opportunity for utilities to comply with the natural gas prohibitions contained in FUA applicable to existing powerplants on a systemwide basis rather than on an individual powerplant basis. Through utilization of the system compliance option, utilities that are now heavily dependent upon natural gas will be allowed to phase in the natural gas prohibitions over a period of years.

This interim rule sets forth the criteria and procedures necessary for election of the systems compliance option as a means of being considered in compliance with the prohibitions under Title III of FUA on natural gas use by existing electric powerplants.

ERA published proposed rules for § 504.4 implementing the system compliance option on January 29, 1979. After review of comments received ERA has revised § 504.4 and is making this interim rule effective in order to allow existing powerplants an opportunity to exercise this option as expeditiously as possible.

ERA has also decided to extend the period for submission of additional written comments on this interim rule. This extended period for additional written comments commences on the date this interim rule is issued and extends until August 15, 1979. ERA invites all interested persons to participate in these further proceedings by submitting any written information, views or arguments to Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. All submissions should be identified on the outside envelope and on the documents contained therein with the designation, "System Compliance Option" Docket Number ERA-R-78-19F. You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room GS-152, James Forrestal Buildings, 1000 Independence Avenue, S.W., Washington, D.C. We will consider all comments received by August 15, 1979, and incorporate these into the record of the administrative proceedings on § 504.4.

ERA will receive petitions for plans and make determinations in accordance with the procedures set forth in this interim rule. ERA's determination on plans submitted shall be made upon the basis of the standards and criteria set out in this interim rule or upon the provisions of this Section as subsequently revised, where the application of a modification would result in a more favorable disposition of a particular petition. ERA urges you to file your plans expeditiously so that ERA may render a timely decision on each.

The emphasis of the system compliance option is upon a systems approach to compliance with Title III prohibitions on the use of natural gas. ERA, however, also encourages your active consideration of systemic commitments to petroleum conservation in the process of negotiation associated with the adoption and approval of an acceptable system compliance plan.

II. Comments.

In § 504.4 of the proposed existing facilities regulations published in the Federal Register (44 FR 5809) on January 29, 1979, ERA set forth the criteria ERA

proposed to use in approving system compliance plans filed by electric utilities pursuant to Section 501 of FUA. A number of comments were received in response to the proposed rule. The regulation has been changed in a number of aspects in response to these comments.

A number of comments stated that it is inappropriate for ERA to require end-use conservation measures and load management measures as part of the system compliance plan in § 504.4(g) of a proposed regulation. ERA believes that it has the authority under FUA to require effective fuel conservation measures including end-use and load management measures as a precondition to approving a system compliance plan. However, for the purpose of the system compliance option which is directed primarily at existing facilities, ERA has decided not to require consideration of all conservation measures that a petitioner for a new facility exemption would have to consider. Specifically, ERA will not require a petitioner to include end-use and load management measures in his plan for natural gas and petroleum conservation.

Several comments suggested that the requirements contained in § 504.4(b)(5) of the proposed regulations do not follow the terms of Section 501 of FUA. The proposed rule stated that a utility choosing the compliance plan option cannot, as of January 1, 1990, use natural gas in peakload or intermediate load powerplants unless such use is necessary to prevent impairment of reliability of service. The comments objected to the effective date of this requirement and noted that the powerplants permitted to use natural gas under the regulation differed in the statute. ERA has changed § 504.4(b)(5) in this final rule to correct the effective date of the requirement to January 1, 1995, and to clarify that only peakload and intermediate load powerplants are exempted from the prohibition on natural gas use. Further, ERA changed the rule governing natural gas use in 1995 from a reliability criterion to a volume criterion. The maximum permitted use after January 1, 1995, is 75 percent of the volume permitted in 1990. This percentage was selected in order to ensure that progress toward the year 2000 goal of no natural gas use will be made.

As provided in Section 501(h) of FUA, ERA will establish on an individual basis the terms and conditions of each order approving a plan for system compliance. Such terms shall include the allowable level of natural gas use between now and 1990. In appropriate cases this may provide for the use of natural gas in excess of the statutory restriction to the proportion used during base period years 1974–1976. ERA may permit such usage even where you have not received a temporary public interest exemption for the use of natural gas under 10 CFR Part 508, where you are party to an approved system compliance plan.

Some comments suggested that both the "20% base period usage test" and the "minimum peakload requirement test" utilized in § 504.4(b)(4) of the proposed regulations should be subject to adjustments for emergency or peakload purposes as provided for in Section 501(d)(2) of FUA. In the regulations as proposed, only the 20 percent base period usage test is subject to these adjustments. In response to these comments, ERA has modified § 504.4 (a) and (e) of the regulations to make clear that adjustments for emergency peakload purposes may be made only to the extent that they exceed the allowable amounts specified Section 501(b)(4) of the Act.

Several comments stated that ERA may not require that the 10-year forecast be annually revised and extended as provided in § 504.4(b)(8) of the proposed regulations. ERA believes that Section 501(b)(6) of FUA gives us the authority to require an annual update and extension of the 10-year forecast. ERA believes that this requirement will not put an unreasonable burden on utilities because it is normal practice to use a 10-year horizon. Further, the information is required to assure progress toward the years 1995 and 2000 requirements.

One comment questions the derivation of the 10 percent figure in § 504.4(a)(2) of the proposed rule (§ 504.4(d)(2) of this final rule). This 10 percent figure for the computation of year 1990 base period usage of natural gas results from the halving of the 20 percent figure in Section 501(b)(4)(A) of the Act and applying this percent to the entire amount used in the base period rather than to one-half of the base period quantities as specified in Section 501(e)(1)(B) of the Act. The advantage is a slight simplification of the volume calculation.

A number of comments question why in § 504.4(e) ERA defines "minimum peakload requirement" as the volume of natural gas required to generate 17.1 percent of the total electricity by a utility in 1990. ERA believes that this standard captures the intent of Congress as set forth in Section 504(f) of FUA and provides for a simple calculation procedure. FUA defines an electric utility's minimum peakload requirement as the total kilowatt hours generated by natural gas on the utility's system divided by the aggregate capacity of all the powerplants in the utility's system, but not to exceed 1,500 full-load hours per year. Assuming that 100 percent of system capacity is from natural gas, the system's minimum peak requirement would be 1,500 hours divided by 8,760 (the number of hours in a year) or 17.1 percent of the total electricity generated within the utility's system. This procedure may result in an overestimate of the minimum peakload requirement for systems with less than approximately 85 percent natural gas capacity. However, ERA estimates that the volumes permitted under § 504.4(b)(4)(i) of the regulation (20 percent base period usage test) will be less than that permitted under § 504.4(b)(4)(ii) of the regulations (minimum peakload requirements). Therefore any overestimate will not affect the amount of natural gas use allowed.

Several of the comments requested that ERA provide a standard by which future natural gas contracts would be approved or rejected pursuant to § 501(g) of the Act. ERA has decided to add a new § 504.4(f) to the regulations to adopt the broad statutory standard for the approval of natural gas contracts. This standard states that ERA will approve any natural gas contract if the utility demonstrates that the quantities of natural gas available under the contract are necessary and do not exceed the quantities allowed by the system compliance plan.

A number of comments state that ERA has no authority under the Act to revoke an approved system compliance plan on the grounds that the plan is no longer consistent with the purposes of the Act as provided in § 504.4(j)(3) of the proposed regulations. ERA has decided to delete this provision from the final rule. An effective system compliance plan consists of an order embodying a series of commitments by the utility, and terms and conditions which the utility has accepted. It is appropriate therefore to address the consequences of non-compliance. ERA has added § 504.4(m), which permits ERA's revocation of a plan based upon material noncompliance. Section 501(a) of FUA provides that no Title III exemption relating to the use of natural gas will be available to any powerplant which was covered by the plan (except an emergency exemption). ERA also recognizes that there may be failures to comply with your commitments in an approved plan warranting sanctions short of full revocation of the plan.

Section 723(a) of the Act authorizes certain civil penalties for violation of an ERA order adopting your approved system compliance plan. In order to assure adherence to your commitment in an approved plan, ERA intends to develop, on a case-by-case basis, other sanctions which are graduated to the severity of a violation and which will provide appropriate disincentives to noncompliance.

Several comments noted that the proposed regulations provide no exemptions for the use of natural gas except an emergency exemption for powerplants covered by an approved plan. The comments asked why ERA proposes to preclude the use of natural gas for use in a cogeneration project. ERA believes that the provisions of the Act do not allow us to grant a permanent cogeneration exemption to a powerplant covered by an approved plan. Section 501(b) of FUA states that no exemptions shall be available to any powerplant which is or ever has been covered by an approved plan, other than a permanent exemption for emergency purposes.

A few comments suggested that ERA should allow submission of a system compliance plan after January 1, 1980. They state that it would be in the Nation's best interest for the compliance plan option to be made available in all appropriate cases. ERA believes that the Act requires that all plans be submitted by January 1, 1980. While you are urged to provide your entire plan expeditiously, ERA has clarified in § 504.4(c) of this interim rule, that it will consider you to have met this deadline where you have submitted by January 1, 1980, an expression of your intent to utilize the system compliance option, a request for a meeting with ERA, a proposed timetable for submission of your entire plan, and all submissions called for under § 504.4(b)(1), and (2) of these regulations.

III Procedural Matters.

A regulatory analysis of this Interim Rule set forth below, as contemplated by Executive Order No. 12044, is contained within the draft regulatory analysis of the regulation regarding new facilities proposed on November 9, 1978, 43 FR 53974. A Final Environmental Impact Statement (FEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the FEIS may be obtained from ERA, 2000 M Street, NW., Room B110, Washington, D.C. 20461, (202) 634-2170.

These revised rules have been submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of these interim rules may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Pub. L. 95-91; 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 [42 U.S.C. 8301 et seq.]; E.O. 12009, 42 FR 4267.)

Issued in Washington, D.C., June 12, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

In consideration of the foregoing, § 504.4, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations is hereby revised and adopted as an interim rule as follows:

§ 504.4 Electric utility system compliance option.

(a) *General.* Section 501 of the Act provides for an electric utility system compliance option. You will be considered in compliance with any prohibition under Title III of the Act on existing powerplants relating to the use of natural gas if ERA has issued an order approving a system compliance plan for you. No exemption, except an emergency exemption, for use of natural gas will be available for those powerplants which are covered or which have ever been covered by an approved plan.

(b) *Requirements for approval.* To qualify you must provide the information requested and demonstrate to the satisfaction of ERA your commitment to the following terms.

(1) Identification of all powerplants owned or operated by you that would or could be subject to prohibitions under Title III (Existing Facilities) of the Act relating to the use of natural gas if a plan for you were not approved;

(2) Identification of those powerplants covered in paragraph (b)(1) of this section that you believe would be likely to be entitled to an exemption if a plan were not approved;

(3) A commitment that if a plan is approved you will not thereafter use natural gas or petroleum as a primary energy source in any new baseload powerplant;

(4) A commitment that if a plan is approved, you will not use natural gas on and after January 1, 1990, in excess of (i) 20 percent of your base period usage of natural gas adjusted for emergency or peakload purposes if applicable, or, if lower (ii) your minimum peakload requirement adjusted for emergency or peakload purposes, if applicable;

(5) A commitment that if a plan is approved, you will not on or after January 1, 1995, use natural gas except in peakload or intermediate load powerplants identified in paragraph (b)(2) of this section and the volumes of gas consumed in those powerplants will not exceed 75 percent of the amount permitted under paragraph (b)(4) of this section;

(6) A commitment that on and after January 1, 2000, you will not use natural gas as a primary energy source unless ERA grants you a temporary extension for emergency or peakload purposes under paragraph (h) of this section;

(7) A commitment that upon approval of the system compliance plan you will obtain natural gas used by your system only under the provisions of (i) a contract which you executed prior to November 9, 1978, other than under an extension or renewal of the contract on or after November 9, 1978; (ii) a contract which you executed on or after November 9, 1978, but only if the contract has been approved by ERA; or (iii) an extension or renewal occurring on or after November 9, 1978, of a contract entered into before November 9, 1978, but only if the extension or renewal has been approved by ERA;

(8) A 10-year forecast, to be annually revised and extended, which provides support for a conclusion by ERA that the commitments in your system compliance plan will be met. The forecast should include demand for electricity, construction plans and a financial plan; and

(9) A plan for use of fuel conservation measures that will minimize your natural gas and petroleum consumption.

(c) *Deadline for submission.* (1) Your proposed plan must be submitted to ERA before January 1, 1980. ERA will consider your submission of the following, at a minimum, by that date, to fulfill the foregoing filing deadline:

(i) An expression of your intention to utilize the system compliance option;

(ii) A request for a meeting with ERA to discuss your proposed system compliance plan;

(iii) A proposed timetable for the submission of your entire plan before August 1, 1980; and

(iv) All submissions called for under paragraphs (b) (1) and (2) of this section.

(2) All additional submissions required under this section for your entire proposed system compliance plan must be filed with ERA on or before August 1, 1980.

(d) *Calculations of 1990 natural gas volumes for § 504.4(b)(4)(i).* For purposes of § 504.4(b)(4)(i), volumes of natural gas are the sum of the following:

(1) Twenty percent of the natural gas used in calendar year 1976 by your powerplants that were placed in service on or before January 1, 1976;

(2) Ten percent of the natural gas used in the first 24 months of service by your powerplants which were placed in service after January 1, 1976, and before May 8, 1979;

(3) Natural gas volumes for emergency purposes within the meaning of § 504.37 of these regulations, to the extent that such volumes exceed the volumes of natural gas enumerated in paragraphs (d) (1) and (2) of this section, if ERA has approved use of the volumes for such purposes;

(4) Natural gas volumes for peakload purposes within the meaning of § 504.38 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in paragraphs (d) (1) and (2) of this section, if ERA has approved use of the volumes for such purposes; and

(5) Natural gas volumes, if ERA has approved use of the volumes for such purposes, required (i) because of delays which occurred, despite diligent good faith efforts in the construction of powerplants which will use a primary energy source other than natural gas, or (ii) because without increased volumes reliability of service would be impaired.

(e) *Calculation of volumes for adjusted minimum peakload requirements for § 504.4(b)(4)(ii).* For purposes of § 504.4(b)(4)(ii), volumes of natural gas are the sum of the following:

(1) The volume of natural gas required to generate 17.1 percent of the total electricity by your company in 1990;

(2) Natural gas volumes, for emergency purposes within the meaning of § 504.37 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in paragraph (e)(1) of this section, if ERA has approved use of the volumes for such purposes, and

(3) Natural gas volumes, for peakload purposes within the meaning of § 504.38 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in paragraph (e)(1) of this section, if ERA has approved use of the volumes for such purposes.

(f) *ERA approval of natural gas contracts for § 504.4(b)(7).* ERA will approve any contract, or contract extension or renewal, for purposes of paragraph (b)(7) of this section with respect to any plan, if it determines that the electric utility which submitted such plan has demonstrated that the quantities available under such contract, or extension or renewal, do not exceed those which are necessary to meet the requirements of the powerplants under such plan. ERA may, in its discretion, not approve any contract, or extension or renewal, which provides for the delivery of such natural gas after December 31, 1999.

(g) *Fuel conservation measures for § 504.4(b)(9).* Fuel conservation measures include generation efficiency measures which conserve natural gas and petroleum by increasing the efficiency of the generation process. A petitioner may present plans for any other activity, service, or investment that would result in lower consumption of natural gas and petroleum as primary energy sources.

(h) *Temporary extension for § 504.4(b)(6).* ERA may grant an extension of up to 5 years of the limitation in § 504.4(b)(6) with respect to the use of natural gas if you demonstrate that such gas is needed for:

(1) Emergency purposes consistent with § 504.37 of these regulations; or

(2) Peakload purposes consistent with § 504.38 of these regulations.

(i) *Evidence.* To submit an adequate plan for review by ERA you must include in your plan at least the following, in order to make the demonstration required by this section:

(1) Ten year forecast of your construction plans, financial plans, and electric demand with sufficient detail to conclude that the commitments in your plan will be carried out;

(2) A schedule for an orderly progression to meet the years 1995 and 2000 commitments;

(3) A description of meetings, correspondence, and understandings or agreements reached, if any, with appropriate state regulatory authorities regarding the commitments contained in your plan; and

(4) A description of the planned petroleum and natural gas conservation measures including their practicability, effectiveness, cost, anticipated savings, and implementation steps.

(j) *Reporting.* You must annually update the information contained in your plan, including progress on implementing your proposed conservation measures.

(k) *Terms and conditions.* ERA will condition approval of your system compliance plan on such terms and conditions as we determine to be appropriate including the permissible level of natural gas use prior to 1990 and the use of effective fuel conservation measures which are practicable and consistent with the purposes of the Act.

(l) *Plan revision.* A system compliance plan may be revised for substantially changed circumstances supported by clear and convincing evidence.

(2) A revision to a system compliance plan may be proposed by you or by ERA on its own motion. No proposed revision will be effective without your approval and the approval of ERA.

(l) *Plan revocation.* ERA reserves the right to revoke a system compliance plan at any time on the basis of your material noncompliance with such plan.

(m) *Incorporation of Parts 500 and 501.* The administrative and definitional provisions contained in 10 CFR Parts 500 and 501, are incorporated by reference herein, and shall be applicable to this interim rule to the extent that they do not conflict with any of the provisions of this section.

[FR Doc. 79-19174 Filed 6-19-79; 8:45 am]
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FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Reg. K; Docket No. R-0204]

International Banking Operations; Final Rule Revision

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final regulation.

SUMMARY: The Board of Governors of the Federal Reserve System has revised its regulations governing the international operations of member banks, Edge and Agreement Corporations, and bank holding companies. The regulation updates existing regulations and combines them in one comprehensive regulation. With respect to Edge Corporations in particular, the International Banking Act of 1978 ("IBA") (92 Stat. 607) directed the Board to revise its regulations so as to further certain purposes including the stimulation of competition in providing international banking and financing services throughout the United States. The Board's actions are intended to promote this and other purposes of the IBA in addition to revising and reorganizing the Board's international banking regulations. The regulation has been adopted after review and consideration of the extensive public comment on the Board's original proposals.

DATE: The regulation is effective June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Frederick R. Dahl, Associate Director, Division of Banking Supervision and Regulation (202-452-2727); or C. Keefe

Hurley, Jr., Senior Attorney, Legal Division (202-452-3269), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: On February 14, 1979, the Board of Governors of the Federal Reserve System proposed a revision of its regulations governing the international operations of member banks, Edge Corporations, and bank holding companies. The Board is required by the International Banking Act of 1978 (92 Stat. 607) ("IBA") to revise its regulations governing Edge Corporations in the light of several amendments made to section 25(a) of the Federal Reserve Act (12 U.S.C. 611-631) ("Edge Act") by the IBA. The Board has also revised its regulations dealing with the foreign operations of member banks (Regulation M, 12 CFR Part 213) and foreign investment by bank holding companies (§ 225.4(f) of Regulation Y, 12 CFR 225.4(f)). These regulations have been combined in a comprehensive regulation entitled "International Banking Operations" to be designated as Regulation K.

Section 3 of the IBA contains the first significant amendment of the Edge Act since its enactment in 1919. In amending the Edge Act, the Congress declared that Edge Corporations are to have powers sufficiently broad to enable them to compete with foreign banks in the United States as well as abroad and to provide all segments of the United States economy a means of financing international trade and, in particular, exports. In addition, Edge Corporations are to serve as a means of fostering the participation of regional and smaller banks in international banking and financing and, in general, to stimulate competition in making those services available throughout the United States.

In addition to the general statement of purposes for Edge Corporations, the IBA made certain specific amendments all of which had the effect of relaxing statutory restrictions. For example, aggregate amount limitations on borrowings were eliminated, the minimum 10 per cent reserve requirement on deposits in the United States was eliminated, and the restriction on foreign ownership of Edge Corporations was modified.

Approximately 100 letters of comment concerning the proposed regulation were submitted to the Board. The Board has considered the proposed regulation and the comments received in the light of the purposes of the IBA, the Federal Reserve Act, and the Bank Holding Company Act. In many instances the regulation has been modified in response to comments received. Certain parts of the regulation differ significantly from existing regulations. These include domestic operations of Edge Corporations, investment procedures and restrictions, lending limits and capital requirements of Edge Corporations.

Operation of Edge Corporations in the United States

(1) The revised regulation permits Edge Corporations to establish branches in the United States with the prior approval of the Board. Comments on this proposal were mixed. Those favoring branching stated that it would make Edge Corporation operations more efficient and more competitive. Opponents were critical of the proposal because of the general prohibition against interstate branching by member banks (12 U.S.C. 36) and in light of the perceived effects of branches on competition.

Currently several banks operate Edge Corporations in more than one State. Edge Corporations are not subject to provisions of Federal law that limit the branching powers of member banks. Permitting Edge Corporations to branch will offer a more convenient organizational form by which to conduct business. Reducing the expenses associated with establishing an Edge Corporation in a new market may make international banking services available at more locations throughout the United States and encourage banks that do not currently have extensive Edge Corporation operations to consider this form of international banking and financing.

After considering the comments, however, the Board has revised its proposal by setting forth the factors that the Board will consider in acting on applications to establish Edge Corporations branches (and to form Edge Corporations). The Board will publish notice of the filing of such applications in the Federal Register and afford interested persons an opportunity to comment on the proposals.

(2) The proposed regulation would have permitted an Edge Corporation to provide full banking services to a customer that was principally engaged in international or foreign commerce. According to the proposal, a customer would be presumed to be principally engaged in international or foreign commerce if, on an unconsolidated basis, two-thirds of its purchases or sales were directly attributable to international or foreign commerce. This proposal, if adopted, would have represented a departure from existing rules that require verification of the international character of each transaction with an Edge Corporation. The Board invited comment regarding the desirability of the qualifying customer approach, the appropriate criteria for designating an international customer, the number and size of firms that would qualify the effects of using a different percentage, and the desirability of using a test other than purchases or sales in international commerce such as the proportion of the customer's business devoted to exports.

Many comments were received on this proposal; however, the information submitted was not sufficient to enable the Board to assess adequately the likely effects of the proposal. Accordingly, the Board decided to defer action on the qualified customer concept pending further consideration of the issue. The Board intends to publish a revised proposal for comment in the near future.

(3) The regulation permits Edge Corporations to finance the production of goods and services directly for export. The proposal would have permitted the financing of goods "readily identifiable" as being for export. Some comments indicated that this requirement could be unduly restrictive by limiting financing to those goods that can be isolated during the process of production as being for export. The regulation would permit the financing of goods for export that are identifiable as being directly for export *or* goods for which export orders have been received. Under the latter test on Edge Corporation could finance nonsegregable goods for export if export orders have been received.

(4) The regulation permits an Edge Corporation to issue negotiable certificates of deposit to foreign governments and foreign persons or in connection with international transactions. The Board's proposal would have limited the Edge Corporation's authority to issue such instruments to nonnegotiable certificates of deposit. Comments indicated that the limitation would place Edge Corporations at a competitive disadvantage in relation to other institutions, including branches of foreign banks.

Lending Limits

The regulation imposes a limit on the direct and indirect loans that an Edge Corporation engaged in banking can make to one person. Except as otherwise permitted by the Board, such loans may not exceed 10 percent of the

Edge Corporation's capital and surplus. In addition, loans to one person made by a member bank and by its direct and indirect subsidiaries formed or acquired under this regulation are to be aggregated and the total may not exceed the amount that the member bank alone may make to that person.

The Board's original proposal would have placed lending limits on Edge Corporations not engaged in banking and on their subsidiaries as well as on the subsidiaries of member banks and bank holding companies. Comments were generally opposed to this proposal as being unduly restrictive. It is the Board's judgment that the prudential purposes of the lending limits can best be served by placing limits on all loans to one person made by affiliates of member banks organized or acquired under this regulation and by establishing a separate limit for Edge Corporations that are engaged in banking.

Capital Requirements

The regulation requires that Edge Corporations engaged in banking maintain capital and surplus equal to at least 7 percent of the Edge Corporation's risk assets. The Board's proposal would have required that capital be maintained at 6 percent of total assets. Most of the comments on this issue stated that the proposal failed to account for the composition and quality of an Edge Corporation's assets. Accordingly the capital standard adopted by the Board would be based on risk assets.

Several comments expressed the view that no numerical capital standard should be set for Edge Corporations engaged in banking. It continues to be the Board's view that Edge Corporations should be financially sound in their own right. Thus, the Board has retained a minimum capital standard and has set that standard at 7 percent.

Investment Procedures and Limitations

(1) Section 211.5 contains revised application procedures designed to reduce the number of routine investment applications that must be acted on by the Board. The revised regulation provides for an expanded use of the general consent and the introduction of a prior notice procedure. Specific consent will be necessary only for investments which because of their size or some other aspect of the proposal, deserve Board consideration. The expanded general consent will allow investments of up to $2 million in subsidiaries and joint ventures so long as they are engaged in certain listed activities, and will allow portfolio investments in other companies up to the same dollar amount. Beyond that amount, investments can be made in subsidiaries and joint ventures engaged in listed activities up to 10 percent of an Edge Corporation's capital after 60 days' notice has been given to the Board. All other investments, either involving larger amounts or activities not listed in the regulation, will require specific Board approval.

(2) The activities listed in the regulation are those of a banking or financial nature that the Board has generally authorized for U.S. banking organizations to engage in abroad. Until now, the activities that could be engaged in abroad could only be determined by reference to individual Board consents to particular investments. Listing the activities in the regulation should afford a broader understanding of the investment powers and foreign activities of Edge Corporations, member banks, and bank holding companies. In addition, inclusion of the list permits simplification of approval procedures for investments in companies engaged in those activities. Provision is made for applications to engage in activities not on the list and for expansion of the list

Other Matters

At the time that it published the regulation for comment, the Board also invited comment on two other issues. The first issue involved the question of whether foreign subsidiaries of United States banking organizations should be permitted to lend to United States residents. The second issue was whether the statutory prohibition against Edge Corporations being members of the Federal Reserve System should be removed. Most of the comments that addressed these issues favored the wider lending authority and opening up the possibility of System membership. The Board is submitting recommendations to Congress on the membership issue as required by the IBA. The issue of loans to United States residents will be taken up as a separate matter.

Part 211 is added to 12 CFR to read as set forth below:

PART 211—INTERNATIONAL BANKING OPERATIONS

Sec.

211.1 Authority, purpose, and scope
211.2 Definitions.
211.3 Foreign branches of member banks
211.4 Edge and Agreement Corporations.
211.5 Investments in other organizations
211.6 Lending limits and capital requirements.
211.7 Supervision and reporting.

Authority: Federal Reserve Act (12 U.S.C. 221 et seq); The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq); and the International Banking Act of 1978 (Pub. L. 95-369; 92 Stat. 607; 12 U.S.C. 3101).

§ 211.1 Authority, purpose, and scope.

(a) *Authority.* This Part is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Federal Reserve Act (12 U.S.C. 221 *et seq.*) ("FRA"); the Bank Holding Company Act of 1956 (12 U.S.C 1841 *et seq.*) ("BHCA"); and the International Banking Act of 1978 (92 Stat. 607) ("IBA").

(b) *Purpose and scope.* This Part is in furtherance of the purposes of the FRA, the BHCA, and the IBA. It applies to corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631), "Edge Corporations"; to corporations having an agreement or undertaking with the Board under section 25 of the FRA (12 U.S.C. 601–604(a)), "Agreement Corporations"; to member banks with respect to their foreign branches and investments in foreign banks under section 25 of the FRA (12 U.S.C. 601–604(a)); [1] and to bank holding companies with respect to the exemption from the nonbanking prohibitions of the BHCA afforded by section 4(c)(13) of the BHCA (12 U.S.C. 1843(c)(13)).

§ 211.2 Definitions.

For the purposes of this part:

(a) An "affiliate" of an organization means any company of which the organization is a direct or indirect subsidiary, any other direct or indirect subsidiary of that company, and any direct or indirect subsidiary of the organization.

(b) "Capital and surplus" means paid-in and unimpaired capital and surplus, and includes undivided profits but does not include the proceeds of capital notes or debentures.

(c) "Directly or indirectly" when used in reference to activities or investments of an organization means activities or investments of the organization or of any subsidiary of the organization.

(d) An Edge Corporation is "engaged in banking" if it is ordinarily engaged in the business of accepting deposits in the United States from nonaffiliated persons.

(e) "Engaged in business in the United States" means maintaining and operating an office (other than a representative office) or subsidiary in the United States.

[1] Section 25 of the FRA, which refers to national banking associations, also applies to State member banks of the Federal Reserve System by virtue of section 9 of the FRA (12 U.S.C. 321).

(f) "Foreign" or "foreign country" refers to one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

(g) "Foreign bank" means an organization that: is organized under the laws of a foreign country; engages in the business of banking; is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; receives deposits to a substantial extent in the regular course of its business; and has the power to accept demand deposits.

(h) "Foreign branch" means an office of an institution which is located outside the country under the laws of which the institution is organized, at which a banking or financing business is conducted.

(i) "Investment" means the ownership or control of shares, including binding commitments to acquire shares, and other contributions to the capital accounts of an organization, including the holding of an organization's subordinated debt when shares of stock of the organization are also held directly or indirectly by an investor.

(j) "Investor" means an Edge Corporation, Agreement Corporation, bank holding company, or member bank.

(k) "Joint venture" is an organization 20 percent or more of the voting stock of which is held directly or indirectly by an investor or by an affiliate of the investor, but which is not a subsidiary of the investor.

(l) "Listed activities" means the activities specified in § 211.5(d).

(m) "Organization" means a corporation, government, partnership, association, or any other legal or commercial entity.

(n) "Person" means an individual or an organization.

(o) "portfolio investment" means an investment in an organization other than a subsidiary or joint venture.

(p) "Subsidiary" means an organization more than 50 percent of the voting stock of which is held directly or indirectly by the investor, or which is otherwise controlled or capable of being controlled by the investor or an affiliate of the investor.

§ 211.3 Foreign Branches of member banks.

(a) *Establishment of foreign branches.* A member bank may establish a foreign branch with prior approval of the Board. Unless otherwise advised by the Board: (1) A member bank that has branches in two or more foreign countries may establish initial branches in additional foreign countries after 60 days' notice to the Board; and (2) without prior approval or prior notice, a member bank may establish additional branches in any foreign country in which it operates one or more branches. Authority to establish branches through prior approval or prior notice shall expire one year from the earliest date on which it could have been exercised, unless extended by the Board. A member bank shall inform the Board within 30 days of the opening, closing or relocation of a branch and the address of a new or relocated foreign branch.

(b) *Further powers of foreign branches.* In addition to its general banking powers, and to the extent consistent with its charter, a foreign branch of a member bank may engage in the following activities so far as usual in connection with the business of banking in the country where it transacts business:

(1) Guarantee customers' debts or otherwise agree for their benefit to make payments on the occurrence of readily ascertainable events,[2] if the guarantee or agreement specifies a maximum monetary liability; but, except to the extent that the member bank is fully secured, it may not have liabilities outstanding for any person on account of such guarantees or agreements which when aggregated with other obligations of the same person exceed the limit contained in section 5200 of the Revised Statutes (12 U.S.C. 84);

(2) Accept drafts or bills of exchange drawn upon it subject to the amount limitations of section 13 of the FRA (12 U.S.C. 372);

(3) Invest in (i) the securities of the central bank, clearing houses, governmental entities, and government-sponsored development banks of the country in which the foreign branch is located, (ii) other debt securities eligible to meet local reserve or similar requirements, and (iii) shares of professional societies, schools, and the like necessary to the business of the branch; however, the branch's total investments under this provision (exclusive of securities held as required by the law of that country or as authorized under section 5136 of the Revised Statutes (12 U.S.C. 24)) shall not exceed one per cent of its total deposits on the preceding year-end call report date (or on the date of acquisition in the case of a newly established branch that has not so reported);

(4) Underwrite, distribute, buy, and sell obligations of the national government of the country in which the branch is located, obligations of an agency or instrumentality of the national government, and obligations of a municipality or other local or regional governmental entity of the country; however, no member bank may hold, or be under commitment with respect to, obligations of the government or governmental entities of a country as a result of underwriting, dealing, or purchasing for the bank's own account an aggregate amount exceeding 10 per cent of the member bank's capital and surplus;

(5) Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not the real estate is improved or has been appraised, and without regard to maturity or amount limitations or amortization requirements of section 24 of the FRA (12 U.S.C. 371);

(6) Extend credit up to $100,000 or its equivalent to an officer of the bank residing in the country in which the foreign branch is located to finance the acquisition or construction of living quarters to be used as the officer's residence abroad, provided any such credit extension is reported promptly to the branch's home office; however, when necessary to meet local housing costs, such amount may be exceeded with the specific prior approval of the member bank's board of directors;

(7) Act as insurance agent or broker;

(8) Pay to an employee of the branch, as part of an employee benefit program, a greater rate of interest than that paid to other depositors of the branch; and

(9) Engage in repurchase arrangements involving commodities and securities that are the functional equivalent of extensions of credit.

(c) *Other permissible activities.* A member bank that is of the opinion that activities other than those specified in this section are usual in connection with the transaction of the business of banking in the places where its branches transact business may apply to the Board for permission to engage in such activities.

(d) *Reserves.* Reserves shall be maintained against foreign branch deposits when required by Part 204 of this chapter (Regulation D).

§ 211.4 Edge and agreement corporations.

(a) *Organization.* (1) A proposed Edge Corporation shall become a body

[2] "Readily ascertainable events" include, but are not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

corporate when the Board issues a preliminary permit approving its proposed name, articles of association, and organization certificate. The name shall include "international," "foreign," "overseas," or some similar word, but may not resemble the name of another organization to an extent that might mislead or deceive the public. The factors that will be considered by the Board in acting on a proposal to organize an Edge Corporation include:

(i) The financial condition and history of the applicant;

(ii) The general character of its management;

(iii) The convenience and needs of the community to be served with respect to international banking and financing services; and

(iv) The effects of the proposal on competition.

The Board will publish in the Federal Register notice of any such proposal and will give interested persons an opportunity to express their views on the proposal.

(2) After the Board issues a preliminary permit, the Edge Corporation may elect officers and otherwise complete its organization, invest in obligations of the United States Government, and maintain deposits with banks, but it may not exercise any other powers until the Board has issued a final permit to commence business. No amendment to the articles of association shall become effective until approved by the Board.

(b) *Nature and ownership of shares.* (1) Shares of stock in an Edge corporation may not include no-par value shares and shall be issued and transferred only on its books and in compliance with section 25(a) of the FRA. The share certificates of an Edge Corporation shall (i) name and describe each class of shares indicating their character and any unusual attributes such as preferred status or lack of voting rights; and (ii) conspicuously set forth the substance of (A) limitations upon the rights of ownership and transfer of shares imposed by section 25(a) of the FRA, and (B) rules that the Edge Corporation shall prescribe in its by-laws to ensure compliance with this paragraph. Any change in status of a shareholder that causes a violation of section 25(a) of the FRA shall be reported to the Board as soon as possible, and the Edge Corporation shall take such action as the Board may direct.

(2) One or more foreign or domestic institutions referred to in section 3(f) of the IBA may apply for the Board's prior approval to acquire a majority of the shares of the capital stock of an Edge Corporation. In acting on an application by a foreign institution that is not subject to the IBA or the BHCA, the Board will impose any conditions that are necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. The aggregate amount invested in Edge Corporations by a foreign institution shall not exceed 10 percent of the foreign institution's capital and surplus.

(c) *Branches.* (1) With prior Board approval, an Edge Corporation may establish branches in the United States. In acting on a proposal to establish a branch in the United States, the Board will consider the same factors enumerated in § 211.4(a)(1). The Board will publish in the Federal Register notice of any proposal to establish a branch in the United States and will give interested persons an opportunity to express their views on the proposal.

(2) An Edge Corporation may establish branches abroad in accordance with the procedures in § 211.3(a).

(d) *Reserve requirements and interest rate limitations.* The deposits of an Edge Corporation are subject to Parts 204 and 217 of this chapter (Regulations D and Q) in the same manner and to the same extent as if the Edge Corporation were a member bank.

(e) *Permissible activities in the United States.* An Edge Corporation may engage in activities in the United States that are permitted by the sixth paragraph of section 25(a) of the FRA and in such other activities as the Board determines are incidental to international or foreign business. The following activities will ordinarily be considered incidental to an Edge Corporation's international or foreign business:

(1) *Deposits from foreign governments and persons.* An Edge Corporation may receive in the United States demand, savings, and time deposits (including negotiable certificates of deposits) from foreign governments and their agencies and instrumentalities, persons conducting business principally at their offices or establishments abroad, and individuals residing abroad.

(2) *Deposits from other persons.* An Edge Corporation may receive in the United States demand, savings, and time deposits (including negotiable certificates of deposits) if such deposits:

(i) Are to be transmitted abroad;

(ii) Consist of collateral or funds to be used for payment of obligations to the Edge Corporation;

(iii) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(iv) Consist of the proceeds of extensions of credit by the Edge Corporation; or

(v) Represent compensation to the Edge Corporation for extensions of credit or services to the customer.

(3) *Use of funds in the United States.* Funds of an Edge Corporation not currently employed in its international or foreign business, if held or invested in the United States, shall be in the form of cash, deposits with banks, and money market instruments such as bankers' acceptances, obligations of or fully guaranteed by Federal, State, and local governments and their instrumentalities, repurchase agreements, Federal funds sold, and commercial paper.

(4) *General activities.* Subject to the limitations of section 25(a) of the FRA and § 211.6, an Edge Corporation may engage in the following activities to the extent consistent with sound banking practices.

(i) Issue obligations to domestic offices of other banks (including pruchases of Federal funds) or to the United States or any of its agencies;

(ii) Incur indebtedness from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the Edge Corporation is obligated to repurchase;

(iii) Issue long-term subordinated debt that does not qualify as a "deposit" under Part 204 of this Chapter (Regulation D);

(iv) Finance the following: (A) Contracts, projects, or activities performed substantially abroad; (B) the importation into or exportation from the United States of goods, whether direct or through brokers or other intermediaries; (C) the domestic shipment or temporary storage of goods being imported or exported (or accumulated for export); and (D) the assembly or repackaging of goods imported or to be exported;

(v) Finance the costs of production of goods and services for which export orders have been received or which are identifiable as being directly for export;

(vi) Assume or acquire participations in extensions of credit, or acquire obligations arising from transactions the Edge Corporation could have financed;

(vii) Guarantee a customer's debts or otherwise agree for the customer's benefit to make payments on the occurrence of readily ascertainable events,[3] if the guarantee or agreement specifies the maximum monetary liability thereunder and is related to a type of transaction described in paragraphs (e)(4)(iv) and (4)(v) of this section;

(viii) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad, and collect such instruments in the United States for a customer abroad;

(ix) Hold securities in safekeeping for, or buy and sell securities upon the order and for the account and risk of a person;

(x) Act as paying agent for securities issued by foreign governments or other entities organized under foreign law;

(xi) Act as trustee, registrar, conversion agent, or paying agent with respect to any class of securities issued to finance foreign activities and distributed solely outside the United States;

(xii) Make private placements of participations in its investments and extensions of credit; however, except to the extent permissible for member banks under section 5136 of the Revised Statutes (12 U.S.C. 24), no Edge Corporation may otherwise engage in the business of selling or distributing securities in the United States; and

(xiii) Buy and sell spot and forward foreign exchange.

(5) *Other permissible activities.* An Edge Corporation that is of the opinion that other activities in the United States would be incidental to its international or foreign business may apply to the Board for such a determination.

(f) *Agreement Corporations.* With the prior approval of the Board, a member bank or bank holding company may invest in a federally or State chartered corporation that has entered into an agreement or undertaking with the Board that it will not exercise any power that is impermissible for an Edge Corporation under this part.

§ 211.5 Investments in other organizations.

(a) *General policy.* Activities of investors abroad, whether conducted directly or indirectly, shall be confined to those of a banking or financial nature and those that are necessary to carry on such activities. In doing so, investors shall at all times act in accordance with high standards of banking or financial prudence, having due regard for diversification of risks, suitable liquidity, and adequacy of capital. Subject to these considerations and the other provisions of this section, it is the Board's policy to allow activities abroad to be organized and operated as best meets corporate policies.

(b) *Investment limitations.* (1) An investor, in accordance with the investment procedures described in paragraph (c) of this section, may directly or indirectly:

(i) Invest in a subsidiary that engages solely in listed activities or in such other activities as the Board has determined in the circumstances of a particular case are permissible;

(ii) Invest in a joint venture provided that, unless otherwise permitted by the Board, not more than 10 percent of the joint venture's consolidated assets or revenues shall be attributable to activities that would not be permissible for a subsidiary;

(iii) Make portfolio investments (including securities held in trading or dealing accounts) in an organization if the total direct and indirect portfolio investments in organizations engaged in activities that are not permissible for joint ventures does not at any time exceed 100 per cent of the investor's capital and surplus.[4]

(2) A member bank's direct investments under section 25 of the FRA shall be limited to foreign banks and to foreign organizations formed for the sole purpose of either holding shares of a foreign bank or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or foreign bank affiliate of the member bank.

(3) Subsidiaries may establish branches in accordance with the procedures set forth in § 211.3(a).

(4) In computing the amount that may be invested in any organization under this section there shall be included any unpaid amount for which the investor is liable and any investments by affiliates.

(5) An investor shall dispose of an investment promptly (unless the Board authorizes retention) if:

(i) The organization invested in (A) engages in the business of underwriting, selling or distributing securities in the United States; (B) engages in the general business of buying or selling goods, wares, merchandise, or commodities in the United States; or (C) transacts business in the United States that is not incidental to its international or foreign business;

(ii) In the case of a subsidiary, it engages in an activity other than that which the Board has determined to be permissible; or in the case of joint venture, it engages in an impermissible activity beyond that described in paragraph (b)(1)(ii) of this section; or

(iii) After notice and opportunity for hearing, the investor is advised by the Board that its investment is inappropriate under the FRA, the BHCA, or this Part.

(c) *Investment procedures.*[5] Direct and indirect investments shall be made in accordance with the general consent, notice, or specific consent procedures contained in this section. The Board may at any time, upon notice, suspend the general consent and notification procedures with respect to any investor or with respect to the acquisition of shares of companies engaged in particular kinds of activities. An investor must receive prior specific consent of the Board for investment in its first subsidiary, its first joint venture, and its first portfolio investment unless an affiliate has made such investments. Authority to make investments under prior notice or prior consent shall expire one year from the earliest date on which it could have been exercised, unless extended by the Board.

(1) *General consent.* The Board grants its general consent for the following:

(i) Any investment in a joint venture or subsidiary, and any portfolio investment, if:

(A) The organization is not engaged in business in the United States; and

(B) The total amount invested does not exceed the lesser of (*1*) $2 million or (*2*) five per cent of the investor's capital and surplus in the case of a member bank, bank holding company, or Edge Corporation engaged in banking, or 25 per cent of the investor's capital and surplus in the case of an Edge Corporation not engaged in banking;

(ii) Any additional investment in an organization if:

(A) The additional investment does not cause the organization to be a direct or indirect subsidiary or joint venture of the investor; and

(B) The additional amount invested does not in any calendar year exceed 10 per cent of the investor's historical cost plus dividends for that year. The amount that may be invested under this provision of the general consent may, if not exercised, be carried forward and accumulated for up to five consecutive years; or

[3] "Readily ascertainable events" include, but are not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

[4] For this purpose, a direct subsidiary of a member bank is deemed to be an investor.

[5] When necessary, the general consent and prior notification provisions of this section constitute the Board's approval under the eighth paragraph of section 25(a) of the FRA for investments in excess of the limitations therein based on capital and surplus.

(iii) Any investment that is acquired from an affiliate at net asset value.

(2) *Prior notification.* An investment in a subsidiary or joint venture that does not qualify under the general consent procedure, may be made after the investor has given 60 days' prior written notice to the Board if the total amount to be invested does not exceed 10 per cent of the investor's capital and surplus. The notification period shall commence at the time the notice is accepted. The Board may, during the notification period, disapprove the investment, suspend the period, or require that an application be filed by the investor for the Board's specific consent.

(3) *Specific consent.* Any investment that does not qualify for either the general consent or the prior notification procedure shall not be consummated without the specific consent of the Board.

(d) *Listed activities.* The Board has determined that the following activities are usual in connection with the transaction of banking or other financial operations abroad:

(1) Commercial banking;

(2) Financing, including commercial financing, consumer financing, mortgage banking, and factoring;

(3) Leasing real or personal property if the lease serves as the functional equivalent of an extension of credit to the lessee of the property;

(4) Acting as fiduciary;

(5) Underwriting credit life insurance and credit accident and health insurance related to extensions of credit by the investor or its affiliates;

(6) Performing services for other direct or indirect operations of a United States banking organization, including representative functions, sale of long term debt, name saving, and holding assets acquired to prevent loss on a debt previously contracted in good faith;

(7) Holding the premises of a branch of an Edge Corporation or member bank or the premises of a direct or indirect subsidiary;

(8) Providing investment, financial or economic advisory services;

(9) General insurance brokerage;

(10) Data processing;

(11) Managing a mutual fund if the fund's shares are not sold or distributed in the United States or to United States residents and the fund does not exercise managerial control over the firms in which it invests;

(12) Performing management consulting services provided that such services when rendered with respect to the United States market shall be restricted to the initial entry;

(13) Underwriting, distributing, and dealing in debt and equity securities outside the United States, provided that no underwriting commitment by a subsidiary of an investor for shares of an issuer may exceed $2 million or represent 20 per cent of the capital and surplus or voting stock of an issuer unless the underwriter is covered by binding commitments from subunderwriters or other purchasers;

(14) Engaging in other activities that the Board has determined by regulation or order are closely related to banking under section 4(c)(8) of the BHCA.

An investor that is of the opinion that other activities are usual in connection with the transaction of the business of banking or other financial operations abroad and are consistent with the FRA or the BHCA may apply to the Board for such a determination.

(e) *Debts previously contracted.* Shares of stock or other evidences of ownership acquired to prevent a loss upon a debt previously contracted in good faith shall not be subject to the limitations or procedures of this section; however, the shares or evidences of ownership shall be disposed of promptly, but in no event later than two years after their acquisition unless the Board authorizes retention for a longer period.

§ 211.6 Lending limits and capital requirements.

(a) *Acceptances of Edge Corporations.* An Edge Corporation shall be and remain fully secured for (1) all acceptances outstanding in excess of twice its capital and surplus; and (2) all acceptances outstanding for any one person in excess of 10 per cent of its capital and surplus. These limitations shall not apply (i) if the excess represents the international shipment of goods and the Edge Corporation is fully covered by primary obligations to reimburse it that are also guaranteed by banks or bankers, or (ii) if the Edge Corporation is covered by participation agreements from other banks.

(b) *Liabilities of one person.* (1) Except as the Board may otherwise specify:

(i) the liabilities of any person to an Edge Corporation engaged in banking and to its direct or indirect subsidiaries shall not exceed 10 per cent of the Edge Corporation's capital and surplus;

(ii) the total liabilities of any person to a foreign bank or Edge Corporation that is a subsidiary of a member bank, and to subsidiaries of such foreign bank, Edge Corporation or member bank when combined with liabilities of the same person to the member bank and its affiliates, shall not exceed the member bank's limitation on loans to one person.

(2) "Liabilities" includes: Ineligible acceptances outstanding; obligations for money borrowed; investments in another organization (valued at original cost) except where that organization is a direct or indirect subsidiary; unsecured obligations resulting from the issuance of guarantees or similar agreements; underwriting commitments to an issuer of securities; in the case of a partnership or firm, obligations of its members, in the case of a corporation, obligations incurred for its benefit by other corporations that it controls; and in the case of a foreign government, the liabilities of its departments or agencies deriving their current funds principally from general tax revenues.

(3) The limitations of this paragraph do not apply to:

(i) Deposits of banks and Federal funds purchased;

(ii) Bills or drafts drawn in good faith against actual goods and on which two or more parties are liable;

(iii) Any acceptance that has not matured and is not held by the acceptor;

(iv) Obligations to the extent secured by cash collateral; or

(v) Obligations to the extent supported by the full faith and credit of the following:

(A) The United States or any of its departments, agencies, establishments, or wholly-owned corporations (including obligations to the extent insured against foreign political and credit risks by the Export-Import Bank of the United States or the Foreign Credit Insurance Association), the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Inter-American Development Bank, or the Asian Development Bank;

(B) Any organization if at least 25 per cent of such an obligation or of the total credit is also supported by the full faith and credit of, or participated in by any institution designated in paragraph (b)(3)(v)(A) of this section in such manner that default to the lender will necessarily include default to that entity. The total liabilities of such person shall at no time exceed 100 per cent of the capital and surplus of the lender or the parent Edge Corporation.

(c) *Loans to foreign banks.* A member bank that holds directly or indirectly shares in a foreign bank may make loans to that foreign bank without regard to section 23A of the FRA.

(d) *Capitalization.* An Edge Corporation shall at all times be capitalized in an amount that is adequate in relation to the scope and

character of its activities. In the case of an Edge Corporation engaged in banking, its capital and surplus shall be not less than seven per cent of risk assets. For this purpose, risk assets shall be deemed to be all assets on a consolidated basis other than cash, amounts due from banking institutions in the United States, United States Government securities, and Federal funds sold.

§ 211.7 Supervision and reporting.

(a) *Supervision.* (1) Investors shall supervise and administer their foreign branches and subsidiaries in such a manner as to ensure that their operations conform to high standards of banking and financial prudence. Effective systems of records, controls, and reports shall be maintained to keep management informed of their activities and condition. Such systems should provide, in particular, information on risk assets, liquidity management, and operations of controls and conformance to management policies. Reports on risk assets should be sufficient to permit an appraisal of credit quality and assessment of exposure to loss, and for this purpose provide provide full information on the condition of material borrowers. Reports on the operations of controls should include the internal and external audits of the branch or subsidiary.

(2) Investors shall maintain sufficient information with respect to joint ventures to keep informed of their activities and condition. Such information shall include audits and other reports on financial performance, risk exposure, management policies, and operations of controls. Complete information shall be maintained on all transactions with the joint venture by the investor and its affiliates.

(3) The reports and information specified in paragraphs (a) (1) and (2) of this section shall be made available to examiners of the appropriate bank supervisory agencies.

(b) *Examinations.* Examiners appointed by the Board shall examine each Edge Corporation once a year. An Edge Corporation shall make available to examiners sufficient information to assess its condition and operations and the condition and activities of any organization whose shares it holds.

(c) *Reports.* (1) Each Edge Corporation shall make at least two reports of condition annually to the Board at such times and in such form as the Board may prescribe. The Board may require that statements of condition or other reports be published or made available for public inspection.

(2) Edge Corporations, member banks, and bank holding companies shall file such reports on their foreign operations as the Board may require.

(3) A member bank, Edge Corporation or a bank holding company shall report within 30 days any acquisition or disposition of shares in a manner prescribed by the Board.

(d) *Filing procedures.* Unless otherwise directed by the Board, applications, notifications, and reports required by this Part shall be filed with the Federal Reserve Bank of the district in which the parent bank or bank holding company is located, or if none, the Federal Reserve Bank of the district in which the applying or reporting institution is located. Instructions and forms for such applications, notifications and reports are available from the Federal Reserve Bank.

(e) *Transition.* (1) Transactions that have been consummated or activities engaged in pursuant to the Board's general or specific consent prior to June 8, 1979, may be retained or continued. Conditions imposed or undertakings in connection with such investments that are inconsistent with this Part shall be superseded by this part.

(2) Extensions of credit in excess of the limitations of section 211.6(d) that were outstanding on June 8, 1979, may remain outstanding until the date of maturity.

(3) Edge Corporations whose accounts or investments do not conform to §§ 211.6(c) or 211.5(b) on June 14, 1979, shall conform such accounts and investments by June 14, 1981.

By order of the Board of Governors, effective June 13, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-19185 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Parts 211, 213, and 225

International Banking Operations; Rescission of Regulations K, M and part of Regulation Y

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Rescission of regulations.

SUMMARY: The Board is revising its regulations governing international banking operations. Current Regulations K (12 CFR Part 211), M (12 CFR Part 213), and § 225.4(f) of Regulation Y (12 CFR 225.4(f)) are being revised and combined in new Regulation K (12 CFR Part 211) which is set forth in an accompanying notice. Regulations K, M and that section of Regulation Y are, therefore, rescinded.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Frederick R. Dahl, Associate Director, Division of Banking Supervision and Regulation (202-452-2727); or C. Keefe Hurley, Jr., Senior Attorney, Legal Division (202-452-3269), Board of Governors of the Federal Reserve System.

The following actions are taken under the Board's authority under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 and 611); section 5 of the Bank Holding Company Act (12 U.S.C. 1844); and section 13 of the International Banking Act (12 U.S.C. 3108). Title 12 CFR is amended as follows:

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT [DELETED]

1. 12 CFR Part 211 is deleted in its entirety.

PART 213—FOREIGN ACTIVITY OF NATIONAL BANKS [DELETED]

2. 12 CFR Part 213 is deleted in its entirety.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

§ 225.4 [Amended]

3. Section 225.4(f) of 12 CFR Part 225 is deleted in its entirety.

By order of the Board of Governors, June 13, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-19186 Filed 6-19-79; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

[Doc. No. 79-338]

Policy on Branching

June 14, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board lifts the 100-mile limitation on branching of Federal savings and loan associations, to promote competition among financial institutions and enhance availability of consumer services.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Lois G. Jacobs, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 ((202) 377-6466).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 79-63, dated January 24, 1979, proposed to revoke § 556.5(b)(3) of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 556.5(b)(3)). That provision, which states the Bank Board's policy on branching of Federally-chartered savings and loan associations, allows establishment of branch or mobile offices only within 100 miles of the association's home office unless a state policy on branching is less restrictive. The exceptions have largely swallowed the rule so that the 100-mile restriction applies only in Illinois, Indiana, Louisiana, Minnesota, and Pennsylvania.

The proposed revision was published in the Federal Register on January 30, 1979 (44 FR 5899), with public comments invited by March 16, 1979. The Bank Board received 52 comments from 20 Federally-chartered savings and loan associations, 12 state-chartered associations, five trade associations, the Council on Wage and Price Stability, the Department of Justice, the State of Minnesota Department of Commerce, the Pennsylvania Department of Banking, the Philadelphia Council of Neighborhood Organizations, one commercial bank, and one individual.

Eight Federal associations, two trade associations, one commercial bank, one individual, the Council on Wage and Price Stability, and the Department of Justice supported the proposal, on the grounds that removal of the 100-mile limitation would promote competition and enhance consumer services in the few states that do not permit statewide branching.

The remaining commenters opposed the change in branching policy, arguing that removal of the restriction would not promote competition or enhance consumer services. They argued that the policy change would allow large metropolitan institutions to branch into unfamiliar small communities, resulting in a reduction of personal services for consumers. The institutions would then channel deposits from small communities into urban mortgages. Large institutions, with greater financial resources for expansion and advertising, would overwhelm small associations and absorb them through merger. The result would be greater concentration, not more competition, and loss of consumer services in small local communities.

Three trade associations and eight savings and loan institutions argued that the Bank Board's establishment of a uniform statewide branching policy for all Federal associations threatened state control of branching of state-chartered institutions. They believed that state legislatures would be forced to change state branching policies to keep state-chartered associations competitive with Federals. Four commenters urged delay in implementation of any regulation change to allow state legislatures to act.

The Bank Board has carefully considered all arguments regarding statewide branching and believes, on balance, that eliminating the 100-mile limitation will promote competition in those states which do not allow statewide branching. Experience in the states which permit statewide branching has demonstrated that small thriving institutions are not hurt by large competitors. Small well-run associations can often provide more personal services than large institutions, and consumers respond favorably to the quality of services, not just quantity of services and promotional activities. The Bank Board believes that large associations branching into new areas will improve services through competition, and because of increased competition, small competitive institutions will experience an increase in deposits. By this action, the Bank Board in no way impairs states' authority to regulate state-chartered institutions. It is acting within its statutory authority to regulate activities of Federally-chartered savings and loan associations, opting for uniformity and less regulation for this entire class of institutions. If Bank Board action on this matter encourages more liberal policies for state-chartered institutions, then the benefits of statewide branching will accrue to more consumers in more states.

The Bank Board believes that a January 1, 1980, effective date of this policy change will give state legislatures sufficient time to consider similar branching authority for state-chartered associations. If legislatures in one or more of the five affected states adopt less restrictive branching policies before that time, then the current language in the policy statement automatically would allow Federal savings and loans in those states to branch in a less restrictive manner

Therefore, the Bank Board hereby revokes 12 CFR 556.5(b)(3) and, in doing so, withdraws Bank Board Resolution No. 76-613 (41 FR 36039-40) which proposed a "rural branching" geographic limitation exception to the Bank Board's branching policies.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp. p. 1071)

By the Federal Home Loan Bank Board

J. J. Finn,

Secretary.

[FR Doc. 79-19231 Filed 6-19-79; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 575, 576, 577 and 578

[No. 79-325]

Rules and Regulations for Federal Mutual Savings Banks

June 14, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: Title XII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Act of November 10, 1978, Pub. L. No. 95-630, 92 Stat. 3641), which became effective on March 10, 1979, authorizes the Board to issue, if not in contravention of State law, Federal charters to existing State-chartered mutual savings banks, and to provide for the examination, operation, and regulation of such banks which convert to Federal charter. Accordingly, these rules and regulations cover applications for Federal mutual savings bank charters, the issuance of such charters and accompanying bylaws, the organization of mutual savings banks upon receipt of a Federal charter, and general requirements to which such converted institutions will be subject.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Loren J. Friesen, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone number: (202) 377-6454.

SUPPLEMENTARY INFORMATION: Title XII authorizes the Board to charter existing State-chartered mutual savings banks and to provide for their examination, operation and regulation, provided that the conversion of any such bank to Federal charter may not be in contravention of State law, and that a bank may not convert to a stock form of ownership. In issuing such charters the Board is under a mandate to give primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. More specifically, Title XII provides that, to the extent authorized by the Board, a converted

savings bank may continue to carry on any activities it was engaged in on December 31, 1977, and retain or make any investment of a type held on that date, except that its equity, corporate bond, and consumer-loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application. Moreover, a converted savings bank may be permitted to establish branch offices and other facilities only in accordance with the limitations, other than numerical, of State law, except that it may, in any event, if authorized by the Board, establish branch offices and other facilities in its own SMSA, county, or within 35 miles of its home office, but only if any such office or facility will also be located within the bank's State of domicile. Finally, Title XII provides that converted savings banks will be subject to the requirements of State law, in effect at the time of the conversion, pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or to the Consumer Credit Protection Act, if the Board determines that the State law (including regulations) imposes more stringent requirements than Federal law and regulations.

Technically, Title XII amends the Home Owners' Loan Act of 1933, as amended ("Act", 12 CFR Part 1461, *et seq.*), which is the same statute pursuant to which the Board charters Federal savings and loan associations. Section 1201 of the title redefines the term "association" for purposes of the Act to include Federal mutual savings banks, and to provide that any reference any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise. Section 1203 of Title XII amends the National Housing Act ("Housing Act", 12 U.S.C. 1724, *et seq.*) to, in effect, require that Federal mutual savings banks be insured by the Federal Savings and Loan Insurance Corporation. Section 5(f) of the Act requires that such banks be members of a Federal Home Loan Bank.

By Resolution No. 78-739 dated December 22, 1978 (see 43 FR 60999) the Board announced that hearings would be held on January 26, 1979, to solicit the views and comments of all interested parties on the manner in which the Board should exercise the authority and responsibility conferred by Title XII. That notice also solicited written views and comments on the same subject. Thereafter, by Resolution No. 79-162 dated March 8, 1979 (see 44 FR 15506-15512) the Board adopted, for public comment, proposed rules and regulations for Federal mutual savings banks including forms of a charter and accompanying bylaws. At that same time the Board also adopted proposed forms of an application for a Federal mutual savings bank charter, of a notice of the filing of such an application, and of an outline of information to be submitted in support of applications for such charters.

As stated in connection with the issuance of the March 8 proposals, what emerged from the Board's study of the Federal chartering of mutual savings banks were the following key questions:

(1) What criteria should apply to applicants for Federal mutual savings bank charters?;

(2) Should Federal mutual savings banks be required to permit depositor and borrower voting privileges and participation in membership meetings?; and

(3) In general, what rules and regulations should apply to Federal mutual savings banks?

Briefly stated with respect to the first question, § 576.1(b) of the proposed regulations provides that when acting on applications for mutual savings bank charters, the Board will generally consider the financial soundness, housing investment commitment, performance in helping to meet local credit needs, and the character of management of the applicant institutions. Specifically, with respect to the important matter of home-financing, the Board, in effect, would decide on a case-by-case basis whether an applicant's record, policy, and commitment to residential housing, is adequate under the circumstances that exist within the community or communities wherein it operates.

In response to the second question, Section 6 of the proposed charter (§ 577.1) provides for savings account holder and borrower membership-voting rights as enjoyed by depositor-borrower members of those Federal savings and loan associations which have adopted a preapproved optional charter provision permitting a maximum individual member vote of 400. Proposed § 576.4(c)(1), however, provides for a phase-in period, if approved by the Board, of up to six years until all of a Federal mutual savings bank's trustees would have to be elected by the voting membership.

Finally, in response to the third question, § 578.1 of the proposed regulations establishes that, except as otherwise provided in the Rules and Regulations for Federal Mutual Savings Banks (12 CFR Part 576 *et seq.*) or by specific Board orders, or as might be inconsistent with the proposed rules and regulations of the Act, Federal mutual savings banks would be subject to the Rules and Regulations for the Federal Savings and Loan System ("Federal Regulations", 12 CFR Part 541 *et seq.*), the Rules and Regulations for Insurance of Accounts ("Insurance Regulations", 12 CFR Part 561 *et seq.*) and, as members of a Federal Home Loan Bank, to the Regulations for the Federal Home Loan Bank System ("Bank Regulations", 12 CFR Part 521 *et seq.*). However, under § 578.2, the Board may authorize a Federal mutual savings bank to continue to carry on any activities in which it was engaged on December 31, 1977, as a State-chartered savings bank, and to retain or make any investment of a type it held on that date. It was, of course, envisioned, at the time of the March 8 proposals, that any authority conferred by this latter provision would supersede any of the Federal or Insurance Regulations that might be inconsistent therewith.

Other of the proposed regulations relate to applications for conversion to Federal mutual savings bank charters (§ 576.1), issuance of the charters and bylaws and incorporation (§ 576.2), membership in Federal Home Loan Banks and insurance of accounts (both of which, as indicated, are required, § 576.3), organizations (§ 576.4), prescribed charter and bylaw forms (§ 577.1 and § 577.2 respectively), branch offices and other facilities (§ 578.3), and the possible applicability of certain State laws and regulations (§ 578.4).

The proposed Federal mutual savings bank charter and bylaw provisions are based, in material respects, on standard form charter and bylaw provisions for Federal mutual savings and loan associations as amended by certain pre-approved optional provisions. The proposed "Outline of Information to be Submitted in Support of an Application for a Federal Mutual Savings Bank Charter," on the other hand, is generally designed with the object of requiring the submission of sufficient information so that the Board would be in a position to make a decision, consistent with applicable statutory provisions, on the merits of an application for a Federal mutual savings bank charter.

Public comments on March 8 proposals, discussion, and Board decisions on the proposals.

Representatives of six organizations, *i.e.*, the Amercian Bankers Association ("American Bankers"), Boston Federal Savings and Loan Association ("Boston Federal"), Farmers and Mechanics Savings Bank of Minneapolis ("Farmers and Mechanics"), the National Association of Mutual Savings Banks ("National Association"), the Savings Association League of New York State ("New York League") and the U.S. League of Savings Associations ("U.S. League"), submitted written comments on the subject proposals. In addition, a comment letter was received from an Assistant Attorney General for the State of New York, and one other letter was received, after publication of the proposals, from a representative of the Independent Bankers Association of America ("Independent Bankers"), commenting on the Board's Federal mutual savings bank chartering authority.

Material issues raised by the above letters along with Board decisions in connection therewith and on other aspects of the proposals, are noted and discussed below:

1. *Criteria by which applicant institutions will be evaluated.*

The criteria by which the Board proposed to evaluate applicants for Federal mutual savings bank charters, as indicated above, is set forth in § 576.1(b) of the proposed regulations. The Board has decided to adopt this section in the same form as proposed. A number of the comments expressed concern that Federal mutual savings banks have a sufficient commitment to the financing of homes. This is the same concern that had previously been raised at the Board's January 26 hearings, and in various of the written submissions that were solicited prior to the Board's adoption of the March 8 proposals.

In particular, the U.S. League and the New York League take the position that the case-by-case method for assessing an institution's housing commitment is unsatisfactory. They recommend that the Board adopt specific standards. The Independent Bankers spelled out what the latter might be by urging that the Board, at a minimum, require applicants for savings bank charters to demonstrate a 65 percent portfolio involvement in housing, or, if an applicant is short of that standard, a future commitment thereto. The American Bankers urge that applicants be required to demonstrate their commitment to housing by a record of investing substantially more than half of their asset portfolios in residential mortgages or mortgage-backed securities, that applicants who cannot demonstrate such be required to show that local conditions justify their other investments and that they evidence a specific commitment to housing within the limits of future market conditions, and that applicants be required to commit themselves, by board resolutions, to strong support for available 1–4 family residential mortgage lending.

The U.S. League also urges that the regulations should specifically provide that an application will not be approved if the applicant has not demonstrated " a sufficient housing commitment". Contending that the language in the last sentence of proposed § 576.1(b), providing that the Board will consider whether applicants are meeting the "credit needs of their local communities", is too broad, the League suggests an amendment that would make clear that the reference to "credit needs" in the above context means particularly housing and housing related credit needs. More generally, the New York League urges that the Board, when considering the stated criteria for mutual savings bank applicants, apply the same standards which would be applicable to a savings and loan association.

As indicated above, Title XII places the Board under a statutory mandate, when issuing Federal mutual savings bank charters, to give "primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States". The quoted language has been incorporated into proposed § 576.1(b). Other Title XII language sets forth as reasons for the Board's authority to provide for the organization, incorporation, examination, operation, and regulation of Federal mutual savings banks, the provision of "local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes". As evidence of what Congress had in mind when enacting Title XII, reference may also be made to the Report of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the Financial Institutions Regulatory Act of 1978 (H.R. Rep. No. 95–1383, 95th Cong., 2d Sess. (1978)). That report states, in relevant part, that:

"The committee wishes to emphasize strongly its intent that the Board should exercise its chartering, regulatory and supervisory powers in such a way that Federal mutual savings banks' investments reflect the fact that the Home Loan Bank System was created and continues to be firmly commited to the housing needs of this country. [The Report goes on to state that] [i]t is further expected that the Community Reinvestment Act will be used by the Board to enhance the housing and community related orientation of federally chartered savings banks" (at p. 30).

In the Board's view, there is thus no question but that Congress envisioned that savings banks converting to Federal charter be committed in a substantial, although not necessarily exclusive, way to the financing of homes, and applicants will be required to demonstrate such commitment to the Board's satisfaction.

The reason the Board has not chosen to adopt a quantitative home-financing test is first of all because, as stated in its March 8 proposals, the Board does not believe that it has the authority to do so in view of Title XII's legislative history. Moreover, as also previously stated, a rigid quantitative home-financing test would prevent the Board from taking into account local circumstances and conditions.

But while no specific quantitative home-financing test will be applied, it should be noted again that Title XII prohibits the Board from permitting a Federal mutual savings bank from increasing its ratio of equity, corporate bond, and consumer loan investments to total assets above its average for the five-year period immediately preceding the filing of its conversion application. This statutory restriction should, in and of itself, have the practical effect of encouraging mortgage lending.

2. *Governance of Federal mutual savings banks.*

The Board has decided, consistent with what it proposed on March 8, to require Federal mutual savings banks to permit their savings account depositors and borrowers to have membership-voting privileges with a phase-in period, subject to Board approval, of up to six years before all of a converted bank's trustees would have to be elected by the voting membership.

The National Association continues to argue for the retention of what has been the historic pattern for State-chartered mutual savings banks, *i.e.*, direction by a board (frequently by a board of trustees) which elects its own members or who are elected by corporators. The Association's comment letter states that the only objections to the existing systems of mutual savings bank governance are theoretical, and that alternative methods, including depositor voting, have often been shams or subjected to abuse. Farmers and Mechanics takes the position that its

system of trustee management has been successful and that depositor voting would not represent an improvement. The bank concludes, however, that while it finds it difficult to support depositor voting, it also finds it difficult to oppose.

As pointed out in the March 8 proposals, Section 5(b)(1) of the Act provides that "[h]olders of savings accounts and obligors of an association (redefined by Title XII, Section 1201, to include Federal mutual savings banks) shall, to such extent as may be provided by its charter or by regulation of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided". The Board's decision to require depositor and borrower membership-voting privileges is based on this statutory provision which clearly contemplates the exercise of voting privileges by members. Also bearing on the Board's decision is the fact that Congress has indicated no intent that Federal mutual savings banks are to be treated differently than Federal mutual savings and loan associations in matters relating to corporate governance. In the Board's view, it should not, in the absence of a clear Congressional directive, perpetuate the continuation of systems of corporate governance which, on their face, do not appear consistent with modern concepts of corporate democracy.

The Board's decision to permit a possible phase-in period of up to six years for membership election of trustees is based on its recognition of the fact, again as stated at the time of the original proposal, that it could be unnecessarily disruptive of management if the entire board of trustees of a converted Federal mutual savings bank were required to stand immediately for reelection by member vote. Farmers and Mechanics suggest that the initial election of trustees by members should not be required until after three years, as converting banks will have no proxies at the time of conversion, and obtaining proxies from existing depositors could be difficult and costly. The letter from the New York Attorney General's office, on the other hand, while conceding that it is understandable that the changeovers be implemented gradually, argues that the phase-in period envisioned by the proposed regulations is too long. Proposed § 576.4(a)(2)(i) requires, that, at a minimum, at least one-fifth of a converted bank's trustees must be elected by membership vote, either in person or by proxy, within two years of the issuance of its Federal charter, and that at least an additional one-fifth of the trustees be so elected within each of the next four years. The Board believes that the proposed minimum requirements are both fair and reasonable under the circumstances, and has decided to make no changes.

Under proposed § 576.4(a)(2)(ii) the Board, when deciding whether to approve, in individual cases, a plan providing for a phase-in period for the election of trustees, would "take into account whether the applicant's governing board is broadly based and representative of the community or communities in which the applicant operates". The National Association's comment letter expresses the concern that this language suggests that the Board might make an appraisal of the ethnic, religious, social, and economic backgrounds of the trustees. The U.S. League, on the other hand, quoting some of the same language, notes that it differs from the conflict of interest regulations.

Upon further consideration, the Board has decided to delete proposed § 576.4(a)(2)(ii). Proposed § 578.1 already provides that trustees of Federal mutual savings banks will be subject to all of the Federal and Insurance Regulations that pertain to directors of Federal savings and loan associations. The Board believes that incorporation of such provisions by reference is adequate, under the circumstances, and that no additional special requirements are needed.

The Board also has decided to make further changes in proposed § 576.4(a)(2)(i), which provides for the submission of a phase-in plan for member election of trustees. The Board has amended that provision (redesignated as § 576.4(c)(1)) to make clear that the plan must (i) specify the names of those persons who will be proposed for service on the applicant's board of trustees following conversion, and (ii) show how trustees not elected by the converted bank's membership will be appointed or otherwise selected. Further changes in the proposal would permit an applicant to submit a plan that would (i) provide that its Federal charter may be amended without a membership vote, during the first two years following receipt of the charter, provided any such amendment is first approved by a two-thirds vote of the board of trustees and is thereafter approved by the Board, and (ii) provide that the applicant's first annual membership meeting need not take place until two years after receipt of its Federal charter. Since a membership vote for the election of trustees will not be required until sometime before the end of the second year following the receipt of its Federal charter, the Board believes that it is appropriate not to require member approval of charter amendments or annual meetings of members during the first two years of a mutual savings bank's existence as a Federally chartered institution. For the same reason the Board will not require a Federal mutual savings bank to comply with the annual disclosure requirements of § 563.45 of the Insurance Regulations, if otherwise applicable, during the same two year period.

Another issue related to corporate governance was raised by the letter from the New York Attorney General's office. It suggests that increased democracy brought about by placing control of banks in the hands of their depositors and borrowers may be illusory unless a time limit is placed on member proxies for the election of trustees, and therefore proposes that the regulations permit proxies to be valid for only one annual membership meeting. A restriction of that kind is not presently applicable to Federal mutual savings and loan associations, and the Board does not believe that it would be appropriate to separately adopt such a restriction for just Federal mutual savings banks.

3. *Rules and regulations generally applicable to Federal mutual savings banks.*

Except for the regulations that specifically apply only to Federal mutual savings banks, and except as otherwise may be provided by specific Board orders, the Board has decided, as proposed in § 578.1, that Federal mutual savings banks will be generally subject to the Federal and the Insurance Regulations. Also, as members of a Federal Home Loan Bank, such institutions will be subject to the Bank Regulations. Section 578.1 has been amended, however, to make clear that references in the Federal Regulations to associations with a Charter K (rev.) or a Charter N shall be deemed as also referring, subject to the indicated exceptions, to Federal mutual savings banks.

Farmers and Mechanics and the National Association take exception to language in proposed § 578.1 providing that where applicable the Federal and Insurance Regulations shall apply to a Federal mutual savings bank, "just as if it were a Federal savings and loan association". Farmers and Mechanics states, in part, that "[a] mutual savings bank is not, and by virtue of the 'grandfathering' of investments and activities it was engaged in on

December 31, 1977, can not or should not be required to become a savings and loan association".

By providing that the Federal and Insurance Regulations might in some cases apply to Federal mutual savings banks the Board did not, when it first proposed § 578.1, and does not now, intend in any way to imply that Federal mutual savings banks and Federal savings and loan associations are one and the same. What was, and what is, intended by that provision is merely to make the Federal and Insurance Regulations applicable to Federal mutual savings banks where not inconsistent with the Act, the rules and regulations which specifically apply to Federal mutual savings banks, and Board orders. It should not be regarded as having any purpose beyond the technical function of incorporating by reference, where appropriate, those other regulations. To avoid any misunderstanding, however, we have deleted the phrase "just as if it were a Federal savings and loan association" from § 578.1. In this connection the Board points out that it fully intends to exercise, consistent with safe and sound operating practices and the broad purposes of the applicable statutory provisions, its authority, under Title XII, to grandfather activities and investments in which Federal mutual savings banks may be engaged, or which they may hold.

The Board envisions that grandfathered activities and investments will be listed, along with any applicable restrictions or other conditions, in the Board resolution approving an application for a Federal mutual savings bank charter. Section 10 of the charter has been revised so that, in addition to making clear that a converted bank will be authorized to make any investment or engage in any other activity as authorized by statute and Board rules and regulations in effect as of the date of the issuance of its Federal charter or as thereafter amended, it may make such other investments and engage in such other activities as may be authorized by the Board resolution approving issuance of its charter.

On this same subject § 578.2 makes clear which investments and activities the Board, under Title XII, may grandfather, *i.e.*, those engaged in or held on December 31, 1977. In addition, this section sets forth the statutory limitation on a Federal mutual savings bank's equity, corporate bond, and consumer loan investments, *i.e.*, the average ratio of such investments to total assets may not exceed the average for the five year period immediately preceding the filing of the conversion application. Farmers and Mechanics suggests a modification of § 578.2, as proposed, to provide that grandfathered activities or investments will be subject to requirements of State law and regulations promulgated thereunder including any sanction for the violation of same, but will not be subject to the provisions of § 578.1. The latter section, of course, is the section which incorporates by reference the Federal and Insurance Regulations.

The Board expects that State statutes and regulations will be referred to, as appropriate, for purposes of defining grandfathered activities and investments, and for spelling out any related conditions or restrictions. Also, as should be clear from the above, § 578.1 by its terms may be superceded by other rules and regulations, Board orders, or the Act. In view of the foregoing, no amendment to proposed § 578.2 in response to the latter concerns expressed by Farmers and Mechanics are needed, in the Board's judgment.

In further connection with the matter of grandfathered activities or investments, the National Association is concerned that activities or investments authorized by the Board at the time of conversion might thereafter be prohibited. They argue that the list of those activities and investments which are initially approved by the Board should be made part of an institution's charter, and that any changes in such list be made only where a relevant investment or activity is found to be incompatible with the safety, or soundness of the institution. In the latter event, however, the National Association's proposal would require that the institution be notified, that it be given time to cure the alleged incompatibility and that, if the matter is still in dispute after such time, it be the subject of a hearing with the right of judicial review.

The Board understands that a savings bank converting to Federal charter would want to have some confidence that the Board would not in the future lightly reverse investment and activity authority conferred at the time of conversion. Certainly that would not be the Board's intent. As already pointed out above, grandfathered activities and investments will be made a part of a Federal mutual savings bank's charter with the incorporation by reference of the Board resolution approving its application for a Federal charter. The right to engage in such activities, and to hold such investments, may thus be regarded as a fundamental aspect of the institution's existence and operational authority as a Federally created entity. The Board, however, cannot preclude in advance the possibility that under certain circumstances, such as due to statutory changes or supervisory concerns, appropriate restrictions might be imposed in unusual cases. In any event, the Board does not believe that it is necessary or appropriate to subject any changes in previously authorized activities or investments to formal procedures as the National Association is urging.

4. *Miscellaneous matters.*

(a) *Board Chairman.* The National Association indicates that the election of board chairmen is a common practice in the savings bank industry. It suggests that provision for such election be made in Section 7 of the proposed charter. Although trustees would have, under the proposals, the implied authority to elect board chairmen, the Board agrees that it is appropriate to specifically provide for such authority. Accordingly, Section 4 of the proposed prescribed bylaws has been amended to permit boards of trustees to elect both a chairman and a vice chairman. This section has also been amended to provide that the chairman may be the chief executive officer.

In this same connection Section 1 (a)(ii) of the proposed bylaws has been amended to add the chairman of the board both to the list of those officials with the authority to call special membership meetings on their own motion, and to the list of those officials who must call such a meeting upon the written request of an institution's members holding at least one-tenth of the votes eligible to be cast at a legal meeting. Along this same line, Section 3(b) of the proposed bylaws has been amended by adding the board chairman to the list of those officials who may call a special board of trustees meeting.

(b) *Rotation system for the withdrawal of savings accounts.* Section 8 of the proposed charter provides for a rotation system for the payment of withdrawal requests from savings accounts, in the event that a bank is unable to pay all such withdrawal requests that remain unpaid for more than 30 days. The National Association suggests that Section 8 is a historical anachronism and that it be deleted in its entirety.

Upon consideration of the matter, the Board has decided to eliminate the rotation system as set forth in Section 8. Language in that section, however, providing that it shall govern each withdrawal from a savings account except to the extent that a member's

savings account or other written evidence of such an account may contain additional requirements in accordance with Board regulations, has been retained. Also retained, is the language in effect providing that a bank shall have up to 30 days to pay withdrawal requests. Section 5(b)(1) of the Act mandates that Federal mutual savings banks have the right to require an advance notice of not less than 30 days for the payment of any savings account.

With respect to the decision to delete the rotation system for the payment of savings accounts, it may be noted that Section 5(b)(1) of the Act provides that a Federal mutual savings bank, except as authorized in writing by the Board, which fails to make full payment of any withdrawal when due is to be deemed to be in an unsafe and unsound condition to transact business. Institutions in such a condition, under Section 5(d)(6)(A) of the Act, would be subject to the appointment of a conservator or receiver. Under Section 401(d) of the Housing Act, the term "default" is defined to mean an adjudication or other official determination by a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or legal custodian is appointed for an insured institution for the purposes of liquidation. A determination of default, in turn, would trigger, under Section 405 of the Housing Act, the payment of insurance. In view of the extreme unlikelihood that a rotation system would ever be permitted, and because provision for such a system might be misinterpreted, the Board believes it appropriate not to include a provision of that nature in the charter.

(c) *Redemption of savings accounts.* Section 9 of the proposed charter provides for the nondiscriminatory redemption, under appropriate circumstances, of savings accounts other than fixed-rate, fixed-term certificates of deposit. Again the National Association finds the provision to be an historical anachronism and suggests that it be deleted. Upon consideration, the Board has decided to retain the provision. While it would not be expected that savings banks would frequently, if ever, seek to redeem savings accounts, the Board believes that it is appropriate that a procedure be in place whereby this may be done if, for whatever reason, an institution determined that it would be desirable to cut-back on its savings capital.

(d) *Termination of existing accounts.* Section 3(d)(6) of the proposed bylaws includes among the powers of the board of trustees the right to reject applications for accounts and membership. The National Association believes that this power should be expanded to include the ability to terminate existing accounts. Provided the termination of any accounts would be for cause and would not be arbitrary or discriminatory, and subject to all rights of contract, the Board agrees that boards of trustees should have the power to terminate existing accounts. Section 3(d)(6) has been accordingly amended.

(e) *Nominating committee.* Section 1(d) of the proposed bylaws provides, in part, that the president shall appoint a nominating committee for the nomination of trustees. This section has been amended to provide that the board of trustees shall authorize either the president or the chairman of the board to appoint, at least 30 days prior to the date of each annual meeting, a nominating committee of three persons who are members of the bank. It has been further amended to provide that the requirement that the nominating committee deliver its nominations to the secretary at least 15 days prior to annual meetings does not apply in the case of a nominee substituted as a result of the death or other incapacity of a nominee.

(f) *Branch offices and other facilities.* Section 578.3(b) has been amended to provide that applications for branch offices and other facilities shall show that the branch offices or other facility for which approval is being sought would be in compliance with those statutory restrictions set forth in § 578.3(a).

(g) *Liquidity requirements.* One of the comment letters expresses the understanding that § 523.11(e) of the Bank Regulations allows mutual savings banks to have a lower percentage of average daily liquidity base balances than savings associations. In point of fact State-chartered mutual savings banks which elect to maintain their liquid assets in accord with § 523.11(e) are subject to the same aggregate liquidity percentage requirement as savings associations. Such banks, however, are not, in all respects, subject to the same requirements as to the composition of their liquid assets.

The Board is not, at this time, in any way amending the Bank Regulations and, therefore, the liquidity requirements for both State-chartered and Federal-chartered mutual savings banks will be the same.

(h) *Dual insurance.* Boston Federal raised the issue of whether savings banks in Massachusetts will be able to retain Depositors Mutual Insurance Fund insurance of accounts coverage in addition to insurance by the Federal Savings and Loan Insurance Corporation. Section 563.31 of the Insurance Regulations, which will apply to Federal mutual savings banks, would prohibit retention of the former insurance.

(i) Application for a Federal mutual savings bank charter, notice of filing, and outline of information to be submitted in support of the application.

Proposed forms of the application, notice and outline were published in the Federal Register as part of the March 8 proposals. In final form they will not be part of the published regulations, but will be available from the Board's Supervisory Agent of the district in which the applicant is located. The Board has decided to adopt these forms largely as proposed. The following amendments, however, are noted:

(i) Instruction 1 of the application has been changed to provide that if an applicant elects not to include the words "Federal mutual savings bank" in its proposed corporate title, it must include the abbreviation "FSB", which abbreviation may be set out after the main corporate title, and in smaller type. The National Association suggests various abbreviations including "F.S.B.". The Board, however, believes that it should permit only one form of abbreviation, and that the one chosen should be clearly representative of the title "Federal mutual savings bank". The Act provides that Federal mutual savings banks are to be known as such.

(ii) The notice of the filing of an application for Federal charter has been amended to provide for the inclusion of an applicant's proposed name after receipt of a Federal charter, to include information relative to the filing of substantial protests, and to set forth the right to request a hearing.

(iii) Exhibit A(6) of the Outline of Information, has been deleted. It included among the items that applicants for Federal charter must submit, a copy of the latest examination report of the Federal Deposit Insurance Corporation together with copies of all correspondence with the FDIC in reference thereto. The Board has decided that its staff will directly request this information from the FDIC.

(iv) Exhibit C of the Outline of Information has been amended to make clear that a confidential biographical and financial report in the form of FHLBB Form 139, Rev. March 1977, must be submitted for each of the persons being proposed to serve on the applicant's governing board or as a

senior managing officer following receipt of its Federal charter.

(v) A new Exhibit F has been adopted. It requires applicants to submit (i) a description of the specific credit needs of their communities, including low- and moderate-income neighborhoods, and their record, including any expected changes in performance, in helping to meet those needs, and (ii) a copy of any assessment of their community service record which might have been made by a State supervisory authority.

(vi) In view of the above mentioned deletion of proposed § 576.4(a)(2)(ii), Exhibit G (which has been redesignated Exhibit H) of the Outline of Information has been amended by deleting the requirement that applicants provide information showing how broadly based and representative are their governing boards.

(vii) Exhibit H (which has been redesignated Exhibit I) of the Outline of Information has been amended to require that applicants for Federal charter stipulate that their conversion to Federal charter will have no effect upon the rights of creditors, borrowers, and accountholders, and that the succeeding Federal institution will assume all liabilities and assests of whatever kind. Proposed Exhibit H, on this point, required only that applicants indicate what effect, if any, their conversion to Federal charter would have upon creditor, borrower, or accountholder rights. The National Association suggests that the regulations should make clear that conversion to Federal charter will not change the traditional debtor-creditor relationship between a savings bank and its depositors. Other language in proposed Exhibit H has been retained under new Exhibit J.

Accordingly, the Board, with further style and technical changes not discussed above, adopts, in final form, the following rules and regulations:

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 575—DEFINITIONS

Sec.

575.1 General.
575.2 Act.
575.3 Federal mutual savings bank.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., 7, p. 1071.

§ 575.1 General.

Unless the context indicates otherwise, and except as provided in this Part, definitions that appear elsewhere in this Chapter shall be applicable to this subchapter.

§ 575.2 Act.

The Home Owners' Loan Act of 1933, as amended.

§ 575.3 Federal mutual savings bank.

A mutual savings bank chartered by the Board under Section 5 of the Act.

PART 576—APPLICATION, ISSUANCE OF CHARTER AND BYLAWS, ORGANIZATION

Sec.

576.1 Application for conversion to Federal Charter.
576.2 Issuance of charter and bylaws, incorporation.
576.3 Membership in Federal home loan bank and insurance of accounts.
576.4 Organization, plan for governance during first six years after issuance of Federal charter.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1943–48 Comp., p. 1071.

§ 576.1 Application for conversion to Federal charter.

(a) *General.* Questions regarding this section shall be directed to the Board's Supervisory Agent of the district in which the applicant is located. Recommendations by Supervisory Agents and officers and employees of the Board regarding applications for issuance of Federal mutual savings bank charters are privileged, confidential, and subject to § 505.6 of this chapter.

(b) *Eligibility and criteria by which applicant institutions will be evaluated.* Federal mutual savings bank charters may be issued only to existing State-chartered mutual savings banks located in States where conversion to Federal charter would not be in contravention of State law. In acting on applications for conversion to such Federal charters the Board will give primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. In particular, the Board will consider the financial history and condition of the applicant banks, the adequacy of their capital structure, their future earnings prospects, the general character of their management, their home-financing record and policy, their indicated commitment to home-financing and their performance in helping to meet the credit needs of their local communities.

(c) *Form; supporting information.* State-chartered mutual savings banks applying for Federal charter shall obtain Board-approved application and notice forms and any related instructions from the Supervisory Agent. Completed applications along with all required supporting information shall be submitted, together with evidence of appropriate corporate authorization, to the Supervisory Agent. An application shall be deemed filed when four copies of all required materials are delivered to the Supervisory Agent, and shall be deemed complete when the Supervisory Agent determines that all required information has been submitted. Additional information may be requested at any time by the Board or its staff and an eligibility examination may be conducted.

(d) *Procedure on applications.* Processing of an application under this Section shall follow the procedures set forth in § 543.2 (c), (d), (e), and (f) of this chapter, except that (1) notice of the filing of an application required under § 543.2(d)(3) shall be given to the State official who supervises mutual savings banks, (2) the term "new association" as used in § 543.2(d)(3) shall be deemed to include a "Federal mutual savings bank", and (3) the requirement in said paragraph (d)(3) that notice of the application shall be given to persons who have made timely requests for announcements under § 563e.6 of this chapter shall be deemed to refer to any such requests made pursuant to public notice requirements of the Federal Deposit Insurance Corporation.

(e) *Approval.* Decisions on all applications for issuance of Federal mutual savings bank charters will be made by the Board. Approvals may be conditioned upon any requirements the Board may impose.

§ 576.2 Issuance of charter and bylaws, incorporation.

Upon submission of evidence of compliance with any conditions prescribed by the Board, a charter and bylaws will be issued in the forms provided in § 577.1 and § 577.2 of this subchapter, or as otherwise approved by the Board.

Issuance of a charter to a Federal mutual savings bank constitutes its incorporation by the Board.

§ 576.3 Membership in Federal home loan bank and insurance of accounts.

Upon issuance of a Federal charter, the applicant bank shall promptly qualify as a member of a Federal home loan bank, and shall promptly meet all requirements necessary to obtain insurance of its accounts by the Federal Savings and Loan Insurance Corporation.

§ 576.4 Organization, plan for goverance during first six years after issuance of Federal charter.

(a) *Organization meeting.* Except as provided in paragraph (c)(1) promptly upon receipt of a charter the officers of

the Federal mutual savings bank shall call a meeting of the members. Notice for, and conduct of, such meeting shall be in accordance with the bank's Federal charter and bylaws. Business to be transacted at the organization meeting shall include the election of trustees and any other matters permitted by the charter and bylaws. Any action taken at such meeting shall be deemed an acceptance of the charter and bylaws issued pursuant to § 576.2.

(b) *First meeting of trustees.* Upon election or appointment, the board of trustees shall hold a meeting to elect the officers of the bank in accordance with its Federal charter and bylaws, and to take other action necessary to permit the operation of the bank in accordance with Section 5 of the Home Owners' Loan Act of 1933, as amended, the bank's charter and bylaws, these rules and regulations, and orders of the Board.

(c) *Plan for governance of institution during first six years after issuance of Federal charter.* (1) An applicant for a Federal mutual savings bank charter may submit a plan which provides that each member of its governing board, *i.e.*, board of trustees, managers, or directors, may continue to serve, provided that within two years of the issuance of a Federal charter at least one-fifth of the members of such board shall have been elected by vote, either in person or by proxy, of the bank's membership as provided in its Federal charter, that within three years of the issuance of its Federal charter at least two-fifths of the members of such board shall have been elected by such a membership vote, that within four years of the issuance of its Federal charter at least three-fifths of the members of such board shall have been elected by such a membership vote, that within five years of the issuance of its Federal charter at least four-fifths of the members of such board shall have been elected by such a membership vote, and that within six years of the issuance of its Federal charter all of the members of such board shall have been elected by such a membership vote. The plan (i) shall set forth the names of those persons who are being proposed for service on the applicant's governing board (which is to be known in all cases as the board of trustees) after conversion to Federal charter, (ii) shall show how trustees not elected by the converted bank's membership will be appointed or otherwise selected, and (iii) shall provide that no trustees may be appointed or elected to terms of more than three years. The plan may provide that (i) after receipt of its Federal charter the bank will be organized by its existing governing board, (ii) within the first two years following receipt of its Federal charter, the bank's charter may be amended without a membership vote, provided any such amendment is first approved by a two-thirds vote of its board of trustees and is thereafter approved by the Board, and (iii) the bank's first annual membership meeting and need not the take place until two years after receipt of its Federal charter. Also, during the first two years of any such plan, the Board will not require the bank to comply with the disclosure requirements of § 563.45 of the Insurance Regulations if such disclosure requirements would be otherwise applicable.

(2) Except to the extent that the Board approves a plan under this paragraph (c) which is inconsistent with other provisions of this § 576.4, a Federal mutual savings bank shall in all respects comply with those other provisions.

PART 577—CHARTER AND BYLAWS

Sec.
577.1 Prescribed form.

Bylaws

577.2 Prescribed form.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071.

§ 577.1 Prescribed form.

Unless otherwise authorized by the Board, a Federal mutual savings bank shall operate under the following charter (language in brackets, however, shall be applicable to individual institutions only as specifically approved by the Board) until such charter has been amended under the procedure therein prescribed:

Charter B

Section 1. *Corporate Title.* The full corporate title of the bank is——————.

Section 2. *Office.* The home office of the bank shall be located in the County of——————, State (Territory, Possession or District) of——————.

Section 3. *General Objects and Powers.* The bank is a mutual thrift institution established for the primary purpose of providing people with a convenient and safe place to invest their funds and to provide for the financing of homes, and is chartered under Section 5 of the Home Owners' Loan Act of 1933, as amended, and has and may exercise all the express, implied and incidental powers conferred thereby and by all acts amendatory thereof and supplemental thereto, subject to the Constitution and laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Federal Home Loan Bank Board ("Board").

Section 4. *Duration.* The duration of the bank is perpetual.

Section 5. *Capital.* The bank may raise capital by accepting payments on deposit savings accounts (hereinafter referred to as "savings accounts") [and on deposit checking accounts] and by any other means (except capital stock) as may be authorized by the Board.

Section 6. *Members.* All holders of the bank's savings accounts and all borrowers therefrom are members. In the consideration of all questions requiring action by the members of the bank each holder of a savings account shall be permitted to cast one vote for each $100 or fraction thereof, of the withdrawal value of his or her account. A borrowing member shall be permitted, as a borrower, to cast one vote, and to cast the number of votes to which he or she may be entitled as the holder of a savings account. No member, however, shall cast more than 400 votes. Voting may be by proxy. Any number of members present at a regular or special meeting of the members shall constitute a quorum. Except as otherwise provided by this charter or required by the Board, a majority of all votes cast at any meeting of members shall determine any question.

The members who shall be entitled to vote at any meeting of the members shall be those owning savings accounts and borrowing members of record on the books of the bank at a date set by the board of trustees not less than 20 days and not more than 50 days prior to the date of such meeting. The number of votes which each member shall be entitled to cast at any meeting of the members shall be determined from the books of the bank as of such record date. Any member at such record date who ceases to be a member prior to such meeting shall not be entitled to vote thereat. All savings accounts shall be nonassessable.

Section 7. *Trustees.* The bank shall be under the direction of a board of trustees of not less than 7, as fixed in the bank's bylaws or, in the absence of any such bylaw provision, as from time to time expressly determined by resolution of the bank's members. Each trustee of the bank shall be a member of the bank, and a trustee shall cease to be a trustee when he ceases to be a member. Trustees of the bank shall be elected by its members by ballot; *Provided,* That in the event of a vacancy in the board of trustees, including vacancies created by an increase in the number of trustees, the board of trustees may fill such vacancy by electing a trustee to serve until the next annual meeting of the members. Trustees shall be elected for periods of 3 years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board of trustees each year.

The foregoing, however, not withstanding, for the 6-year period following the issuance of this charter, the election of trustees may be in accord with any procedures and requirements set forth in Board Resolution No. ——, dated ——————, ——, authorizing the issuance of this charter,

which may be inconsistent with this section 7.

Section 8. *Withdrawals.* Each withdrawal from a savings account shall be governed by this section except to the extent that a member's account book or other written evidence of the member's savings account contains additional requirements in accordance with regulations of the Board. The bank shall have the right to pay the withdrawal value of its savings accounts at any time upon application therefor and to pay the holders thereof the withdrawal value thereof. Upon receipt of a written request from any holder of a savings account of the bank for the withdrawal from such account of all or any part of the withdrawal value thereof, the bank shall within 30 days pay the amount requested.

Section 9. *Redemption.* At any time sufficient funds are on hand, the bank shall have the right to redeem, by lot or other non-discriminatory manner as the board of trustees may determine, all or any part of any of its savings accounts, except fixed-rate, fixed-term certificates of deposit, by giving 30 days' notice of such redemption by registered mail addressed to the holder of each such savings account at his or her last address as recorded on the books of the bank. The bank may not redeem any of its savings accounts when there is an impairment of its capital or when it has any request for withdrawal which has been on file and unpaid for more than 30 days. The redemption price of each savings account redeemed shall be the full value thereof, as determined by the board of trustees, but in no event shall the redemption price be less than the withdrawal amount of such savings account. If a savings account which is redeemed is entitled to participate in any reserve for bonus, the amount in such reserve for bonus which is properly allocable to such savings account shall be paid as part of the redemption price thereof. If any notice of redemption shall have been duly given, and if the funds necessary for such redemption shall have been set aside so as to be and to continue to be available for that purpose, earnings upon such account shall cease to accrue from and after the date specified as the redemption date and all rights with respect to each such account shall forthwith, after such redemption date, terminate, except only the right of the holder of record of such savings account to receive the redemption price thereof without earnings.

Section 10. *Loans, Investments, other Activities.* The bank may make any investment and engage in any other activity (i) as authorized by statute and Board rules and regulations in effect as of the date of the issuance of this charter, or as thereafter amended, and (ii) as may in addition, be specifically authorized by Board Resolution No. ——, dated ————, approving the issuance of this charter: *Provided, however,* That the bank's equity, corporate bond, and consumer loan investments may in no event exceed —— percent of its assets.

Section 11. *Reserves, Distribution of Earnings, and Liquidation.* The bank shall maintain general reserves for the sole purpose of meeting losses in at least such amounts as may be required by the Board; such reserves shall include the reserve required for insurance of accounts. Any losses may be charged against general reserves.

The bank shall distribute net earnings on its savings accounts on such basis and in accordance with such terms and conditions as may from time to time be authorized by the Board: *Provided, however,* That the bank shall not be required to distribute earnings on short-term savings accounts or on accounts of less than 50 dollars.

All holders of savings accounts [and of checking accounts] of the bank shall be entitled to equal distribution of assets, pro rata to the value of their accounts, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the bank. Moreover, in any such event, or in any other situation in which the priority of such savings accounts [and checking accounts] is in controversy, all such accounts shall, to the extent of their withdrawal value, be debts of the bank having the same priority as the claims of general creditors of the bank not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the bank.

Section 12. *Amendment of Charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such is first proposed by the board of trustees of the bank, approved by the Board, and thereafter approved by the members by a majority of the votes cast at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon shall be filed with the Board and shall be effective as of the date approved by the bank's membership.

Federal Home Loan Bank Board

By ————————

(Chairman)

Attest

————————

(Secretary)

Bylaws

§ 577.2 Prescribed form.

Unless otherwise authorized by the Board, a Federal mutual savings bank shall operate under the following bylaws until such bylaws are amended under the procedure therein prescribed:

Section 1. *Annual and special meetings of members.*

(a) *Date, Purpose.* (i) The annual meeting of the members of the bank for the election of trustees and for the transaction of any other business of the bank shall be held at its home office on ———— (insert a date no earlier than 15 days after the annual closing of the bank's books and not later than 3 months and 15 days after such closing of the bank's books) of each year if not a Sunday or legal holiday, or, if a Sunday or a legal holiday, then on the next succeeding day not a Sunday or a legal holiday. The annual meeting may be held at such other place in the same community as the board of trustees may determine. In lieu of the date specified in the first sentence of this subparagraph, such annual meeting in any year may be held on another date which is not a Sunday or a legal holiday and which is not earlier than 15 days after the annual closing of the bank's books and not later than 3 months and 15 days after such closing of the bank's books, if the following requirements are met:

(1) The board of trustees determines the date by resolution adopted at least 2 months before the annual closing of the books for the year preceding the year in which the annual meeting is to be held; and

(2) Notice of said date is continuously posted in a conspicuous place in each of the offices of the bank during the 50 days immediately preceding the date so determined.

At each annual meeting, the officers shall make a full report of the financial condition of the bank and of its progress for the preceding year, and shall outline a program for the succeeding year.

(ii) Special meetings of the members of the bank may be called at any time by the chairman of the board of trustees, the president, or the board of trustees, and shall be called by the chairman of the board of trustees, the president, a vice president, or the secretary upon the written request of members holding of record in the aggregate at least one-tenth of the votes eligible to be cast. Such written request shall state the purposes of the meeting and shall be delivered at the home office of the bank.

(b) *Notice of meetings of members.* Notice of each annual or special meeting shall be either published once a week for the two consecutive calendar weeks (in each instance on any day of the week) immediately prior to the week in which any such meeting shall convene, in a newspaper printed in the English language and of general circulation in the city or county in which the home office of the bank is located, or mailed postage prepaid at least (insert number not less than 15) days and not more than (insert number not more than 45) days prior to the date on which any such meeting shall convene to each of its members of record at his or her last address appearing on the books of the bank. Such notices shall state the name of the bank, the place of the meeting, the time when it shall convene, and, in the case of special meetings, the purpose or purposes for which the meeting has been called. A similar notice shall be posted in a conspicuous place in each of the offices of the bank during the 14 days, except as otherwise provided in Section 1 of these bylaws, immediately preceding the date on which any such meeting shall convene. If any member, in person or by attorney thereunto authorized, shall waive in writing notice of any meeting of members, notice thereof need not be given to such member.

(c) *Rules governing conduct of meetings.* Annual and special meetings of members shall be conducted in accordance with the most current edition of Roberts' Rules of Order.

(d) *Nominating committee.* The board of trustees shall authorize either the president or the chairman of the board to appoint, at least 30 days prior to the date of each annual meeting, a nominating committee of three

persons who are members of the bank. Except in the case of a nominee substituted as a result of the death or other incapacity of a nominee, the nominating committee shall deliver written nominations to the secretary at least 15 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 15 days' period prior to the date of the annual meeting. Provided such committee makes such nominations, no nominations for trustees except those made by the nominating committee shall be voted upon at the annual meeting unless other nominations by members are made in writing and delivered to the secretary of the bank at least 10 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 10 days' period prior to the date of the annual meeting. Ballots bearing the names of all persons nominated by the nominating committee and by other members prior to the annual meeting shall be provided for use by the members at the annual meeting. If the nominating committee shall fail or refuse to act at least 15 days prior to the annual meeting, nominations for trustees may be made at the annual meeting by any member and shall be voted upon.

(e) *New business.* Any new business to be taken up at the annual meeting, including any proposal to increase or decrease the number of trustees of the bank, shall be stated in writing and filed with the secretary of the bank on or before 30 days before the date of the annual meeting, and all business so stated, proposed and filed shall be considered at the annual meeting, but no other proposal shall be acted upon at the annual meeting. Any member may make any other proposal at the annual meeting and the same may be discussed and considered, but, unless stated in writing and filed with the secretary 30 days before the meeting, such proposal shall be laid over for action at an adjourned, special or regular meeting of the members taking place 30 days or more thereafter. This provision shall not prevent consideration and approval, or disapproval, at the annual meeting of the reports of officers and committees, but in connection with such reports no new business shall be acted upon at such annual meeting unless stated and filed as herein provided.

(f) *Voting by proxy.* Voting at any annual or special meeting of the members may be by proxy, but no proxies shall be voted at any meeting unless placed on file with the secretary of the bank for verification at least 5 days before such meeting convenes.

Section 2. *Communication between bank members.* The right and manner of communications between bank members shall be subject to any rules or regulations of the Federal Home Loan Bank Board ("Board") applicable to any such communications.

Section 3. *Board of trustees.*

(a) *Number.* The number of trustees of the bank shall be ———.

(b) *Meetings.* The board of trustees shall meet regularly without notice at the home office of the bank at least once each month at the hour and date fixed by resolution of the board of trustees: *Provided,* That the place of meeting may be changed by the trustees. Special meetings of the board of trustees may be held at any place in the territory in which the bank may make loans specified in a notice of such meeting, and shall be called by the secretary upon written request of the chairman of the board of trustees, the president, or of three trustees. All special meetings shall be held upon at least 3 days' written notice to each trustee unless notice be waived in writing before or after such meeting. Such notice shall state the place, time, and purposes of such meeting. A majority of the trustees shall constitute a quorum for transaction of business. The act of a majority of the trustees present at any meeting at which there is a quorum, unless governing law, rules or regulations require otherwise, shall be the act of the board of trustees. All meetings of the board of trustees shall be conducted in accordance with the most current edition of Roberts' Rules of Order.

(c) *Resignations.* Any trustee may resign at any time by sending a written notice of resignation to the office of the bank, delivered to the secretary. Unless otherwise specified therein, such resignation shall take effect upon its receipt by the secretary. More than three consecutive absences from regular meetings of the board of trustees, unless excused by resolution of the board of trustees, shall automatically constitute a resignation, effective when accepted by the board of trustees.

(d) *Powers.* The board of trustees shall have power:

(1) To appoint and remove by resolution the members of an executive committee, the members of which shall be trustees, which committee shall have and exercise the powers of the board of trustees between meetings of the board of trustees;

(2) To appoint and remove by resolution the members of such other committees as may be deemed necessary and prescribe the duties thereof;

(3) To fix the reasonable compensation of trustees, including advisory trustees and trustees emeriti, officers, and employees; and to remove any officer or employee at any time with or without cause;

(4) To extend leniency and indulgence to borrowing members in distress, and generally to compromise and settle any debts and claims;

(5) To limit payments on capital which may be accepted;

(6) To reject any application for savings accounts [or checking accounts] or membership, and to terminate any such accounts or membership, subject to all rights of contract, provided that any such rejection or termination must be for cause, and may not be arbitrary or discriminatory; and

(7) To exercise any and all of the powers of the bank not expressly reserved by the charter to the members.

Section 4. *Officers, employees and agents.* Annually at the meeting of the board of trustees of the bank next following the annual meeting of the members of the bank, the board of trustees may elect a chairman of the board of trustees, who may also be the chief executive officer, a vice chairman of the board of trustees, and shall elect a president, one or more vice presidents, a secretary, and a treasurer. The offices of secretary and treasurer may be held by the same person, and a vice president may also be either the secretary or the treasurer. The board of trustees may appoint such additional officers and such employees and agents as it may from time to time determine. The term of office of all officers shall be one year or until their respective successors are elected (or appointed) and qualified. However, the board of trustees may authorize the bank to enter into an employment contract with any officer in accordance with Board regulations; but no such contract shall impair the right of the board of trustees to remove any office at any time. In the absence of designation from time to time of powers and duties by the board of trustees, officers shall have such powers and duties as generally pertain to their respective offices.

Any indemnification by the bank of the bank's personnel is subject to any applicable Board rules or regulations.

Section 5. *Execution of instruments, generally.* All documents and instruments, or writings of any nature, shall be signed, executed, verified, acknowledged, and delivered by such officers, agents, or employees of the bank or any one of them and in such manner as from time to time may be determined by resolution of the board of trustees. All notes, drafts, acceptances, checks, endorsements, and all evidences of indebtedness of the bank whatsoever shall be signed by such officer or officers or such agent or agents of the bank and in such manner as the board of trustees may from time to time determine. Endorsements for deposit to the credit of the bank in any of its duly authorized depositaries shall be made in such manner as the board of trustees may from time to time determine. Proxies to vote with respect to shares or accounts of other banks or associations or stock of other corporations owned by or standing in the name of the bank may be executed and delivered from time to time on behalf of the bank by any person or persons thereunto authorized by the board of trustees.

Section 6. *Amendment.* These bylaws may be amended at any time by a two-thirds affirmative vote of the entire board of trustees, or by a vote of the members of the bank. Each amendment shall, however, be subject to approval of the Board, and be ineffective until such approval has been given.

PART 578—OPERATIONS

Sec.
578.1 General.
578.2 Investments and activities.
578.3 Branch offices and other facilities.
578.4 Applicability of State laws and regulations.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 comp. p. 1071.

§ 578.1 General.

Except as otherwise provided in this Subchapter or by specific Board orders,

or except to the extent as may be otherwise inconsistent with this Subchapter or with the Act, as determined by the Board's Office of the General Counsel, a Federal mutual savings bank shall be subject to the rules and regulations for the Federal Savings and Loan System (Part 541 *et seq.* of this chapter) and to the rules and regulations for Insurance of Accounts (Part 561 *et seq.* of this chapter), all as now in effect or as hereinafter amended.

Subject to the above exceptions, references in the Federal rules and regulations to associations with a Charter K (rev.) or Charter N, other than § 545.4, shall be deemed as also referring to Federal mutual savings banks with a Charter B. Also, the trustees of each mutual savings bank shall be subject to all of the above rules and regulations that pertain to directors of Federal savings and loan associations just as if they were directors.

As a member of a Federal Home Loan Bank, a Federal mutual savings bank shall also be subject to the Regulations for the Federal Home Loan Bank System (Part 521 *et seq.* of this Chapter), as now in effect or as hereinafter amended.

§ 578.2 Investments and activities.

To the extent authorized by the Board, a Federal mutual savings bank may continue to carry on any activities it was engaged in on December 31, 1977, as a State-chartered savings bank, and to retain or make any investment of a type it held on that date, except that its equity, corporate bond, and consumer loan investments will not be permitted to exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application.

§ 578.3 Branch offices and other facilities.

(a) Federal mutual savings banks will be permitted to establish branch offices and other facilities only in accordance with the limitations of State law, except that (1) such banks shall be exempt from any numerical limitations of State law on the establishment of such offices and other facilities, and (2) the Board may, in any case, authorize such banks to establish branch offices and other facilities in their own Standard Metropolitan Statistical Area, county, or within 35 miles of their home office, but only if any such office or facility also will be located within the bank's State of domicile.

(b) Subject to the restrictions in paragraph (a) of this section, applications for branch offices and other facilities and the operation of such shall be subject to the rules and regulations which apply to applications for such branch offices and other facilities by Federal savings and loan associations, and to any rules and regulations which apply to the operation of branch offices and other facilities by such associations. Such applications shall, however, show that the branch office or other facility for which approval is being sought, would be in compliance with the restrictions set forth in paragraph (a) of this section.

§ 578.4 Applicability of State laws and regulations.

Mutual savings banks permitted to convert to Federal charter will be subject, as enforced and supervised by the Board, to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or to the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*), if the Board determines that the State law imposes more stringent requirements than Federal law and regulations.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 F.R. 4981; 3 C.F.R., 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-19264 Filed 6-19-79; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 228

[Reg. ER-1131; Amdt. No. 4]

Embargoes on Property

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., June 14, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board amends its rules on embargoes to exclude from their coverage air transportation that is more broadly exempted from the duty to carry. The Civil Aeronautics Board also amends its embargo rules to permit the automatic extension of an embargo when there is no objection. The changes eliminate duplication in the rules and provide for more efficient administration.

DATES: Effective: June 20, 1979. Adopted: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

Exclusions From the Coverage of Part 228

14 CFR Part 228 allows an air carrier to temporarily refuse to accept any commodity, except passenger baggage, for transportation over any route if it has a compelling reason for being unable to do so. That rule imposes strict notice requirements, and the embargo may only be imposed for 30 days unless the air carrier applies for an extension and the Board grants it.

At common law, a carrier may limit the types of property that it holds itself out, and is obligated, to carry. Section 404(a) of the Act created a more stringent requirement for air carriers. It imposed a duty on them to carry all property on reasonable request. By ER-1080, 43 FR 53628, November 16, 1978, the Board reissued Part 291, *General Rules for All Cargo Air Carriers,* to exempt domestic air cargo transportation, other than that within Hawaii or Alaska, from this statutory duty, leaving only the more limited common-law obligation. A carrier covered by this exemption may now refuse to transport property if it is not the type that it holds itself out as willing to carry or that it usually carries.

The Part 291 exemption ended the Board's role in regulating the extent of the carriers' service offerings, leaving that decision to carrier management in response to market demand. This allows the carriers the freedom to decide not to carry some goods on a long-term basis. In light of that, it is unnecessary for the Board to continue to impose the procedural constraints of Part 228 on carriers choosing not to carry some goods for a short time. We are therefore amending Part 28 to exclude from its coverage cargo air transportation covered by the exemption in Part 291. Part 228 will still govern embargoes in foreign and overseas cargo transportation and cargo transportation within Alaska or Hawaii.

The Part 291 exemption does not abolish the common-law service obligations of air carriers. Carriers holding certificates under sections 401 or 418 of the Act remain, by definition, common carriers. As such, they are under a duty to receive for transportation and to transport the

property tendered to them, if it is within the classes that they hold themselves out as willing to carry, or that they usually carry. Although a common air carrier covered by Part 291 need not comply with the Board's embargo rules, it still may be subject to a civil action by the shipper for failing to meet its common law obligations.

Section 228.1 already excludes from the coverage of the part a refusal to carry any commodity because of an involuntary postponement or interruption of service, "as described in § 205.8 of Part 205." By PR-200, 44 FR 20635, April 6, 1979, Part 205 was revoked and the provisions of § 205.8 were included in a new 14 CFR Part 323. The Board is taking this opportunity to amend part 228 to reflect that change.

Board Action on Embargo Extension Applications

Section 228.24 presently requires the Board to act on all applications to extend embargoes beyond 30 days. Many of the extension applications filed with the Board, however, are clearly justified and draw no opposition. The required action in these cases creates an unnecessary burden. The Board is therefore amending § 228.24 to indicate that where no objection is filed, and the Board finds no problem with the requested extension, no action will be taken and the embargo will automaticaly be extended for the additional time requested. If an objection is filed or the Board finds problems with an application, it will act to permit or to deny the requested extension. This procedure will contine all the protection presently afforded to shippers or others by Part 228.

Since this amendment conforms one part of the regulations to another, and relieves restrictions, the Board finds that notice and public procedure are unnecessary and contrary to the public interest, and that an immediate effective date is in the public interest.

The Rule

The Civil Aeronautics Board amends Part 228, Embargoes on Property (14 CFR Part 228) as follows:

1. Section 228.1 is revised to read:

§ 288.1 Definitions.

"Embargo" means the temporary refusal by an air carrier to accept for transportation over any route or segment thereof, or to or from any area or point of a connecting carrier, any commodity, type or class of property (other than passenger baggage) duly tendered, where, because of lack of facilities or personnel, or because it is required to give preference to other traffic entitled to priority, or because of other compelling reasons not within the control of the carrier, it is temporarily unable to perform all of the authorized transportation service requested of it. As used herein, the term "embargo" does not include: (1) Refusal to accept property for transportation in accordance with restrictions and limitations in the tariff or certificate of an air carrier; (2) refusal to accept property for domestic transportation in accordance with the exemption in § 291.31(a)(2) of this chapter; (3) an involuntary postponement or interruption of service under § 323.14 of this chapter.

2. Section 228.24 is revised to read:

§ 288.24. Disposition.

(a) If no answer is filed, the embargo is extended for the period requested in the application, unless stayed by the Board.

(b) If any answer is filed, the Board may issue an order extending an embargo if the carrier is unable to carry the property for one of the reasons in § 228.1.

(c) Where the public interest so requires, the Board may act on an application without waiting for answers to be filed.

(Sec. 204, 407, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, 771, (49 U.S.C. 1324, 1377, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19187 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

NASA Astronaut Candidate Recruitment and Selection Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule with comments requested.

SUMMARY: The National Aeronautics and Space Administration will have a continuing need for Astronauts to support Space Shuttle mission operations. This regulation establishes an annual process for soliciting and evaluating applications, and for selecting individuals for the Astronauts Candidate Program at the Lyndon B. Johnson Space Center.

EFFECTIVE DATE: June 20, 1979. Comments must be received on or before August 20, 1979.

ADDRESS: Submit written comments to the Office of the Associate Administrator for Space Transportation Systems, Headquarters, National Aeronautics and Space Administration, Mail Code: M, Room 468, Washington, D.C. 20546. All written comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Daniel M. Germany, Office of the Associate Administrator for Space Transportation Systems, telephone 202/755-3678.

SUPPLEMENTARY INFORMATION: These procedures concern agency management and personnel and are therefore exempt under 5 U.S.C. 553(a)(2) from notice and public comment requirements. NASA has decided to invite public comment notwithstanding this exemption, due to the considerable interest in this subject. These procedures, however, become effective on publication. These procedures have been coordinated with the Department of Defense and the Office of Personnel Management.

14 CFR Part 1214 is amended by adding a new Subpart 1214.11 reading as follows:

Subpart 1214.11—NASA Astronaut Candidate Recruitment and Selection Program

Sec.
1214.1100 Scope.
1214.1101 Announcement.
1214.1102 Evaluation of applications.
1214.1103 Selection committee activities.
1214.1104 Interviews and medical evaluation.
1214.1105 Final score.
1214.1106 Committee recommendations.
1214.1107 Selection of astronaut candidates.
1214.1108 Notification.

Authority: 42 U.S.C. 2473.

Subpart 1214.11—NASA Astronaut Candidate Recruitment and Selection Program

§ 1214.1100 Scope.

This Subpart 1214.11 sets forth NASA procedures and assigns responsibilities for recruitment and selection of astronaut candidates. It applies to all pilot and mission specialist astronaut candidate selection activities conducted by the National Aeronautics and Space Administration.

§ 1214.1101 Announcement.

(a) Astronaut candidate opportunities will be announced by the Johnson Space Center (JSC) on a nationwide basis and reannounced annually as required.

(b) Announcements will be open to the general public for a two-month period and to the military services for a longer period as necessary for the DOD screening process and will cover all positions to be filled for one year following the establishment of rosters of qualified applicants. To be considered, civilian applicants must apply prior to the end of the specified period. Military personnel on active duty must apply through and be nominated by the military service with which they are affiliated.

(c) Notification will be sent to the Department of Defense as early as possible with a request for their nominations.

(d) The Director of Equal Opportunity Programs, NASA Headquarters, will be notified as early as possible and requested to provide assistance in the recruiting process.

§ 1214.1102 Evaluation of applications.

(a) All incoming applications will be reviewed by the JSC personnel office to determine whether or not applicants meet basic qualifications. Those not meeting the basic qualification requirements will be so notified in writing and will not be eligible for further consideration. Those meeting the basic qualification requirements will have their applications retained for review by designated rating panels.

(b) Rating panels of at least three members each will be appointed by the Director of JSC and will include discipline specialists, current astronauts, and management officials as appropriate.

(c) Each member of a rating panel will initially review each incoming application from qualified applicants. The overall initial score will be determined by the rating panel. This initial score may be determined through averaging of individual ratings or consensus of the rating panel meeting as a group.

(d) To assure consistency across the rating panels, a review panel appointed by the Director of JSC will monitor the rating process. The JSC Personnel Officer will assure adherence to applicable rules and regulations.

(e) The Director of JSC will make every reasonable effort to assure that minorities and females are included among the members of the rating panels and the review panel.

(f) Based on the numerical scores, the JSC personnel officer will establish rosters of qualified applicants. Separate rosters will be established for civilian applicants and for active duty military applicants nominated by the DOD.

(g) Based on requirements approved by NASA Headquarters, the Director of JSC will decide the number of astronaut candidates to be selected. A decision on the number of applicants to be selected from the roster established for civilian applicants and from that established for active duty military applicants, will be made by the JSC Director based upon program needs. The Director of Flight Operations and the JSC Personnel Officer will determine the number of highest scoring applicants from the rosters to receive final consideration (at least twenty times the number of vacancies). Reference forms and physical examination forms will be obtained from these applicants.

(h) Upon receipt of physical examination forms (completed by personal physicians or appropriate public health or military medical authorities), the JSC medical staff will identify those applicants who appear to meet the physical requirements.

(i) For those applicants appearing to have met the physical requirements, the respective rating panels will review and rate the references received. The score for references will be incorporated into the initial score and the rosters adjusted accordingly.

§ 1214.1103 Selection committee activities.

(a) The Director, JSC, will appoint a separate selection committee for each discipline, which will include appropriate discipline specialists, and will make evey reasonable effort to assure that minorities and females are included among selection committee members.

(b) The JSC Personnel Officer will issue to the selection committee appropriate certificates of the highest scoring applicants in the disciplines in which selections will be made. Normally at least four applicants will be listed for each vacancy.

§ 1214.1104 Interviews and medical evaluation.

Applicants included on the certificates will be interviewed by the selection committee and will be given detailed medical evalution by the JSC medical staff. The interview process will result in a numerical score based on scoring criteria previously established by the selection committee.

§ 1214.1105 Final score.

The composite scores, based on the adjusted initial rating and interview score, will be transmuted to a 0 to 100 range with 70 being the minimum passing score. Points for veteran preference will be applied to total scores and the roster adjusted accordingly.

1214.1106 Committee recommendations.

The committee will recommend to the JSC Director, the selection of specific candidates from among those having the highest final scores, and who are found to be medically qualified by the JSC medical staff.

§ 1214.1107 Selection of astronaut candidates.

The JSC Director will review the selection committee's recommendations and will make final selections subject to review and approval by the Administrator.

§ 1214.1108 Notification.

Selectees and appropriate military services will be notified and the public informed. Unsuccessful applicants will be notified of nonselection.

Robert A. Froech,
Administrator.

[FR Doc. 79-19108 Filed 6-19-79; 8:45 am]
BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9023]

Amway Corp. Inc., et. al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires two Michigan corporations engaged in the door-to-door marketing of various household products, and two corporate officers, to cease allocating customers among their distributors; fixing wholesale and retail prices for their products; taking retaliatory action against recalcitrants; and disseminating pricelisting data which fail to advise that price adherence is not obligatory. The firms are additionally prohibited from misrepresenting potential earnings and other relevant facts to prospective distributors.

DATES: Complaint issued March 25, 1975. Final order issued May 8, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/CS-1, Joseph S. Brownman, Washington, D.C., 20580. (202) 724-1679.

SUPPLEMENTARY INFORMATION: In the Matter of Amway Corporation, Inc., a

* Copies of the Complaint, Initial Decision, Opinion of the Commission, and Final Order are filed with the original document.

corporation, and Amway Distributors Association of the United States, an unincorporated association, and Jay Vanandel and Richard M. Devos, individually and as officers or directors of Amway Corporation, Inc. The prohibted trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Coercing and Intimidating: § 13.358 Distributors. Subpart-Combining or Conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.405 To discriminate unfairly or restrictively in general; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade. Subpart-Cutting Off Access To Customers or Market: § 13.560 Interfering with distributive outlets. Subpart-Delaying Or Withholding corrections, Adjustments Or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart-Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1145 Discrimination; § 13.1145–5 Against price cutters; § 13.1150 Penalties; § 13.1165 Systems of espionage. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts. Subpart-Securing Agents or Representatives By Misrepresentation: § 13.2130 Earnings; § 13.2148 Scientific or other relevant facts.

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

The Final Order, including further order requiring report of compliance therewith, is as follows:

Final Order

This matter having been heard by the Commission upon the cross-appeals of respondents and complaint counsel from the Initial Decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to affirm in part and reverse in part in the Initial Decision:

It is ordered that the Initial Decision of the administrative law judge be adopted as the Findings of Fact and Conclusions of law of the Commission, except to the extent inconsistent with the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered that the following Order to Cease and Desist be, and it hereby is entered:

I. It is ordered that respondents Amway Corporation and Amway Distributors Association, and their officers, agents, employees, representatives, members, successors and assigns, and respondents Jay VanAndel and Richard M. DeVos, individually, and their agents, employees, and representatives, directly or indirectly through any corporate or other device, in connection with the offering for sale, sale, or distribution of cleaning or personal care products or any other products or goods in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Fixing, establishing, or maintaining, or attempting to fix, establish, or maintain, the price at which any distributor sells or offers for sale any product at wholesale or retail.

2. Stating that distributors are required to, or do, charge a particular price in wholesale or retail sales of any product.

3. Entering into any contract, agreement, understanding, or arrangement with any distributor which fixes, establishes, or maintains the price at which that distributor sells or offers for sale any product at wholesale or retail.

4. Taking any action, or counseling any distributor to take any action, designed to detect the price at which any distributor sells or offers for sale any product at wholesale or retail, including but not limited to: requiring distributors, in proving that they made retail sales to ten different persons in a month, to disclose the price at which they made such sales; directing or requesting any distributor to report to his Direct Distributor, to Amway, or to any other person or entity, knowledge he or she has of another distributor selling products at a price different from Amway's suggested wholesale or retail price; or allowing the price information submitted by any distributor seeking a full or partial refund of amounts paid by him or her for state retail sales tax, to be seen by any person other than those responsible for paying out such refunds, or to be used for any purpose other than paying out such refunds.

Provided, however, it shall not be a violation of this Order for Amway to receive information about the price a distributor charged in a particular retail sale if such information is received by Amway solely as a result of such sale being one of the following types: (1) a sale wherein the purchaser used a bank credit card in making the purchase; (2) a sale of catalog merchandise wherein the purchaser paid by personal check payable to Amway; or (3) a sale to a commercial account wherein Amway financed the purchase.

5. Taking any action, or counseling any distributor to take any action, designed to deter distributors from selling or offering for sale products at a price diferent from Amway's suggested wholesale or retail prices, including but not limited to: addressing communications regarding price to any individual distributor, rather than to distributors as a class; delaying, or threatening to delay, the shipment of products to any distributor; withholding, or threatening to withhold, any distributor's Performance Bonus, if such distributor is otherwise entitled to such Bonus; underselling, or threatening to undersell, any distributor in retaliation for such distributor having sold or offered to sell products at a price different from Amway's suggested wholesale or retail prices.

6. Preventing or discouraging, or attempting to prevent or discourage, any distributor from selling or offering for sale products at retail to any person or entity, on the grounds that such person or entity is the customer of another distributor.

7. Requiring a distributor who is terminating his relationship with Amway to sell his remaining products back to Amway or to another distributor; *provided, however,* it shall not be a violation of this Order to give a distributor who is terminating his relationship with Amway the opportunity to sell his remaining products back to Amway or another distributor.

8. Preventing, or attempting to prevent, a fund raising organization from selling or offering for sale products at a price different from Amway's suggested retail price.

9. Preventing, or attempting to prevent, distributors from advertising the prices at which they are selling or offering for sale products, including but not limited to, failing to include a place for distributors to disclose price in any existing or future sales aids, promotional literature, advertising mats, advertising scripts, etc., used by distributors in advertising Amway products.

10. Publishing or distributing, directly or indirectly, any wholesale or retail price list, order form, promotional material, or any other document which

lists resale prices for products without stating clearly and conspicuously thereon: "The prices stated here are suggested prices only. Distributors are not obligated to charge these prices. Each distributor is entitled to determine independently the prices at which products may be sold to other distributors or to consumers."

II. It is further ordered that the aforesaid respondents and their officers, agents, employees, representatives, members, successors, and assigns, directly or indirectly, in connection with inducing or seeking to induce the participation of any person in any distribution, sales, or marketing plan, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner the past, present, or future profits, earnings, or sales from such participation.

2. Representing, by implication, by use of hypothetical examples, or otherwise, that distributors earn or achieve from such participation any stated amount of profits, earnings, or sales in excess of the average profits, earnings, or sales of all distributors in any recent year respondents may select, unless in conjunction therewith such average profits, earnings, or sales is clearly and conspicuously disclosed, or the percent of all distributors who actually achieved such stated profits, earnings, or sales in such year is clearly and conspicuously disclosed.

III. It is further ordered that respondent Amway Corporation or its officers, agents, representatives, employees, successors or assigns shall, on or before July 20, 1979, deliver a copy of this Order to all persons who are currently Amway distributors.

IV. It is further ordered that respondents and their successors and assigns notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations or in the Amway Sales and Marketing Plan which may affect compliance obligations arising out of the order.

V. It is further ordered that the respondents herein shall on or before August 20, 1979, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-19212 Filed 6-19-79; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

New Rule Designating Financial Responsibility Rules for Purposes of the Securities Investor Protection Act of 1970

Correction

In FR Doc. 79-15142 appearing on page 28318 in the issue for Tuesday, May 15, 1979, make the following correction: In the first column, under the heading, "EFFECTIVE DATE," substitute "May 15, 1979" for "May 11, 1979".

BILLING CODE 1505-01

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter X

[Docket No. RM79-51]

Regulations Under the Emergency Natural Gas Act of 1977; Deletion of Certain Rules

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission gives notice that it hereby physically removes Chapter X from Title 18 of the Code of Federal Regulations. While Chapter X is no longer effective as to current natural gas transactions, it shall remain in full force and effect as to transactions which were carried out under its authority.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100, 825 North Capital Street, NE., Washington, D.C. 20426, (202) 275-0422.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) gives notice that it hereby physically removes Chapter X from Title 18, Code of Federal Regulations. Chapter X was promulgated under the authority of the Emergency Natural Gas Act of 1977 (Pub. L. No. 95-2) (ENGA) and Executive Order No. 11969 (42 FR 6791, February 2, 1977) (E.O. 11969). The authority granted by the ENGA expired August 1, 1977. Therefore, the regulations in Chapter X have no effect with respect to current transactions, and should be removed from Title 18. However, the provisions of Chapter X shall remain in full force and effect with respect to transactions for natural gas which were carried out during the period between February 2, 1977, and July 31, 1977.

Background

On February 2, 1977, Congress enacted the ENGA, which authorized the President to declare natural gas emergencies, order emergency deliveries and transportation of natural gas, and authorize emergency purchases of natural gas. The ENGA also authorized the President to delegate all or any portion of his authority under the Act. No emergency deliveries or transportation were to take place after April 30, 1977, or after the President terminated the emergency, whichever occurred first, and no further contracts for emergency purchases were to be authorized pursuant to the ENGA as of August 1, 1977.

The President declared an emergency immediately following enactment (Proclamation 4485, February 2, 1977) and delegated all his authorities under the ENGA, except the authority to declare an emergency, to the Chairman of the Federal Power Commission (FPC) [1] (E.O. 11969). Pursuant to this authority the regulations which comprise Chapter X were promulgated in order to implement the ENGA.

However, as of August 1, 1977, the Commission's authority to authorize such transactions under the ENGA terminated. Since no further transactions may be authorized under the ENGA and the implementing regulations, it is not necessary to carry Chapter X of Title 18 in the Code of Federal Regulations.

Although Chapter X is to be physically removed from the current volume of Title 18, its provisions shall remain in full force and effect with respect to transactions which were conducted pursuant to the ENGA.

[1] On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), (Pub. L. No. 95-91, 91 Stat. 565), and Executive Order 12009 (42 FR 46267, September 15, 1977), the FPC ceased to exist and most of its regulatory responsibilities and functions were transferred to the Commission. The Commission's first order, issued October 6, 1977, (42 FR 55450, October 17, 1977) provided for the continued exercise of functions, powers and duties transferred from the FPC to the Commission.

(Emergency Natural Gas Act of 1977, Pub. L. No. 95-2; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*); E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

CHAPTER X—ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977 [DELETED]

1. Chapter X (consisting of Part 1000) is removed from Title 18 of the Code of Federal Regulations.

[FR Doc. 79-19197 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1931

[Docket No. R-FEMA-7]

Federal Crime Insurance Program; Purchase of Insurance and Adjustment of Claims

AGENCY: Office of Federal Insurance and Hazard Mitigation—Federal Emergency Management Agency.*

ACTION: Final rule.

SUMMARY: This rule will extend to the citizens of the States of New Mexico and Wisconsin eligibility to purchase Federal crime insurance policies against burglary and robbery losses under the Federal Crime Insurance Program.

DATES: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Rose, Jr., Assistant Administrator for Urban Property Insurance—Riot and Crime, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone number (202) 755-6555.

SUPPLEMENTARY INFORMATION: This action is being taken under the authority of 12 U.S.C. 1749bbb-10a on the basis of evidence obtained through a continuing review of the market availability situation in each of the several States and particularly upon the conclusions and recommendations of the Governor of the State of New Mexico and the Mayors of the Cities of Albuquerque, New Mexico and Milwaukee, Wisconsin, who requested that their citizens be made eligible for Federal crime insurance. The Federal Crime Insurance Program commenced operation in August 1971 and approximately 50,000 policies are currently in force in the District of Columbia, Puerto Rico, the Virgin Islands and twenty-three States eligible for Federal crime insurance. The Program enables residents and businesses to obtain affordable policies of burglary and robbery insurance which will not be cancelled or nonrenewed because of losses. Applicants are required to meet minimum protective device requirements designed to reduce their vulnerability to losses. The Governor of the State of New Mexico and the Mayors of Albuquerque, New Mexico and Milwaukee, Wisconsin, after considering the insurance needs of their citizens have requested that their citizens be made eligible to purchase Federal crime insurance. With the addition of these States, the Federal Crime Insurance Program will be available to residents and businesses in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and twenty-five States. Accordingly, on the basis of the Administrator's continuing review of the crime insurance availability situation, it has been determined that a critical market availability situation exists in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and States set forth in revised §1931.1 and that as of the effective date of this regulation, June 14, 1979, these jurisdictions will be made eligible for the sale of crime insurance, or continued to be eligible for such sale. Because the increased availability of Federal crime insurance is beneficial to the public, and has no adverse effect upon any person, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effect on June 14, 1979.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with FEMA Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address: Mr. Donald Collins, Director, Policy Analysis and Consumer Affairs, Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency, Room 5146, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone number (202) 755-7355.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

Paragraph (b) of §1931.1 is revised to read as follows:

§1931.1 Jurisdictions eligible for sale of crime insurance.

* * * * *

(b) On the basis of the information available, the Administrator has determined that the following jurisdictions set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of June 14, 1979. Accordingly, the program is in operation in the following jurisdictions:

Alabama	Missouri
Arkansas	New Jersey
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
District of Columbia	Ohio
Florida	Pennsylvania
Georgia	Puerto Rico
Illinois	Rhode Island
Iowa	Tennessee
Kansas	Virgin Islands
Maryland	Virginia
Massachusetts	Washington
Minnesota	Wisconsin

* * * * *

(Executive Order 12127 (44 FR 19367) Sec. 1103, 82 Stat. 466, 12 U.S.C. 1749bbb-17.)

Issued at Washington, D.C.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-19102 Filed 6-19-79; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 45

[Order No. 807-78]

Standards of Conduct; Prohibition Against Suggesting Payment of Fee to a Particular Charity; Correction

AGENCY: Department of Justice.

ACTION: Final rule correction.

SUMMARY: In FR Doc. 78-31937 appearing at page 52702 in the Federal Register of November 14, 1978, "(d)" of 45.735-12 is corrected to read subparagraph "e".

FOR FURTHER INFORMATION CONTACT: John M. Harmon, Assistant Attorney General, Office of Legal Counsel (202-633-2041), Department of Justice, Washington, D.C. 20530.

*The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Dated: May 29, 1979.

Leon Ulman,

Deputy Assistant Attorney General, Office of Legal Counsel.

[FR Doc. 79-19173 Filed 6-19-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 288

[DoD Instruction 7230.7 [1]]

User Charges

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This part is being revised to update policy and the schedule of fees and rates to reflect increases in consumer prices; to make user charges rules consistent with those of foreign military sales; and to incorporate several previous changes. This revision will clarify and make current procedures, guidelines, and requirements.

EFFECTIVE DATE: June 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth C. Mulcahy, Office of the Deputy Assistant Secretary of Defense (Management Systems), The Pentagon, Washington, D.C. 20301, Telephone 202-697-7297.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-5381, appearing in the Federal Register on March 1, 1978 (43 FR 8271), the Office of the Secretary of Defense issued a proposed rule changing its schedule of fees and rates. No substantive comments were received. Preceding this change, the Office of the Secretary of Defense published in the Federal Register modifications to certain sections of this part; namely, 32 FR 6025 of April 15, 1967; 34 FR 12339 of July 26, 1969; 36 FR 22236 of November 23, 1971; 37 FR 23719 of November 8, 1972; and 42 FR 62503 of December 13, 1977.

Accordingly, 32 CFR Chapter I is amended by revising Part 288, incorporating all pertinent changes, and now reads as follows:

PART 288—USER CHARGES

Sec.
288.1 Reissuance and purpose.
288.2 Applicability.
288.3 Policy.
288.4 Responsibility.
288.5 Charges and fees.
288.6 Collections.
288.7 Legislative proposals.
288.8 Examples of benefits not to be charged under provision of subsection C.4. of basic instruction.
288.9 Schedule of fees and rates.

Authority: 5 U.S.C., sec. 140; Title V, Pub. 2, 137 82nd Congress, Act of August 31, 1951, 65 Stat. 290.

§ 288.1 Reissuance and purpose.

This part:

(a) Is hereby reissued to make it consistent with DoD editorial policies to improve Government regulations affecting the public.

(b) Clarifies the use of "interest on investment;" makes user charges rules consistent with those for Foreign Military Sales; and updates the Schedule of Fees and Rates § 288.9 to take price increases into account.

(c) Establishes DoD policy and procedures for implementation of the policy of the U.S. Government with respect to user charges, as expressed in 31 U.S.C. 483a and Office of Management and Budget Circular No. A-25, "User Charges," September 23, 1959, as amended.

(d) Furnishes guidelines for determination of user charges, the disposition of receipts, and accounting control of revenue from such charges.

§ 288.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff and the Defense Agencies (hereafter referred to as "DoD Components").

§ 288.3 Policy.

(a) *General.* It is DoD policy not to compete with available commercial facilities in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service or sale is made that conveys special benefits to recipients, above and beyond those accruing to the public at large, a reasonable charge shall be made to each identifiable recipient, except as otherwise authorized by the Secretary of Defense.

(b) *Special Services.* A charge shall be imposed to recover the full cost to the Federal Government of rendering a special service or the fair market value of such service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be made based on recovery of full costs to the Federal Government. A special benefit will be considered to accrue and a charge shall be imposed when the service rendered:

(1) Enables the recipient to obtain more immediate or substantial gain or values (which may or may not be measurable in monetary terms) than those which accrue to the general public; or

(2) Is performed at the request of the recipient and is above and beyond the services regularly received by or available without charge to the general public.

(c) *Lease or sale.* Where federally-owned resources are leased or sold, a fair market value shall be obtained. Fair market value shall be determined by the application of sound business management principles and, so far as practicable and feasible, in accordance with comparable commercial practices. Charges based on fair market value need not be limited to the recovery of costs; they may produce net revenues to the Government.

(d) *Exclusions and exceptions.* (1) The provisions of this part do not apply to:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense;

(ii) Sale or disposal of surplus property under approved programs;

(iii) Services furnished the general public relating to or in furtherance of the Armed Forces recruiting program;

(iv) Services furnished representatives of public information media or the general public in the interest of public understanding of the Armed Forces;

(v) Records made available to the public, pursuant to 32 CFR Part 286 (Pub. L. 93-502). Charges for such records are governed by 32 CFR 286.8;

(vi) Services furnished to non-Government audio-visual media. Charges for such services are governed by the provisions of DoD Instruction 5410.15,[1] "Delineation of DoD Audio-Visual Public Affairs Responsibilities and Policies," November 3, 1966.

(vii) Armed Forces participation in public events. Charges for such participation are governed by the provisions of 32 CFR Part 238.

(viii) Government-developed computer programs released to non-Government customers. Charges for software packages are governed by DoD Instruction 4105.65,[1] "Acquisition of Automatic Data Processing Computer Program and Related Services," June 29, 1970.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

(2) Charges may be waived or reduced when:

(i) The recipient of the benefits is engaged in nonprofit activity designed for the public safety, health or welfare;

(ii) Payment of the full costs or fee by a State, local Government, or nonprofit group would not be in the interest of the program;

(iii) Furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country; and

(iv) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

§ 288.4 Responsibilities.

Heads of *DoD Components*, or designees, shall:

(a) Identify each service or activity covered by this part;

(b) Determine the extent of the special benefit provided;

(c) Determine applicable cost and fair market value; and

(d) Establish appropriate charges.

§ 288.5 Charges and fees.

(a) *Special Services*—(1) *Basic requirements.* Charges for special services shall be based on the total costs to perform such services as determined or estimated from the best available records or fair market value, whichever is higher. The maximum charge for a special service shall be governed by its total cost or fair market value, whichever is higher, and not by the value of the service to the recipient. Cost accounting systems shall not be established solely for the purpose of determining charges, but the results of existing cost accounting systems shall be used. Costs shall include all direct and indirect costs, such as:

(i) Civilian salaries or wages and costs of leave and Government contributions for retirement, medical expense, life insurance.

(ii) The full cost of military personnel services including retirement, other personnel support, leave, and permanent change of station factors as prescribed in DoD Handbook 7220.9-H, "DoD Accounting Guidance Handbook," February 1, 1978.

(iii) The cost of materials, supplies, travel expenses, communications, utilities, equipment and property rental, and maintenance of property and equipment;

(iv) An asset use charge at 4% of direct costs to cover depreciation and interest on investment in DoD-owned fixed assets;

(v) The cost of research, and of establishing standards and regulations when directly associated with the service performed;

(vi) An administrative surcharge at 3% of total costs ((i) through (v) above) to cover general and administrative costs of the DoD Component.

(2) *Fees and Rates.* Fees and rates for the recovery of full costs or fair market value of a special service will be established in advance, when feasible. Fees and rates shall be reviewed at least annually or whenever significant changes in costs occur, and necessary revisions made to ensure recovery of full costs.

(3) *DoD-wide Fees and Rates.* Section 288.9 provides a schedule of fees and rates for certain services for use throughout the Department of Defense. Recommendations for additions and revisions to the schedule will be made to the Assistant Secretary of Defense (Comptroller).

(b) *Lease or Sale of Property.* Charges for lease or sale of property will be based on determination of fair market value.

(1) In cases involving the lease or rental of military equipment, where there is no commercial counterpart, fair market value will be based on the computation of an annual rent which will be the sum of the annual depreciation plus interest on investment. The amount of interest on investment is determined by applying the interest rate to the net book value; that is, acquisition cost plus additions less depreciation. The interest rate to be used will be 10%. Support, if furnished, and applicable general administration expenses will be extra. In determining the value, consideration may be given to the responsibility of the lessee to assume the risk of loss or damage to the property and to hold the Government harmless against claims or liabilities by the lessee or third parties.

(2) In cases involving the sale of property where there is no known fair market, costs shall be based on the total of the standard price of the item carried in inventory or at reduced price when so authorized for sale within DoD; and the accessorial and administrative costs computed under DoD Instruction 7510.4,[1] "Uniform Policy for Charging Accessorial and/or Administrative Costs Incident to Issues, Sales and Transfers of Materials Supplies and Equipment," April 7, 1967.

§ 288.6 Collections.

(a) Collections of charges and fees shall be made in advance of rendering the service, if practicable.

(b) Collections of fees and charges normally will be deposited to Miscellaneous Receipts of the Treasury unless otherwise authorized by law or regulation.

(c) Collections for utilities and services in connection with the lease of property will be deposited to the appropriation or fund responsible for financing the operations of the equipment and facility.

§ 288.7 Legislative proposals.

In cases where collections of fees and charges for services or property are limited or restricted by provisions of existing law, the DoD Component(s) concerned will submit appropriate remedial legislative proposals under applicable legislative procedures.

§ 288.8 Examples of benefits not to be charged under provisions of subsection C.4. of basic instruction.

(a) Services requested by members of the U.S. Armed Forces in their capacity as service members.

(b) Services requested by members of the U.S. Armed Forces who are in a casualty status, or requested by their next of kin or legal representative, or requested by any source when it relates to a casualty.

(c) The address of record of a member or former member of the U.S. Armed Forces when the address can be furnished informally through local directory (locator) reference; when the address is requested by a member of the U.S. Armed Forces, or by a relative or a legal representative of a member of the U.S. Armed Forces; or when the address of record is requested by any source for the purpose of paying monies or forwarding property to a member or former member of the U.S. Armed Forces.

(d) Services requested by or on behalf of a member or former member of the U.S. Armed Forces or, if deceased, his/her next of kin or legal representative that pertain to:

(1) Information required to obtain financial benefits regardless of the terms of separation from the service;

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions except as provided in § 288.8 (d)(1) and (d)(4);

(3) Information relating to a decoration or award or required for memorialization purposes;

(4) Review or change in type of discharge or correction of records;

(5) Personal documents, such as birth certificates, when such documents are

required to be furnished by the individual.

(e) Services that are furnished free in accordance with statutes or Executive Orders.

(f) Information from or copies of medical and dental records or X-ray films of patients or former patients of military medical or dental facilities, when such information is required and requests for such data are (1) submitted by an accredited medical facility, physician, or dentist; or (2) requested by the patient, his/her next of kin, or legal representative.

(g) Services involving confirmation of employment, disciplinary or other records, salaries of active or separated civilian or military personnel, when requested by prospective employers or recognized sources of inquiry for credit or financial purposes.

(h) Services requested by and furnished to a member of Congress for official use.

(i) Services requested by State, territorial, county or municipal government, or an agency thereof, that is performing a function related to or furthering of a DoD objective.

(j) Services requested by a court, when the service will serve as a substitute for personal court appearance of a military or civilian employee of the Department of Defense.

(k) Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or that is in the interest of public health and welfare.

(l) Services requested by an individual or corporation that is performing a function related to or furthering an objective of the Federal Government, when the cost of such services would be chargeable to a Federal Government contract or grant held by the individual or corporation.

(m) Services requested by donors with respect to their gifts.

(n) Requests for occasional and incidental services (including requests from residents of foreign countries), that are not requested often, when it is administratively determined that a fee would be inappropriate for the occasional and incidental services.

(o) Requests from Federal employees for the completion of claims for reimbursement under the Federal Employees Health Benefit Act of 1959.

(p) Administrative services provided by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

(q) Requests for military locator service by financial organizations that are located on DoD installations.

(r) Requests for military locator service by financial organizations that are engaged in the composite check program and that are not located on DoD installations. Requests for an address of record will include:

(1) A statement that the financial organization is listed as a composite check recipient in the current U.S. Treasury Bureau of Accounts, "Financial Organizations Directory";

(2) A statement that the individual, whose address is being requested, has his/her pay forwarded as a direct deposit by a DoD disbursing officer;

(3) The individual's financial organization's account number.

(s) Services rendered in response to requests for classification review of DoD classified records, submitted under Executive Order 12065, "National Security Information," June 28, 1978, and implemented by DoD Regulation 5200.1-R "Information Security Program Regulations," December 1978. Such services consist of the work performed in conducting the classification review or in granting and carrying to completion an appeal from a denial of declassification following such review.

(t) Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-Governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary will not be assessed a "user charge."

§ 288.9 Schedule of fees and rates.

This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under § 288.3 (d) or § 288.8. Except as provided in special cases prescribed below, a minimum fee of $2.00 will be levied for processing any chargeable case. Normally only one copy of any record or document will be provided.

Requests involving:

(a) *Training and Education:*

	Fee
(1) Transcripts:	
Original copy	$2.40
Each additional copy (includes requests for transcripts of graduation from military academies and schools)	.30
(2) Certificates:	
Original copies	2.40
Each additional copy (includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities)	.30

(b) *Medical and Dental Records of Patients and former Patients (when requested for purposes other than further medical treatment).* Covers request for information from or copies of medical records, including clinical records (inpatient records of military and nonmilitary patients), health records (military outpatient records), outpatient records (nonmilitary outpatient records), dental records, and loan of X-rays.

(1) Searching and processing (per hour)	$9.60
Minimum charge	6.00
(2) Each typewritten page	2.40
(3) Office copy reproductions (per image)	.06
(4) Loan of each X-ray	1.80
(5) Copy of X-ray:	
8" x 10"	1.80
10" x 12"	2.40
14" x 17"	3.60

(c) *Military Membership and Record (Excluding Medical and Dental Records).*

(1) Address of record, each	$2.40

(2) Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted personnel, reproduced for the personal use of active retired and former members or next of kin of missing in action or deceased member of the Armed Forces.

(i) Minimum charge (up to six reproduced images)	$2.40
(ii) Each additional image	.06
(iii) Statement of verification of service or report of separation, for individuals with other than honorable discharges	3.60

(d) *Photography.*

(1) Still pictorial or documentary photographic prints; no more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.

8" x 10" single-weight glossy finish, 1st print	$1.25
2d and 3d prints, each	1.00
8" x 10" double-weight matte finish, 1st print	2.00
2d and 3d prints, each	1.80
11" x 14" double-weight matte finish, each	4.20
16" x 20" double-weight matte finish, each	5.50
20" x 24" double-weight matte finish, each	7.75
35mm color transparency slide made from color negative material, each	3.50
35mm duplicate from 35mm slide	.60
4" x 5" black and white negative, each	2.25
4" x 5" color transparencies or color negative, each	8.00
8" x 10" color transparencies or color negative, each (in quantities not to exceed three copies of any one view.)	16.75
8" x 10" color type "C" print, 1st print	4.50
2d and 3d prints, each	2.00
11" x 14" color type "C" print, 1st print	9.60
2d and 3d prints, each	6.00
16" x 20" color type "C" print, each	17.50
16" x 20" color type "C" print, mounted on 20 x 24 cardboard, each	23.00
70mm color internegative, each	4.00

(2) Aerial photographic prints, contact prints, or exact negative sizes, single-

weight glossy or double-weight semimatte, black and white, per frame:

Contact Prints:	
70mm film	$2.40
5" x 5", paper or film	2.40
9" x 9", 10" x 10", paper	2.40
9" x 9", 10" x 10", film	3.60
Enlargements:	
9" x 9" (from 70mm only), paper	2.40
9" x 9" (from 70mm only), film	3.60
12" x 12" thru 16" x 16" (1.5X), paper	4.80
18" x 18" thru 20" x 20" (2X), paper	6.00
24" x 24" thru 30" x 30" (3X), paper	7.20
36" x 36" thru 40" x 40" (3X), paper. For an intermediate-size enlargement, use the price listed for the next larger size	14.40

(3) Aerial photographic indices and mosaic copies, each:

10" x 12"	$3.60
20" x 24"	6.00

(4) Reproduction of cover overlays, each:

Transparent foil film overlays	$3.00
Transparent paper overlays	1.80

(5) Motion Picture:

	Price per foot	
	Contact	Reduction
Color:		
16mm work print (negative/positive)	.17	.24
16mm reversal work print	.17	.24
16mm master positive	.37	.64
16mm dup negative (from master positive)	.40	.44
16mm reversal dup negative	40.	.44
16mm internegative (from reversal original)	.85	
16mm short rolls (under 200 feet), add to basic price	.06	
16mm tab-to-tab printing, add to basic price	.15	
35mm work print (negative/positive)	.22	
35mm master positive	.60	
35mm dup negative	.60	
35mm reversal dup negative	1.20	
35mm short rolls (under 400 feet) add to basic price	.06	
35mm tab-to-tab printing, add to basic price	.18	
Black and White:		
16mm work print (negative/positive)	.10	.16
16mm master positive (fine grain)	.13	.17
16mm dup negative	.20	.26
16mm short rolls (under 200 feet), add to basic price	.06	
16mm tab-to-tab printing, add to basic price	.07	
35mm work print	.11	
35mm master positive	.14	
35mm dup negative	.24	
35mm short rolls (under 400 feet), add to basic price	.06	
35mm tab-to-tab printing, add to basic price	.08	
Magnetic Tape:		
Dub (16mm, 35mm, ¼") per hour (plus raw stock)		$55.00
Miscellaneous:		
Searching, each hour or fraction thereof		13.00
Minimum charge per order (including stock search)		25.00
16mm film to 2" video tape (does not include tape) per hour		225.00
Minimum charge		125.00

(e) *Construction and Engineering Information.* Copies of aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents.

(1) searching, per hour or fraction thereof (including overhead costs)	$9.60
(2) First print	1.80
(3) Each additional print of same document	.60

(f) *Copies of Medical Articles and Illustrations.* Standards contained in the basic part will be utilized in computing costs.

(g) *Claims, Litigation.* (Includes court-martial records furnishing information from Report of Claims Investigations; e.g., automobile collision investigations, safety reports, etc.). Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in paragraphs (b) or (c), of the section

(1) Searching and processing (per hour)	$9.60
Minimum charge	6.00

Note.—Charges for professional search or research will be made in accordance with 10.b., below.

(2) Office copy reproduction (minimum up to six reproduced images)	$2.40
(3) Each additional image	.06
(4) Certification and validation with seal, each	3.60

(h) *Publications and Forms.* A search and/or processing fee, as prescribed in paragraph (j) (1) of this section will be made for requests requiring extensive time (1 hour or more).

(1) Shelf Stock. (Requesters may be furnished more than one copy of publication or form if it does not deplete stock levels below projected planned usage.)

(i) Minimum fee per request (up to six reproduced pages) 2.40 plus:

(A) Form, per copy	$.06
(B) Publications, per printed page	.01
(C) Microfiche, per fiche	.07

(ii) (Examples: Cost of 20 forms, $3.60; cost of a publication with 100 pages, $3.40; cost of microfiche publication consisting of 10 fiches, $3.10)

(2) Office Copy Reproduction (when shelf stock is not available):

(i) Minimum charge	$2.40
(ii) Minimum charge first fiche	6.00
(iii) Each additional page	.06
(iv) Each additional fiche	.12

(i) *Engineering Data (Microfilm):*

(1) Aperture Cards:	
(i) Silver duplicate negative, per card	$.50
When key punched and verified, per card	.60
(ii) Diazo duplicate negative, per card	.42
When key punched and verified, per card	.50
(2) 35mm roll film, per frame	.36
(3) 16mm roll film, per frame	.30
(4) Paper prints (engineering drawings), each	.60
(5) Paper reprints of microfilm indices, each	.06

(j) *General.* Charges for any additional services not specifically provided above and consistent with the provisions of the basis part will be made by the respective DoD Components at the following rates:

(1) Clerical search and processing, per hour	$9.60
Minimum charge	6.00
(2) Professional searching or researching (To be established at actual hourly rate prior to search. A mimimum charge will be established at ⅓ hourly rate)	
(3) Minimum charge for office copy reproduction (mimimum up to six images)	2.40
(4) Each additional image	.06
(5) Each typewritten page	2.40
(6) Certification and validation with seal, each	3.60
(7) Hand-drawn plots and sketches, each hour or fraction thereof	7.20

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-19107 Filed 6-19-79; 8:45 am]

BILLING CODE 3810-70-M

32 CFR Part 354

[Dod Directive 5105.21] [1]

Defense Intelligence Agency Revision; Organization and Administration

AGENCY: Office of the Secretary of Defense.

ACTION: Revision of final rule.

SUMMARY: This revision expands the language regarding the appointment of the Director, Defense Intelligence Agency, in that it specifies that the Director, DIA, will be a commissioned officer of suitable general or flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-18244 appearing in the Federal Register on July 1, 1977 (42 FR 33734) the Office of the Secretary of Defense published the Charter of the Director, Defense Intelligence Agency, effective May 19, 1977. This revises § 354.4(a) as follows:

§ 354.4 Organization and administration.

(a) The Director, DIA, will be a commissioned officer of suitable general of flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty. The DIA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

* * * * *

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

(10 U.S.C. Chapter 4)

June 15, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-19260 Filed 6-19-79; 8:45 am]

BILLING CODE 3810-70-M

32 CFR Part 360

[DoD Directive 5105.40] [1]

Defense Mapping Agency (DMA); Revision

AGENCY: Office of the Secretary of Defense.

ACTION: Revision of final rule.

SUMMARY: This revision expands the language regarding the appointment of the Director, Defense Mapping Agency, in that it specifies that the Director, DMA, will be a commissioned officer of suitable general or flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-33889 appearing in the Federal Register on December 5, 1978 (43 FR 56894) the Office of the Secretary of Defense published the charter of the Director, Defense Mapping Agency, effective August 10, 1978. This revises § 360.7(a) as follows:

§ 360.7 Administration

(a) The Director, DMA, will be a commissioned officer of suitable general or flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty.

* * * * *

(10 U.S.C. Chapter 4)

June 15, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-19261 Filed 6-19-79; 8:45 am]

BILLING CODE 3810-70-M

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

32 CFR Part 362

[DoD Directive 5105.19] [1]

Defense Communications Agency (DCA); Revision

AGENCY: Office of the Secretary of Defense.

ACTION: Revision of final rule.

SUMMARY: This revision expands the language regarding the appointment of the Director and Vice Director, Defense Communications Agency, in that it specifies that the Director and Vice Director, DCA, will be commissioned officers of suitable general or flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-31647 appearing in the Federal Register on November 9, 1978 (43 FR 52231) the Office of the Secretary of Defense published the Charter of the Director, Defense Communications Agency, effective August 10, 1978. This revises § 362.7(a) as follows:

§ 362.7 Administration.

(a) The Director and Vice Director, DCA, will be commissioned officers of suitable general or flag rank appointed by the Secretary of Defense from officers of the Armed Forces on active duty. The Deputy Director, DCA, Military Satellite Communications System, will be appointed in accordance with DoD Directive 5105.44.[1]

* * * * *

(10 U.S.C. Chapter 4).

June 15, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-19262 Filed 6-19-79; 8:45 am]

BILLING CODE 3810-70-M

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 407

[1221-6]

Canned and Preserved Fruits and Vegetables Processing Point Source Category; Withdrawal of Guidelines and Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal.

SUMMARY: EPA is today withdrawing its best available control technology economically achievable effluent limitations guidelines and new source performance standards for the following subcategories of the Canned and Preserved Fruits and Vegetables Processing Point Source category: canned and preserved fruits, vegetables, and miscellaneous specialities.

EFFECTIVE DATE: June 20, 1979.

FOR FURTHER INFORMATION CONTACT: Don Anderson, Effluent Guidelines Division (WH-552), Office of Water Planning and Standards, 401 M Street SW, Washington, D.C. 20460, 202-426-2707.

SUPPLEMENTARY INFORMATION: On April 16, 1976 (41 FR 16272), EPA promulgated effluent limitation guidelines for "best available contol technology economically achievable" (BAT) and new source performance standards for canned and preserved fruits, vegetables, and miscellaneous specialties subcategories (40 CFR 407.63, 407.65, 407.73, 407.75, 407.83, 407.85) of the Canned and Preserved Fruits and Vegetables Processing Point Source category (40 CFR Part 407). The effluent limitations guidelines and new source standards were subsequently challenged by industry in a petition for modification filed with EPA on November 17, 1976, and in a series of petitions for review filed in the U.S. Court of Appeals for the Third Circuit. *Pickle Packers International, et al. v. EPA*, No. 76-1835; *Pennsylvania Food Processors Association et al. v. EPA*, No. 76-1836, *National Canners Association et al. v. EPA, No. 76-1837 and No. 77-1791.*

Congress amended the Clean Water Act in December 1977 establishing, *inter alia*, "best conventional pollutant control technology" (BCT) for existing industrial point sources that discharge conventional pollutants (§ 304(b)(4)). BCT is not an additional limitation but replaces BAT for control of conventional pollutants. On August 23, 1978 (43 FR 37570), EPA published a notice of proposes rulemaking with respect to its

review of existing BAT effluent limitations guidelines, for 13 secondary industries. The notice proposed, *inter alia,* the withdrawal of BAT guidelines for the canned and preserved fruits, vegetables (with the exception of mushrooms and tomatoes), and miscellaneous specialties subcategories (40 CFR 407.63, 407.73, 407.83), because the costs were determined to be unreasonable under the BCT cost test comparison. EPA will be reviewing the date for the canned and preserved fruits, vegetables, and miscellaneous specialties subcategories in the future for proposal of BCT limitations for these subcategories. EPA believes it would be advisable to consider all products (including mushrooms and tomatoes in one review process and subsequently propose BCT for all products at the same time. Therefore, EPA reached agreement with industry whereby EPA will withdraw all BAT effluent guidelines for the canned and preserved fruits, vegetables (including tomatoes and mushrooms), and miscellaneous specialties subcategories (40 CFR 407.63, 407.73, 407.83), and industry will dismiss its court challenges to the effluent limitations guidelines and withdraw its petition for modification.

EPA also has reviewed the technology upon which the performance standards were based for new sources (aerated lagoons and multimedia filtration) in the canned and preserved fruits, vegetables, and miscellaneous specialties subcategories (40 CFR 407.65, 407.75, 407.85), and has determined that the current new source performance standards may not be achievable through the application of the above technology. Therefore, EPA has reached agreement with industry whereby EPA will withdraw all new source performance standards for the canned and preserved fruits, vegetables, and miscellaneous specialties subcategories (40 CFR 407.65, 407.75, 407.85), and industry will dismiss its court challenges to the new source performance standards and withdraw its petition for modification.

For the foregoing reasons, BAT effluent limitations guidelines and new source performance standards for canned and preserved fruits, vegetables, and miscellaneous specialties subcategories (40 CFR 407.63, 407.65, 407.73, 407.75, 407.83, 407.85) are hereby withdrawn.

Dated: June 13, 1979.

Douglas M. Costle,

Administrator.

§§ 407.63, 407.65, 407.73, 407.75, 407.83, 407.85 [Deleted].

Sections 407.63, 407.65, 407.73, 407.75, 407.83, and 407.85 are deleted from Title 40 CFR.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[FCC 79-369]

Reregulation of Radio and TV Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Through continuing reregulation of broadcasting and oversight of AM, FM and TV rules, certain technical definitions are revised to conform to national and international standards, technical and operating rules rewritten for clarity and ease of use, and obsolete references deleted. Apparent conflicts between rule requirements resolved and impractical and unnecessary provisions deleted.

EFFECTIVE DATE: July 2, 1979.

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

FOR FURTHER INFORMATION CONTACT: John W. Reiser, Philip S. Cross, Steve Crane, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: June 7, 1979;

Released: June 15, 1979.

By the Commission: Commissioner Fogarty absent.

1. As a result its continuing study of the reregulation of broadcasting and the oversight of the AM, FM and TV rules the Commission herein makes certain changes in its regulations. The amendments, corrections, and clarifications, being made in Parts 73 and 74 of the Rules are necessary because of apparent conflicting provisions and restrictions which have made certain rules either impractical or unnecessary. Additional editorial changes covered by this *Order* include deletion of past dates and cross references to non-existent rule sections deleted by previous rulemaking proceedings, conflict between the text of previous Reports and Orders and the rules amended thereby, and conforming certain technical definitions to established national and international standards. Additionally, explanatory notes following certain rules have been incorporated into the rule texts, where appropriate, to facilitate full understanding of the rule material. Summaries of the corrections and changes are as follows:

(a) The magnitude of a radio signal is defined in terms of "field strength." However, the term "field intensity" was previously used in many sections of the FCC rules. During recent years, new or revised rules use the term "field strength" to conform with the "American National Standards" definitions, as well as international standards. Editorial substitution of the term field strength for field intensity is being made in AM and TV rule §§ 73.14, 73.153, 73.154, 73.188, 73.189, 73.681, 73.683, and 73.684. (Appendix paragraphs 1, 6, 7, 8, 9, 10, 11, 21, 23, and 24.)

(b) To conform with the American National Standards definitions of technical terms, the definition of "frequency departure" is being added to §§ 73.14 (AM station definitions), 73.310 (FM station definitions), and 73.681 (TV station definitions). "Frequency departure" refers to the difference between a station's assigned carrier frequency and the actual carrier frequency of its transmissions. The addition of this definition will permit the editorial revision of other rules for clarification and ease of use. (Appendix paragraphs 1, 15, and 21.)

(c) The modulation monitor specifications for AM, FM, and TV stations are being corrected by deleting references to the inclusion of a "frequency monitor." The requirement that broadcast stations use a type approved frequency monitor was deleted in 1973 (42 FCC 2d 461). Reference to a frequency monitor no longer serves any purpose in modulation monitor rule §§ 73.50, 73.322, and 73.794. (Appendix paragraphs 2, 17, and 26.)

(d) AM stations normally use the "direct method" of power determination, however an "indirect method" may be used on a temporary basis when the direct method is not possible. The specific circumstances for using the indirect method are listed in § 73.51. We are including an additional situation when the indirect method of power determination may be used—when the remote reading meter, remote control meter, or extension meter indications of antenna current are unavailable due to malfunctions in the telemetry system. Other paragraphs of this same rule are

rewritten for clarification and ease of use. (Appendix paragraph 3.)

(e) The remote control operating specification for AM, FM, and TV stations include the requirement that the remote control system permit station operation under an emergency action notification procedure. This requirement originated with the "Conelrad" procedures for all AM stations to use either 640 kHz or 1240 kHz in event of a national war emergency. The remote control requirement continued when the EBS attention signal transmission required that the transmitter be turned off for two five-second periods. Under present procedures, AM stations in EBS operation continue transmissions on their assigned frequencies and no longer interrupt the carrier as part of the EAN attention signal. EBS procedures for all stations are now covered in Subpart G, and therefore the duplicated instruction requirements are being deleted from §§ 73.67, 73.275, 73.573, and 73.677. (Appendix paragraphs 4, 14, 18, and 19.)

(f) The rule containing specifications for AM directional antenna monitor sampling systems includes procedures for designing systems with transmission lines of unequal length. Calculations are required which use the range of local temperature variations, however the rule fails to give sufficient information to make the correct computations. Required information on local climatic conditions for the computations is available from the National Climatic Center, National Oceanic and Atmospheric Administration. The address of that agency and the title of the weather records to be used for the calculations are being added to the § 73.68(a) to assist those in designing sampling systems. (Appendix paragraph 5.)

(g) Section 73.188(m) contains references to the selection of transmitter sites for new 100 Watt AM stations. Since the Commission no longer licenses new AM stations for 100 watt operation, references to such stations are being deleted from the rule. (Appendix paragraph 10.)

(h) Section 73.213 is revised to include the date provisions contained in Report and Order, Docket 14185, effective November 16, 1964, by which the rule Section was adopted (40 FCC 868). The rule as explained in paragraph 12 of the Report and Order was applicable only to stations authorized prior to November 16, 1964, because such stations would have been otherwise disadvantaged from making future improvements in facilities. Although the Report and Order clearly discussed the need for the rule § 73.213, the date provisions were not included in the rule. An editorial correction is being made to conform the rule to the Report and Order. (Appendix paragraph 12.)

(i) Paragraph (a) of § 73.242 "Duplication of AM and FM programming" is being deleted since it applied to licenses only prior to May 1, 1977. (Appendix paragraph 13.)

(j) The definitions for frequency modulation terms in the broadcast service rules are being editorially corrected to conform with those in other Parts of the FCC's rules, and with the American National Standards definitions. The term "frequency swing" is incorrectly used for the term "frequency deviation" in certain FM and TV rules. Sections in which this editorial conformation is made are 73.310, 73.317, 73.332, 73.681, 73.687, and 73.694. (Appendix paragraphs 15, 16, 17, 21, 22, and 26.)

(k) A new definition of "equivalent isotropically radiated power (EIRP)" is being added to the FM rules in § 73.310, and the TV rules in § 73.681. This term is used in connection with environmental impact studies made under the provision of FCC Rules in Part 1, subpart I. The definition conforms to the definition contained in the International Radio Regulations. (Appendix 15 and 21.)

(l) The present wording of § 73.676 is not clear as to the technical requirements for the design of TV transmitter remote control metering equipment. The rule requires that if the transmitter remote control metering system is not restored to service within one hour after failure, the emissions of the station must terminate by automatic means. Until such time as the metering is restored, an operator must remain on duty at the transmitter site to resume operation during the remote control failure. The rule appears to indicate that if the metering system is repaired within the hour remote control operation may only be resumed by sending an operator to the transmitter site. Obviously, sending an operator to the transmitter serves no purpose if the fault was located and repaired at the control location. Section 73.676(c) is being rewritten to clearly state the original intent of the rule—operation *by remote control* may be resumed immediately upon repair of the remote control metering. (Appendix paragraph 19.)

(m) The frequency of the chrominance subcarrier as used in TV broadcast signals is not a rational value, and therefore can not be expressed as a precise number and decimal fraction. The actual value is defined as 63/88 times precisely 5 MHz. Section 73.682(a)(5) is being revised to correctly define the subcarrier frequency. The rate of change of the subcarrier is not to exceed "0.1 hertz per second." However, this form of tolerance expression may not be clear. However, this form of expressing the tolerance is not clear. Therefore, the tolerance is being redefined to read "* * * the rate of frequency drift must not exceed 0.1 hertz per second (cycles per second squared)."

(n) The temporary provisions of the note following paragraph (c)(2) of § 73.682 (applicable prior to May 8, 1970) are being editorially deleted. The remaining portions of the note that are currently applicable to TV stations are being incorporated into the paragraph text as new subparagraphs (3) and (4). (Appendix paragraph 24.)

(o) Two notes to the engineering charts for TV broadcast services in § 73.699 are being editorially revised to correct apparent conflicts in the FCC TV transmission standards. Detail 4 of Figures 6 and 7 show the standard for the *duration* of the equalizing pulse transmitted as part of the TV picture signal as being "0.04H." Note 6 of this same figure expresses the tolerances for the equalizing pulse in terms of *area*. Since video pulses are observed by measuring their duration on a waveform monitor as shown in detail 4, the text of Note 6 is revised to state the tolerances in terms of *duration*. Additionally, the information previously contained in § 73.682(a)(9) on the nature of the TV color signal is being added as a note 18 to Figure 6, to which it is correctly applied. These changes should facilitate use of the video waveform drawings. (Appendix paragraph 27.)

(p) At the request of the Time and Frequency Division of the National Bureau of Standards, we are making editorial revisions to the rules describing the time signals originated by that agency in the rule on rebroadcasting. In connection with these corrections the entire rule is restructured for the convenience of the user in locating the information on rebroadcasting signals of other broadcast and non-broadcast stations. (Appendix paragraph 28.)

(q) The requirement that an identification card or plate be displayed at the operating position of mobile or hand held transmitters in the remote pickup broadcast services is being deleted from § 73.467. A similar requirement for identification tags for mobile transmitters in the land mobile radio services was previously deleted by the FCC as no longer having a regulatory purpose (65 FCC 2d 982). The requirement that full licensing

information be available for each operating position was impractical, particularly for hand held portable transmitters. (Appendix paragraph 29.)

(r) The station identification requirements for broadcasts of remote pickup stations in Rule § 74.482 is being revised to permit the use of International Morse Code for station identification if the licensee wishes to use the code for automatic identification purposes. Voice stations in the land mobile and common carrier servicers were previously permitted to use Morse Code for station identification (43 FR 7432). The working of the rule is also being revised to conform with the identification requirements for the associated radio broadcast stations. (Appendix paragraph 30.)

(s) The operator requirement rule for TV auxiliary broadcast stations is rewritten and clarified to indicate that fixed microwave transmitters in this service do not require attendance by an operator on a continuous basis. The rules were previously amended so that fixed microwave stations need not be turned off when programming was not being carried (Docket 20539, 43 FR 1943). However, clarification of § 73.665 is required to distinguish between "unattended" transmitter operation with an operator at the *receiving* point, and fully unattended operation with no duty operator at either the transmitter or receiver locations. (Appendix paragraph 31.)

(t) The station identification requirements are being deleted for TV auxiliary station transmissions used on fixed microwave links when program material is not being carried. Although fixed microwave transmitters may be left in a continous transmitting mode under previous rule amendments, the hourly station identification requirements were not deleted. This editorial change in Section 74.682 will permit full implementation of the relaxed operator requirements. The wording of the identification requirement rule is also being revised to conform with the requirements of the associated TV station, as the present requirements for the auxiliary stations are more restrictive as to time of identification than those for TV broadcast stations. (Appendix paragraph 31.)

2. Many of the changes described above relax present operating requirements, however no substantive changes are made which would impose additional burdens or remove provisions relied upon by licensees or the public. We therefore conclude that, for the reason set forth above, adoption of these revisions will serve the public interest, and inasmuch that these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b) (3) (B).

3. Therefore, It IS ORDERED, That pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's Rules and Regulations ARE AMENDED as set forth in the attached Appendix, effective July 2, 1979.

4. For further information concerning this *Order*, contact John W. Reiser, Philip Cross, Steve Crane Broadcast Bureau, (202) 632-9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—RADIO BROADCAST SERVICES

1. In § 73.14, paragraphs (b) and (c) are revised and new paragraph (u) is added to read as follows:

§ 73.14 Technical definitions.

* * * * *

(b) *Effective field.* The term "effective field" or "effective field strength" is the root-mean-square (RMS) value of the inverse distance fields at a distance of 1 mile from the antenna in all directions in the horizontal plane. The term "field strength" is synonymous with the term "field intensity" as contained elsewhere in this Part.

(c) *Nominal power.* "Nominal power" is the power of an AM broadcast station, as specified in a system of classification which includes the following values: 50 kW, 25 kW, 10 kW, 5 kW, 2.5 kW, 1 kW, 0.5 kW, and 0.25 kW.

* * * * *

(u) *Frequency departure.* The amount of variation of a carrier frequency or center frequency from its assigned value.

2. In § 73.50 the headnote is revised and paragraph (c) is deleted in its entirety as follows:

§ 73.50 Requirements for type approval of modulation monitors.

* * * * *

(c) [Deleted]

3. In § 73.51, the headnote and paragraphs (d), (e), and (f) are revised to read as follows:

§ 73.51 Determining operating power.

* * * * *

(d) The indirect method of determining antenna input power, as described in paragraphs (e) and (f) of this section, may be used on a temporary basis only. Prior authority from the FCC is not required. However, a notation when the indirect method is used must be made in the operating log. The indirect method may be used in the following situations:

(1) In an emergency, where the authorized antenna system has been damaged for causes beyond the control of the licensee. See § 73.45.

(2) Pending completion of authorized changes in the antenna system. See § 73.45(b).

(3) When changes occur in the antenna system or its environment which affect or appear likely to affect the value of antenna resistance. See § 73.45(c).

(4) When the antenna current ammeter or common point ammeter becomes defective, and the station does not have a remote reading meter, extension meter or remote control indication for these instruments. See § 73.58.

(5) When the remote reading meter, extension meter, or remote control meter indicating antenna or common point current becomes defective. See §§ 73.57, 73.67 or 73.1550.

(e) The antenna input power is determined indirectly by applying an appropriate factor to the input power to the last radio-frequency power amplifier stage of the transmitter, using the following formula:

Antenna input power $= Ep \times Ip \times F$

Where:

Ep = DC input voltage of final radio stage.

Ip = Total DC input current of final radio stage.

F = Efficiency factor.

(1) If the above formula is not appropriate for the design of the transmitter final amplifier, use a formula specified by the transmitter manufacturer with other appropriate operating parameters.

(2) The value of F applicable to each mode of operation must be entered in the operating log for each day of operation, with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this section. The product of the DC input current and voltage to the final RF power amplifier stage, or, alternatively,

the antenna input power as determined by the formula above must be entered in the operating log under an appropriate heading for each log entry of final RF power amplifier input current and voltage.

(f) The value of F is to be determined by one of the following procedures listed in order of preference:

(1) If the station had previously been authorized and operating by determining the antenna input power by the direct method, the factor F is the ratio of the antenna input power (determined by the direct method) to the corresponding final radio-frequency power amplifier input power. The computations are to be based on the values of antenna current and final amplifier input voltage and current obtained from the station's operating logs for the last week of regular operation with direct method of power determination.

(2) If a station has not been previously in regular operation with the power authorized for the period of indirect power determination, if a new transmitter has been installed, or if, for any other reason, the determination of the factor F by the method described in (1) of this paragraph is impracticable:

(i) The factor F as shown in the transmitter manufacturer's test report retained in the station's files, if such a test report specifies a unique value of F for the power level and frequency utilized; or

(ii) If a station has been authorized to operate with antenna input power which is lower than nominal power, the factor F has the value established when such operation was authorized; or

(iii) The value determined by reference to the following table:

Factor (F)	Method of modulation	Maximum rated carrier power	Class of amplifier
0.70	Plate	0.25 to 1.0 kW	
.80	Plate	2.5 kW and over	
.35	Low level	0.25 kW and over	B
.65	Low level	0.25 kW and over	BC[1]
.35	Grid	0.25 kW and over	

[1] All linear amplifier operation where efficiency approaches that of class C operation.

4. In § 73.67, paragraph (b) is deleted and marked reserved and paragraph (d) is revised to read as follows:

§ 73.67 Remote control operation.

* * * * *

(b) [Reserved.]

* * * * *

(d) Stations using directional antennas when operated by remote control, and not having an approved sampling system, must make a skeleton proof of performance as defined in § 73.154, at least once each calendar year. The results of each proof, signed and dated by the qualified person who made it, must be kept on file at the transmitter or remote control point for a period of 3 years, and on request must be made available during that time to authorized representatives of the FCC.

5. In § 73.68, the paragraph (a) introduction is revised, two sentences are added to paragraph (a)(1), paragraph (b)(3) is revised, and two new paragraphs (b)(4) and (b)(5) are added to read as follows:

§ 73.68 Sampling systems for antenna monitors.

(a) The following requirements govern the installation of antenna sampling systems used to extract samples of the current flowing in the elements of a directional antenna, and to deliver these samples to the antenna monitor. Each new station issued a construction permit, and each existing station issued a construction permit authorizing antenna modification, and any existing station undertaking modification or reconstruction of its sampling system must install a system meeting these requirements. The application for a license or modification of license must fully describe the sampling system in sufficient detail with the information in paragraph (c) of this Section to demonstrate its compliance with this paragraph. In an instance where the sampling system of an existing station authorization before March 18, 1976, is patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the FCC may require the reconstruction of the sampling system in accordance with these requirements.

(1) * * * For determining the permissible difference in line lengths that may be installed, the total difference between the highest listed normal daily maximum and lowest listed normal daily minimum temperatures as shown for the nearest location shown in the most recent issue of "Local Climatological Data Annual Summaries" shall be used in the calculations. This publication is available from:

National Climatic Center
National Oceanic and Atmospheric Administration
Asheville, North Carolina 28801

* * * * *

(b) * * *

(3) The readings and maintenance log entries specified in § 73.1830(a)(2)(iv).

(4) The annual skeleton proof of performance measurements made as required by § 73.67(d) for remote control operation.

(5) The skeleton proof of performance measurements as required by § 73.93(e)(3) for stations using persons holding other than first-class radiotelephone operator licenses during transmissions with directional antenna.

* * * * *

6. Section 73.153 and the headnote are revised to read as follows:

§ 73.153 Field strength measurements in support of applications or evidence at hearings.

In the determination of interference, groundwave field strength measurements will take precedence over theoretical values, provided such measurements are properly taken and presented. When measurements of groundwave signal strength are presented, they shall be sufficiently complete in accordance with § 73.186 to determine the field strength at 1 mile in the pertinent directions for that station. The antenna resistance measurements required by § 73.186 need not be taken or submitted.

7. In § 73.154, the headnote is revised to read as follows:

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

* * * * *

9. In § 73.183, paragraph (a) is revised to read as follows:

§ 73.183 Groundwave signals.

(a) Interference that may be caused by a proposed assignment or an existing assignment during daytime hours should be determined, when possible, by measurements on the frequency involved or on another frequency over the same terrain and by means for the curves in § 73.184 entitled "Ground Wave Field Strength verses Distance."

* * * * *

9. In § 73.184, the headnote is revised to read as follows:

§ 73.184 Groundwave field strength charts.

* * * * *

10. In § 73.188, paragraph (m) is revised to read as follows:

§ 73.188 Location of transmitters.

* * * * *

(m) It is sometimes necessary to make a field strength survey to determine that the site selected will be entirely satisfactory. There are several facts that cannot be determined by inspection that make a survey very desirable for all

locations removed from the city. Often two or more sites may be selected that appear to be of equal promise. It is only by means of field strength surveys taken with a transmitter at the different sites or from measurements on the signal of nearby stations traversing the terrain involved that the most desirable site can be determined. There are many factors regarding site efficiency that cannot be determined by any other method. When making the final selection of a site, the need for a field strength survey to establish the exact conditions cannot be stressed too strongly. The selection of a proper site for an AM broadcast station is an important engineering problem and can only be done properly by an adequate engineering study.

11. In § 73.189, the headnote is revised to read as follows:

§ 73.189 Minimum antenna heights or field strength requirements.

* * * * *

12. In § 73.213, the text of paragraph (a) preceding the table is amended to read as follows:

§ 73.213 Stations at spacing below the minimum separations.

(a) Stations authorized prior to November 16, 1964, and which are separated from other co-channel or adjacent channel stations less than the minimum distances specified in § 73.207 may apply for changes in facilities provided the requested facilities conform with the following table:

* * * * *

13. In § 73.242, paragraph (a) is deleted in its entirety and marked Reserved.

§ 73.242 Duplication of AM and FM programming.

(a) [Reserved.]

14. In § 73.275, paragraph (b) is deleted and marked reserved:

§ 73.275 Remote control operation.

* * * * *

(b) [Reserved.]

* * * * *

15. In paragraph (a) of § 73.310, new definitions "Equivalent isotropically radiated power," "Frequency departure," and "Frequency deviation" are added in alphabetical sequence, and the definitions of "Frequency swing" and "Percentage modulation" are amended to read as follows:

§ 73.310 Definitions.

(a) * * *

* * * * *

Equivalent Isotropically radiated power (EIRP). The term "equivalent isotropically radiated power (also known as "effective radiated power above isotropic) means the product of the antenna input power and the antenna gain in a given direction relative to an isotropic antenna.

* * * * *

Frequency departure. The amount of variation of a carrier frequency or center frequency from its assigned value.

Frequency deviation. The peak difference between the instantaneous frequency of the modulated wave and the carrier frequency.

* * * * *

Frequency swing. The peak difference between the maximum and the minimum values of the instantaneous frequency of the carrier wave during modulation.

* * * * *

Percentage modulation. The ratio of the actual frequency deviation to the frequency deviation defined as 100% modulation, expressed in percentage. For FM broadcast stations, a frequency deviation of ±75 kHz is defined as 100% modulation.

* * * * *

16. In § 73.317, paragraphs (a)(1) and (a)(4) are revised to read as follows:

§ 73.317 Transmitter and associated equipment.

(a) * * *

(1) The transmitter must operate satisfactorily in the operating power range with a frequency deviation of ±75 kHz, which is defined as 100% modulation.

* * * * *

(4) The transmitting system output noise level (frequency modulation) in the band of 50 to 15,000 hertz must be at least 60 dB below 100% modulation (frequency deviation of ±75 kHz). The measurement must be made using 400 hertz modulation as a reference. The noise-measuring equipment must include a 75 microsecond deemphasis; the ballistic characteristics of the instrument must be similar to those of the standard VU meter.

* * * * *

17. In § 73.332, paragraphs (b)(2) and (f)(4) are revised and paragraph (c) is deleted in its entirety and marked "reserved" as follows:

§ 73.332 Requirements for type approval of modulation monitors.

* * * * *

(b) * * *

(2) A modulation peak indicating device that can be set at any predetermined value from 50% to 120% modulation (±75 kHz deviation is defined as 100% modulation) for either positive or negative deviation.

* * * * *

(c) [Reserved]

* * * * *

(f) * * *

(4) A means for measuring the frequency deviation of each subcarrier in the presence of modulation in all channels (main, SCA, and stereophonic (if applicable)) to an accuracy of 1 kHz under the modulation conditions specified in the application for type approval.

* * * * *

18. In § 73.573, paragraph (b) is deleted and marked reserved.

§ 73.573 Remote control operation.

* * * * *

(b) [Reserved.]

* * * * *

19. In § 73.676, paragraph (a)(10) is deleted and paragraph (c) is reserved to read as follows:

§ 73.676 Remote control operation.

(a) * * *

(10) [Deleted]

* * * * *

(c) The control circuits from the control point to the transmitter and the return telemetry circuit must be so designed and installed that open circuits, short circuits, accidental grounding or other line faults, where lines are used, or equipment failures, casual signals or random noise impulses, if other means are used, will not activate the transmitter. Any fault or failure which results in loss of control must cause the transmitter to cease operation. The loss of any telemetry function which provides information necessary to comply with the logging requirements of § 73.671 must result in the actuation of automatic circuitry which, not more than 1 hour from the time of telemetry failure, will terminate operation of the transmitter, and operation by remote control may not resume until all telemetry functions are fully restored.

* * * * *

20. In § 73.677, the Section headnote is revised to read as follows:

§ 73.677 Remote control authorizations.

* * * * *

21. In § 73.681, the definition "Free space field intensity" is amended as "Free space field strength," and the definitions "Equivalent isotropically radiated power," "Frequency departure" and "Frequency deviation" are added, and the definitions "Frequency swing" and "Percentage modulation" are amended as follows:

§ 73.681 Definitions.

* * * * *

Equivalent isotropically radiated power (EIRP). The term "equivalent isotropically radiated power" (also known as "effective radiated power above isotropic") means the product of the antenna input power and the antenna gain in a given direction relative to an isotropic antenna.

* * * * *

Free space field strength. The field strength that would exist at a point in the absence of waves reflected from the earth or other reflecting objects.

* * * * *

Frequency departure. The amount of variation of a carrier frequency or center frequency from its assigned value.

* * * * *

Frequency deviation. The peak difference between the instantaneous frequency of the modulated wave and the carrier frequency.

* * * * *

Frequency swing. The peak difference between the maximum and the minimum values of the instantaneous frequency of the carrier wave during modulation.

* * * * *

Percentage modulation. As applied to frequency modulation, the ratio of the actual frequency deviation to the frequency deviation defined as 100% modulation expressed in percentage. For the aural transmitter of TV broadcast stations, a frequency deviation of ±25 kHz is defined as 100% modulation.

* * * * *

22. Subparagraph (a)(5) in § 73.682 is revised to read as follows:

§ 73.682 Transmission standards.

(a) * * *

(5) The chrominance subcarrier frequency is 63/88 times precisely 5 MHz (3.5954545... MHz). The tolerance is to be ±10 hertz and the rate of frequency drift must not exceed 0.1 hertz per second (cycles per second squared).

* * * * *

23. Section 73.683, including headnote, is revised to read as follows:

§ 73.683 Field strength contours.

(a) In the authorization of TV stations, two field strength contours are considered. These are specified as Grade A and Grade B and indicate the approximate extent of coverage over average terrain in the absence of interference from other television stations. Under actual conditions, the true coverage may vary greatly from these estimates because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based. The required field strength, *F* (50,50), in decibels above one micro-volt per meter (dBu) for the Grade A and Grade B contours are as follows:

	Grade A (dBu)	Grade B (dBu)
Channels 2-6	68	47
Channels 7-13	71	56
Channels 14-83	74	64

(b) It should be realized that the *F* (50,50) curves when used for Channels 14–83 are not based on measured data at distances beyond about 30 miles. Theory would indicate that the field strengths for Channels 14–83 should decrease more rapidly with distance beyond the horizon than for Channels 2–6, and modification of the curves for Channels 14–83 may be expected as a result of measurements to be made at a later date. For these reasons, the curves should be used with appreciation of their limitations in estimating levels of field strength. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated. In licensing proceedings these variations will not be considered.

(c) The field strength contours will be considered for the following purposes only:

(1) In the estimation of coverage resulting from the selection of a particular transmitter site by an applicant for a TV station.

(2) In connection with problems of coverage arising out of application of § 73.636.

(3) In determining compliance with § 73.685(a) concerning the minimum field strength to be provided over the principal community to be served.

24. In § 73.684, paragraphs (b) and (c) are revised to read as follows:

§ 73.684 Prediction of coverage.

* * * * *

(b) Predictions of coverage shall be made only for the same purposes as relate to the use of field strength contours as specified in § 73.683(c).

(c) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9 and 10 of § 73.699) shall be used. If the 50% field strength is defined as that value exceeded for 50% of the time, these *F* (50,50) charts give the estimated 50% field strengths exceeded at 50% of the locations in dB above 1 mV/m. The charts are based on an effective power of 1 kW radiated from a half-wave dipole in free space, which produces an unattenuated field strength at 1 mile of about 103 dB above 1 mV/m (137.6 millivolts per meter). To use the charts for other powers, the sliding scale associated with the charts should be trimmed and used as the ordinate scale. This sliding scale is placed on the charts with the appropriate gradation for power in line with the horizontal 40 dB line on the charts. The right edge of the scale is placed in line with the appropriate antenna height gradations, and the charts then become direct reading (in uV/m and in dB above 1 uV/m) for this power and antenna height. Where the antenna height is not one of those for which a scale is provided, the signal strength or distance is determined by interpolation between the curves connecting the equidistant points. Dividers may be used in lieu of the sliding scale.

(1) In predicting the distance to the Grade A and Grade B field strength contours, the effective radiated power to be used is that radiated at the vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth spherical earth with a radius of 5,280 miles, and shall be determined by the following equation:

$$A\eta = 0.0153\sqrt{H}$$

Where:

$A\eta$ is the depression angle in degrees.

H is the height in feet of the transmitting antenna radiation center above average terrain of the 2–10 mile sector of the pertinent radial. This formula is empirically derived for the limited purpose specified here. Its use for any other purpose may be inappropriate.

(2) In cases where the relative field strength at the depression angle determined by the above formula is 90% or more of the maximum field strength developed in the vertical plane containing the pertaining radial, the maximum radiation shall be used.

(3) In predicting field strengths for other than the Grade A and Grade B contours, the effective radiated power to be used is to be based on the appropriate antenna vertical plane radiation pattern for the azimuthal direction concerned.

(4) Applicants for new TV stations or changes in the facilities of existing TV stations must submit to the FCC a

showing as to the location of their stations' or proposed stations' predicted Grade A and Grade B contours, determined in accordance with § 73.684. This showing is to include maps showing these contours, except where applicants have previously submitted material to the FCC containing such information and it is found upon careful examination that the contour locations indicated therein would not change, on any radial, when the locations are determined under this Section. In the latter cases, a statement by a qualified engineer to this effect will satisfy this requirement and no contour maps need be submitted.

* * * * *

25. In § 73.687, paragraphs (b)(1) and (b)(4) are revised to read as follows:

§ 73.687 Transmitters and associated equipment.

* * * * *

(b) * * *

(1) The transmitter must operate satisfactorily with a frequency deviation of ±25 kHz, which is defined as 100% modulation. It is recommended, however, that the transmitter be designed to operate satisfactorily with a frequency deviation of at least ±40 kHz.

* * * * *

(4) The transmitting system output noise level (frequency modulation) in the band of 50 to 15,000 hertz must be at least 55 dB below the audio frequency level representing 100% modulation (frequency deviation of ±75 kHz). For the purpose of these measurements, the visual transmitter should be inoperative since the exact amount of noise possible from that source is not known.

* * * * *

26. In § 73.694, paragraph (a) is deleted and marked "Reserved," and paragraphs (b)(2) and (b)(3) are revised to read as follows:

§ 73.694 Requirements for type approval of aural modulation monitors.

(a) [Reserved]

(b) * * *

(2) A modulation peak indication device must be provided that can be set at any pre-determined value from 50% to 120% modulation (+25 kHz deviation is defined as 100% modulation) and for either positive or negative deviation.

(3) A quasi-peak indicator with a meter having the characteristics given below must be used with a circuit such that peaks of modulation duration between 40 and 90 milliseconds are indicated to 90% of full value and the discharge rate adjusted so that the pointer returns from full reading to within 10% of zero within 500 to 800 milliseconds. A switch must be provided so that this meter will read either positive or negative deviation.

* * * * *

27. In § 73.699, the headnote is revised, Figure 6 Note 6 is revised and new Note 18 is added, and Figure 7 Note 6 is revised as follows:

§ 73.699 TV engineering charts.

Figure 6 * * *

Notes:

* * * * *

6. Equalizing pulse duration must be between 0.45 and 0.55 of the duration of the horizontal synchronizing the pulse duration.

* * * * *

18. During color transmissions, the chrominance component of the picture signal may penetrate the synchronizing region and the color burst penetrates the picture region.

Figure 7. * * *

Notes:

* * * * *

6. Equalizing pulse duration must be between 0.45 and 0.55 of the duration of the horizontal synchronizing pulse duration.

* * * * *

28. Section 73.1207, including headnote, is revised to read as follows:

§ 73.1207 Rebroadcasts.

(a) The term "rebroadcast" means reception by radio of the programs or other transmissions of a broadcast or any other type of radio station, and the simultaneous or subsequent retransmission of such programs or transmissions by a broadcast station.

(1) As used in this Section, "program" includes any complete programs or part thereof.

(2) The transmission of a program from its point of origin to a broadcast station entirely by common carrier facilities, whether by wire line or radio, is not considered a rebroadcast.

(b) No broadcasting station may rebroadcast the program, or any part thereof of another U.S. broadcast station without the express authority of the originating station. A copy of the written consent of the licensee originating the program must be kept by the licensee of the station rebroadcasting such program and made available to the FCC upon request. Stations originating emergency communications under a Detailed State EBS Operational Plan are deemed to have conferred rebroadcast authority on other participating stations. The broadcasting of a program relayed by a remote pickup broadcast station is not considered a rebroadcast.

(c) Programs originated by the Voice of America (VOA) and the American Forces Radio and Television Service (AFRTS) cannot, in general, be cleared for domestic rebroadcast, and may therefore be rebroadcast only by special arrangement among the parties concerned. Except as otherwise provided by international agreement, programs originated by foreign broadcasting stations may be rebroadcast without the consent of the originating station. In the case of retransmissions of subcarrier background music and other FM multiplex subscription services, permission must first be obtained from the originating station. The retransmission of point-to-point messages originated by government and privately owned non-broadcast stations must be authorized by the FCC prior to retransmission; such authority may be requested informally by telephone, to be followed within one week with a written confirmation accompanied by the written consent of the originating station.

(d) The rebroadcasting of time signals originated by the Naval Observatory and the National Bureau of Standards and messages from the National Weather Service stations is permitted without specific authorization under the following procedures:

(1) *Naval Observatory Time Signals.* (i) The time signals rebroadcast must be obtained by direct radio reception from a naval radio station, or by land line circuits.

(ii) Announcement of the time signal must be made without reference to any commercial activity.

(iii) Identification of the Naval Observatory as the source of the time signal must be made by an announcement, substantially as follows: "With the signal, the time will be . . . courtesy of the U.S. Naval Observatory."

(iv) Schedules of time signal broadcasts may be obtained upon request from the Superintendent, U.S. Naval Observatory, Washington, D.C. 20390.

(2) *National Bureau of Standards Time Signals.* (i) Time signals for rebroadcast must be obtained by direct radio reception from a National Bureau of Standards (NBS) station.

(ii) Use of receiving and rebroadcasting equipment must not delay the signals by more than 0.05 second.

(iii) Signals must be rebroadcast live, not from tape or other recording.

(iv) Voice or code announcements of the call signs of NBS stations are not to be rebroadcast.

(v) Identification of the origin of the service and the source of the signals must be made by an announcement

substantially as follows: "At the tone, 11 hours 25 minutes *Coordinated Universal Time*. This is a rebroadcast of a continous service furnished by the National Bureau of Standards, Ft. Collins, Colo." No commercial sponsorship of this announcement is permitted and none may be implied.

(vi) Schedules of time signal broadcasts may be obtained from, and notice of use of NBS time signals for rebroadcast must be forwarded semiannually to:

National Bureau of Standards, Radio Stations WWV/WWVB, 2000 East County Road 58, Ft. Collins, Colorado 80524.

(vii) In the rebroadcasting of NBS time signals, announcements will not state that they are standard frequency transmissions. Voice announcements of *Coordinated Universal Time* are given in voice every minute. Each minute, except the first of the hour, begins with an 0.8 second long tone of 1000 hertz at WWV and 1200 hertz tone at WWVH. The first minute of every hour begins with an 0.8 second long tone of 1500 hertz at both stations. This tone is followed by a 3-second pause, than the announcement, "National Bureau of Standards Time." This is followed by another 3-second pause before station identification. This arrangement allows broadcast stations sufficient time to retransmit the hour time tone and the words "National Bureau of Standards Time" either by manual or automatic switching.

(viii) Time signals or scales made up from integration of standard frequency signals broadcast from NBS stations may not be designated as national standard scales of time or attributed to the NBS as originator. For example, if a broadcasting station transmits time signals obtained from a studio clock which is periodically calibrated against the NBS time signals from WWV or WWVH, such signals may not be announced as NBS standard time or as having been originated by the NBS.

(3) *National Weather Service Messages.* (i) Messages of the National Weather Service must be rebroadcast within 1 hour of receipt.

(ii) If advertisements are given in connection with weather rebroadcast, these advertisements must not directly or indirectly convey an endorsement by the U.S. Government of the products or services so advertised.

(iii) Credit must be given to indicate that the rebroadcast message originates with the National Weather Service.

(e) A broadcast station may not rebroadcast, live or delayed, the transmissions of a Personal Radio Service station.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

29. In § 74.467, paragraph (b) is revised to read as follows:

§ 74.467 Posting of licenses.

* * * * *

(b) At the operating position of each transmitter, other than mobile or handheld units, an identification label must be displayed showing the station call sign, the call letters of the associated broadcast station(s) or network name, the name and address of the licensee, frequencies, and the licensee's unit designator if used.

* * * * *

30. In § 74.482, new paragraph (d) is added to read as follows:

§ 74.482 Station identification.

* * * * *

(d) Automatically activated equipment may be used to transmit station identification in international Morse code, provided that the modulating tone is 750 hertz ±10 hertz and that the level of modulation of the identification signal is maintained at 40% ±10%.

31. In § 74.665, paragraphs (a), (b), and (c) are revised to read as follows:

§ 74.665 Operator requirements.

(a) Except for unattended transmitters, an operator designated by the licensee must be on duty either at the transmitter location or authorized remote control location in charge of the transmitting apparatus during the operation of a television broadcast auxiliary station.

(b) Transmitters that do not require adjustments during normal operations that could result in off-frequency or unauthorized radiations may be operated by any person designated by the licensee. Transmitters that require adjustments during normal operation which could result in off-frequency operation or unauthorized radiations may be operated only by persons holding first-class or second-class radiotelephone operator licenses.

(c) Unattended transmitters operated under the provisions of § 74.635 do not require continuous attendance by a duty operator during normal operation.

* * * * *

32. In § 74.682, paragraph (a) introduction is amended to read:

§ 74.682 Station identification.

(a) Each TV broadcast auxiliary station operating with a transmitter output power of 1 watt or more must, when actually transmitting programs, transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

* * * * *

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47 CFR Parts 81 and 83

(Docket No. 20937; FCC 79-343)

Adding the Ports of San Francisco and Seattle to the Designated Radio Protection Areas for Vessel Traffic Services Purposes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment adds the Seattle (Puget Sound) port area to the Vessel Traffic Services (VTS) radio protection areas designated in the rules. The frequency 156.7 MHz (VHF Channel 14) is available only for VTS communications in this VTS area. This action was requested by the U.S. Coast Guard. The establishment of this VTS area is intended to assist the Coast Guard in implementing legislation designed to prevent ship collision and groundings as well as protect the marine environment.

EFFECTIVE DATE: July 23, 1979.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: June 7, 1979.

Released: June 14, 1979.

By the Commission: Commissioners Washburn, Fogarty and Jones absent.

In the matter of amendment of Parts 81 and 83 of the rules to add the ports of San Francisco and Seattle to the designated radio protection areas for Vessel Traffic Services purposes.

1. This action will amend the Commission's rules by adding the Seattle (Puget Sound) port area to the designated radio protection areas for Vessel Traffic Services (VTS) purposes and assign 156.7 MHz (VHF Channel 14) as the VTS frequency therein. In light of the U.S. Coast Guard's ongoing

reevaluation of its choice for the San Francisco VTS frequency, we are delaying treatment of the proposed San Francisco VTS area until the Coast Guard makes its recommendation and requests further action.

Background

2. As part of a program to implement the provisions of the "Ports and Waterways Safety Act of 1972" [1] the Coast Guard is establishing VTS systems for a number of the largest and busiest port areas in the United States.[2] Essentially, VTS systems are vessel movement reporting systems designed to prevent damage to or loss of vessels, bridges or other structures in U.S. navigable waters. Additionally, these waters and associated natural resources are sought to be protected from environmental harm resulting from such incidents. At the Coast Guard's request, the Commission amended its rules in order to make up to three frequencies available for exclusive use for VTS purposes within designated VTS radio protection areas.[3] Vessels participating in a system must continuously monitor the specified VTS frequency.[4]

3. In response to a request by the Coast Guard, the Commission issued a Notice of Proposed Rule Making [5] proposing to amend its rules to add the San Francisco and Seattle areas to the previously designated VTS radio protection areas (Houston, New Orleans and New York). It was also proposed that 156.6 MHz (VHF Channel 12) and 156.7 MHz (VHF Channel 14) be designated for exclusive use for VTS purposes in the San Francisco and Seattle VTS areas, respectively.

Comments

4. Comments in this proceeding were filed by the American Institute of Merchant Shipping (AIMS), the Central Committee on Telecommunications of the American Petroleum Institute (API), the Pacific Merchant Shipping Association (PMSA) and the Northern California Marine Radio Council (NCMRC).

5. PMSA filed comments opposing the designation of radio protection areas in the San Francisco and Seattle port areas. In their view, traffic congestion in the subject areas does not justify the assignment of a channel exclusively for VTS use. PMSA also feels that even if such rulemaking became justified, an additional listening watch should not be required, and further, that the same channel should be utilized in both the San Francisco and Seattle areas.

6. AIMS, while not opposing the proposed amendment, restates the position it took in other rulemakings.[6] In essence it is suggested that vessels navigating in designated VTS areas and guarding the specified VTS frequency and the bridge-to-bridge frequency should be exempt from the Channel 16 listening watch requirement. AIMS also recommends that Channel 14 be designated as the VTS frequency in the San Francisco area as well as the Seattle area. API, although supporting the proposed amendment, endorses AIMS comments regarding the elimination of the Channel 16 watch requirement. NCMRC noted that most of the numerous recreational and small craft in the San Francisco area are fitted for operation on Channel 12 in order to communicate with the many limited coast stations presently operating on that frequency in the vicinity. In that Channel 14 is relatively unused, NCMRC urges that Channel 14 rather than Channel 12 be designated for exclusive use for VTS purposes in the proposed San Francisco radio protection area. Further, it was requested that the effective date for implementation in the San Francisco area be delayed to ease the burden on the boating public.

Discussion

7. As a result of the comments received in this proceeding, we consulted further with the Coast Guard regarding its selection of Channel 12 as the designated VTS frequency in the San Francisco port area. The Coast Guard indicated that it would reevaluate the proposed VTS frequency in that area and consider Channel 14. At this time the Coast Guard has yet to make its final decision as to the VTS frequency for San Francisco. Therefore, we are proceeding herein only in regard to the Seattle VTS area. Any future USCG request for action relative to the San Francisco VTS system will be treated in a separate proceeding and a new Notice of Proposed Rule Making issued.

8. Concerning the issue of the relaxation of the Channel 16 listening watch requirement in VTS areas, we have recently issued a Notice of Proposed Rule Making [7] proposing to amend the rules essentially as suggested by AIMS and API herein. Since this matter is ancillary and does not specifically affect the merits of this rulemaking, we will not address it further in this proceeding.

9. In that the Coast Guard is establishing a VTS system in the Seattle port area as part of a program to implement legislation designed to prevent vessel collisions and groundings and to protect marine environment, we believe it is in the public interest to further assist the Coast Guard by adding the Seattle area, as described in the attached Appendix, to the designated VTS radio protection areas, utilizing the frequency 156.7 MHz.

10. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7175.

Action

11. In view of the above, IT IS ORDERED, That, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules ARE AMENDED, as set forth in the attached Appendix, effective July 23, 1979.

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

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

William J. Tricarico,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. In Section 81.357(b) new subparagraph (4) is added as follows:

§ 81.357 Frequencies available for use in Vessel Traffic Services Systems.

* * * * *

(b) * * *

[1] Pub. L. 92-340, 86 Stat. 424, 33 U.S.C. 1221.

[2] The USCG is in various stages of implementing VTS systems in the port areas of Houston, New Orleans, New York, San Francisco, Seattle and Valdez (Alaska).

[3] Report and Order, Docket No. 20444, adopted December 2, 1975, 40 FR 57673, 56 FCC 2d 1089.

[4] In essence, certain large ships, tow and tug boats, dredges and floating platforms are required or requested (some VTS areas are being implemented on a voluntary basis) to participate in VTS systems.

[5] Adopted September 28, 1976, 41 FR 45584, FCC 76-900.

[6] Various members of the maritime industry, including API and AIMS have opposed additional VHF watches in general and/or the Channel 16 watch in particular, in each proceeding relating to designation of frequencies for VTS areas (Docket Nos. 20444 and 20717) as well as in Docket No. 20683 regarding relaxation of the Channel 16 watch for certain tug boats. Further, AIMS filed a Petition for Rule Making (RM 2120) in 1973 requesting that the rules be amended to remove the requirement to "watch" Channel 16 when a ship is maintaining a watch on the bridge-to-bridge frequency. The Petition was denied in a Memorandum Opinion and Order adopted April 18, 1973, 40 FCC 2d 763.

[7] Notice of Proposed Rule Making, PR Docket No. *79-139*, adopted June 7, 1979 FCC 79-335, appearing in the Proposed Rule section of this issue of the Federal Register.

(4) Seattle (Puget Sound): From 49° North 121° West on the U.S.-Canadian Border, south to 46°30' north 121° west, then west to 46°30' north 125° west, then north to 48°30' north 125° west, then east to the U.S.-Canadian Border and thence along the U.S.-Canadian Border to 49° north 121° west; frequency 156.7MHz.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

2. In Section 83.361(b) new subparagraph (4) is added as follows:

§ 83.361 Frequencies available for use in Vessel Traffic Services Systems.

* * * * *

(b) * * *

(4) Seattle (Puget Sound): From 49° North 121° West on the U.S.-Canadian Border, south to 46°30' North 121° West, then west to 46°30' North 125° West, then north to 48°30' North 125° West, then east to the U.S.-Canadian Border and thence along the U.S.-Canadian Border to 49° North 121° West; frequency 156.7 MHz.

* * * * *

[FR Doc. 79-19244 Filed 6-19-79; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final Regulations.

SUMMARY: These regulations amend the present Atlantic bluefin tuna regulations by: (1) Decreasing the purse seine quota of school tuna from 1,000 short tons (st) to 650 st; (2) increasing the purse seine quota for giant bluefin tuna from 180 st to 300 st; (3) changing the quota unit of measure for giant bluefin tuna from numbers of fish to tons and increasing the giant quota for the handgear fishery from 2,250 fish to 1,218 st (approximately 3,240 fish); (4) establishing a category for which charter boat operators in the handgear fishery in the northern area could apply; (5) dividing the handgear quota of giants for the northern area (1,128 st) between a charter boat and a general category based upon historical participation in the fishery, i.e., 102 st (approximately 270 fish) for the charter boat category and 1,026 st (approximately 2,700 fish) for the general category; (6) prescribing different catch rates for the handgear fishery in the northern and southern areas, i.e., one fish per day per vessel (northern area) and five fish per week per vessel (southern area); (7) requiring all dealers in Atlantic bluefin tuna to obtain licenses; and (8) allowing anglers to take more than one young school tuna as part of their daily catch limit. In addition, the comment period on vessel categories for giant tuna in the northern area is extended to July 2, 1979.

DATES: These regulations are effective June 14, 1979. Further comments on the vessel categories for the handgear fishery in the northern area, as specified in § 285.29(a)(2), are invited until July 2, 1979. Written comments may be submitted to Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm St., Gloucester, Massachusetts 01930. Telephone (617) 281-3600.

FOR FURTHER INFORMATION CONTACT: Dr. Robert W. Hanks (address same as above).

SUPPLEMENTARY INFORMATION: On March 21, 1969, the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887; TIAS 6767) entered into force for the United States. The United States as a party to that Convention implemented its obligations thereunder by enacting the Atlantic Tunas Convention Act of 1975 (the Act, 16 U.S.C. Sections 971-971h).

The Act, among other things, directs the Secretary of Commerce to promulgate regulations which implement recommendations adopted by the Commission established under the provisions of the Convention. Those recommendations implemented by the regulations are as follows:

(1) To prohibit any taking and landing of bluefin tuna weighing less than 6.4 kg (14 pounds) except for a 15 percent incidental catch allowance;

(2) To limit fishing mortality to recent levels.

In view of the varying mortality rates for different classes of Atlantic bluefin tuna, the regulations were written in a manner which reflects the relationship of recent fishing mortality levels to a particular size tuna (i.e., young school—under 14 pounds; school—14 to 115 pounds; medium—115 to 299 pounds; and giant tuna—300 pounds or more).

The Secretary, through the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) has continually monitored the stock levels of bluefin tuna in order to meet the obligations of the United States to implement the recommendations of the Commission. Both the Convention and the Act are directed towards "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch of food and other purposes" (Preamble to the Convention). Since the bluefin tuna recreational fishery is utilized by tens of thousands of domestic fishermen, and results in a source of protein for United States and foreign markets, the Secretary has attempted to ensure the broadest possible access to the fishery while preventing serious economic dislocations as a result of any management scheme she might impose. This approach has received support from the courts (*Tri-Coastal Seafood Cooperative, Inc.* v. *Elliot L. Richardson, et al.*, No. 76-2316G (D. Mass., 1976)).

In an effort to develop a management scheme which permits an increase in growth of the Atlantic bluefin tuna stock and which is equitable to participants in the fishery, the NMFS held a number of informational meetings in January of 1979 (44 FR 2397) to inform the public of certain management schemes under consideration and to receive responses. At those meetings, a variety of options were discussed which involved the following management measures: (a) Vessel allocations; (b) fixed categories or classes of fishermen; (c) varying catch rates; (d) increasing, reducing, or eliminating quotas for particular size classes of bluefin tuna; (e) size limits; (f) limited seasons; and (g) lotteries.

After considering the anticipated effects of various management schemes and the public comments received in response to those proposals, the NMFS maintained its intent to shift effort away from school tuna and into the fishery for giants. Although the NMFS believed that eliminating the purse seine fishery for school tuna would serve best to rehabilitate the Atlantic bluefin tuna stocks in the short term, such a measure could have resulted in unknown long-term consequences. The impacts of such a measure are slated for future study.

On May 15, 1979, the NMFS published proposed regulations (44 FR 28372) which form the basis for these final regulations. Public hearings on the proposed regulations were held at various locations in New Hampshire, Massachusetts, and New York. Written comments on the regulations were received through June 4, 1979. NMFS received numerous comments both orally and written through the public hearings and letters. Those comments

which responded to the substance of the proposed regulations are addressed below. The comments are presented in order of the sections upon which they were made. Those sections which do not appear were not the subject of comment.

§ 285.1 Definitions.

One commenter suggested that the definition of fishing be changed. He felt that since billfish were covered by the Convention, the definition and the prohibitions in which it was used might be construed to prevent fishing for billfish when the fishing season for bluefin tuna was closed.

The definition of fishing is taken directly from the Act. Though billfish are covered by the Convention, the United States has elected to regulate fishing for billfish under the Fishery Conservation and Management Act of 1976, as amended (Pub. L. 94–265). These restrictions in the bluefin tuna fishery do not apply to the billfish fishery.

The definition of vessel of the United States has been deleted. Some vessels which are presently licensed in the fishery are not required to be documented under Federal law or registered under the laws of any State. Thus, in order to ensure coverage of these regulations over all vessels participating in the fishery, the reference to vessels of the United States has been deleted, and reference to vessels subject to the jurisdiction of the United States has been inserted where appropriate.

§ 285.24 Metal tags.

In response to one comment, the subsection on removal of tail tags has been revised to allow for their removal from tuna used for personal consumption.

§ 285.25 Prohibitions.

One commenter suggested that the sale of bluefin tuna should be prohibited. The NMFS does not believe that such a prohibition is justified in light of the recommendations of the Commission and the diverse nature of the fishery.

§ 285.28 Purse seine vessel gear restrictions and inspection.

One commenter suggested that the restriction on the length of the purse seine net should be retained. The NMFS has determined that the length of the net is not the only factor in controlling the catch of bluefin tuna. Available data indicate that net length is but one variable in determining the amount of tuna caught during any one set. Net depth and length of cable as well as weather conditions and speed of migrating schools are also factors. Since there is not necessarily a direct relationship between the length of a net and the size of the catch and since the many variables of catch cannot be regulated satisfactorily, the NMFS believes that continuing with the net length restriction would serve little useful purpose. The mesh and twine size requirements have been retained to reduce the mortality of tuna which are orginally encircled by a purse net but manage to escape by breaking through the netting.

§ 285.29 Permitted Fishing.

One commenter suggested that the commencement of the purse seine fishery for giant bluefin tuna should be unregulated, (i.e., begin on 1 January). Thus, the beginning of the fishery would be determined by the availability of the fish. Others who commented at the hearings stated that more gear conflicts between the handgear and purse seine fishermen would result if purse seining for giants began earlier in the fishing season.

The date selected by the NMFS for the commencement of this fishery is intended to reduce gear conflicts and to allow the increased quota to be taken. Since the majority of boats operate in the handgear fishery for bluefin tuna during July and August, the later the purse seine fishery starts the less potential for gear conflicts. In the regulations published on May 15, 1979, the commencement of the fishery was proposed to be changed from September 10 to August 15. In light of the comments, the NMFS believes that this commencement date should avert major gear conflicts and allow purse seine vessels ample opportunity to harvest their increased quota.

§ 285.30 Quotas.

Purse seining

Two commenters objected to the decrease in the purse seine quota for school tuna. In contrast, the great majority of the people who submitted comments voiced their support for the decrease. A few suggested that the purse seine fishery for school tuna should be closed completely this year. One commenter stated that there should be a complete closure of the school tuna fishery for everyone.

Current biological data indicate that the purse seine fishery for school tuna continues to have an adverse effect upon the overall bluefin tuna population in the Northwestern Atlantic Ocean. Due to the fishing effort exerted on school tuna and a trend of smaller size year classes since the early 1960's, the average size of the tune caught has decreased. This has resulted in a higher mortality level due to the fact that more bluefin tuna must be caught to meet a particular weight quota. In order to obtain the optimum yield from the fishery and to maintain the mortality at recent levels, individual tuna would have to be harvested at a larger average size than is now taken. The increase in average size can be accomplished by decreasing the catch of juvenile bluefin tuna, i.e., school tuna, and thereby allowing more tuna to mature and spawn. The decrease in the purse seine quota for school tuna will reverse the overall mortality rate in the bluefin tuna population. The NMFS believes that this is consistent with the obligation of the United States under the Convention to maintain mortality at recent levels.

The problem concerning the ability of one or more purse seine vessels to exceed the quota in one set remains. It will be aggravated as the purse seine quota for school tuna decreases. As an alternative to setting restrictions on a vessel's ability to catch bluefin tuna by regulating fishing power, the NMFS is considering individual vessel allocations. This may become the subject of future rulemaking.

A number of commenters suggested that the total quota of giant bluefin tuna for this category be increased above the proposed level. The NMFS believes that the quota represents the allowable catch of giant bluefin tuna consistent with the interpretation of the obligation of the United States under the Convention.

The aspect of this section which received the most comment was that of vessel categories. A number of the comments were against the three categories of fishing vessels. On the other hand, substantial support has also been voiced for retention of the three categories.

The main objection to the three categories was the distinction between so called full- and part-time vessels. Many felt that it was unfair to give those fishermen who would choose the part-time vessel category a perceived advantage late in the season. Most believed that the attractive catch rate of the full-time category would lure more fishermen to apply for that category than actually operate on a full time basis. This would result in too many fishermen and too few fish. Inevitably, the full-time category would close much earlier in the season than the part-time category. While vessels entered in the full-time category could not fish for bluefin tuna when the ex-vessel price of the fish was at its highest, (i.e., in the

fall) part-time vessels could conceivably gain a greater economic benefit by continuing to fish under the part-time category. A number of commenters felt that everyone should get the same chance at catching the fish regardless of their ability to fish as little as one day or as many as seven days a week. They wanted a single quota, which when attained, would necessitate closure of the fishery to everyone fishing for bluefin tuna in the northern area with gear other than purse seines.

Many of those who voiced opposition to the vessel categories supported the objective of the NMFS to provide all fishermen an opportunity to fish for as long as possible consistent with their modes of operation (e.g., commercial or recreational). A general consensus among those who did provide such support, however, was that categories were not the means to accomplish this objective. They contended that only a larger quota could provide this opportunity.

A strong sentiment was expressed by charter boat operators in favor of a specific category for bona fide charter boats. Their chief concern was that in order to remain economically viable they needed a fishery that extended into September. They raised the fact that the charter boat industry was fast becoming extinct due to the progressive earlier closures in the fishery each year. Many pointed out that they were losing charters that historically had been booked in September and October.

On the other hand, at the end of the comment period a number of strong comments began to be received from fishermen who favor retention of the three categories. Because of the strong differences of opinion on this issue, the NMFS believes that it would be advisable to reopen the comment period on this aspect of the regulations. Accordingly, comments will be accepted until July 2, 1979. However, because of a need to have regulations in place as soon as possible to permit regulation of some parts of the fishery, we are publishing the regulations in final form at this time with two vessel categories. However, based on the comments received, the NMFS will further consider the vessel category provision and may amend that provision at a later date.

Vessels fishing in the northern area for giant bluefin tuna with gear other than purse seines, other than those vessels registered in the charter boat category, have a sub-quota of 1,026 short tons (st), which is approximately 2,700 fish. These vessels are limited to a catch rate of one fish per day per vessel. Vessels registered in the charter boat category have a sub-quota of 102 st. This overall quota is divided into four monthly quotas: 11 st or approximately 30 fish in June, 27 st or approximately 70 fish in July, 38 st or approximately 100 fish in August, and 27 st or approximately 70 fish in September. The catch rate for this category is one fish per day per vessel. If the quota for a particular month is reached before the end of the month, fishing for giant bluefin tuna by vessels registered in this category will be prohibited until the beginning of the next month. If the quota for a particular month is not reached, the remainder will be carried forward and added to the next month's quota.

The requirement that a charter boat must have a bona fide charter party on board the vessel in order to fish under this category has been dropped. In order to qualify for this category, an applicant must provide proof to the Regional Director that the operator of the vessel sought to be registered in the charter boat category holds either a valid United States Coast Guard motor boat operator's license or an ocean operator's license.

A vessel owner holding a valid bluefin tuna vessel certificate and wishing to register his vessel under this category must send a letter of intent and the proof mentioned above to the Regional Director on or before July 1, 1979. Applicants applying for the first time for a bluefin tuna certifcate will be able to designate their intent on the permit application to fish under the charter boat category and submit the required information with the permit. No new certificates for this category will be issued, however, after July 1 for the 1979 fishing season.

Once a vessel is registered in the charter boat category it must fish under this category for the remainder of the season. Persons wishing to fish in this category or to change into the general category must notify the Regional Director of such intent in writing by May 15 of the following calendar year.

§ *285.32 Catch Limits*

As mentioned above, the catch limit for giant bluefin tuna in the northern area for vessels on which gear other than purse seines is used is one fish per day per vessel. The catch rate in the southern area for the same fishery is five fish per week.

Based upon an environmental assessment prepared by the NMFS, the Assistant Administrator for Fisheries, NOAA, has determined that the proposed regulations do not constitute a major Federal action significantly affecting the quality of the human environment. That assessment is on file with the Agency and may be obtained by sending a written request to the Regional Director. It has also been determined that the changes in these regulations do not constitute significant regulatory action under Executive Order 12044, as implemented by Department of Commerce Administrative Order DAO 218-7.

The Assistant Administrator for Fisheries has determined that it would be unnecessary, impractical and contrary to the public interest to defer the effective date of these regulations as required by the Administrative Procedure Act because an emergency exists in this fishery requiring immediately effective regulations.

(16 U.S.C. 971-971h.)

Signed at Washington, D.C. this 14th day, June 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Accordingly, 50 CFR Part 285 is amended as follows:

§§ 285.2, 285.8, 285.83, 285.84 and 285.86 [Amended]

1. By deleting the word "Director in § 285.2(f), 285.8 (a) and (b), 285.83 (a), (a)(3), (b) and (c), 285.84 and 285.86 and replacing it with Assistant Administrator;

2. By renumbering Subpart B—Atlantic Bluefin Tuna—so that sections which formerly began with number 285.10 now begin with 285.20 and extend through 285.33; and

3. By amending Subpart A—General and revising Subpart B to read as follows:

Subpart A—General

Sec.
285.1 Definitions.
* * * * *
285.7 Persons and vessels exempt.
* * * * *
285.9 Extension of regulatory area.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

285.20 Effective period of regulations.
285.21 Vessel certificates.
285.22 Dealer license.
285.23 Recordkeeping and reporting.
285.24 Metal tags.
285.25 Prohibitions.
285.26 Presumptions.
285.27 Penalties.
285.28 Purse seine vessel gear restrictions and inspection.
285.29 Permitted fishing.
285.30 Quotas.
285.31 Incidental catch.
285.32 Catch limits.
285.33 Tag and release program.

Authority.—Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h)

Subpart A—General

§ 285.1 Definitions.

In addition to the meaning ascribed by the Act, if any, the following terms as used in this part shall mean:

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

"Albacore" means *Thunnus alalunga.*

"Angling" means fishing for, catching or taking or the attempted fishing for, catching or taking of fish by any person (angler) with a barbed hook attached to a line which is hand held or by rod and reel designed and manufactured for that purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"Atlantic bluefin tuna" means *Thunnus thynnus thynnus.* The following class size designations are made for Atlantic bluefin tuna:

(a) Young school tuna—less than 14 pounds;

(b) School tuna—14 pounds and more, but less than 115 pounds;

(c) Medium tuna—115 pounds and more, but less than 300 pounds; and

(d) Giant tuna—300 pounds and more.

"Atlantic bonito" means *Sarda chiliensis* or *Sarda sarda.*

"Authorized Officer" means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to enforce the provisions of the Act;

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means *Thunnus obesus.*

"Buy boat" means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for such tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, and commerce including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established pursuant to Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, including any amendments or protocols thereto, which are binding upon the United States.

"Council" means the Council established within the Commission pursuant to Article V of the Convention.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for, any species of fish covered by the Convention, or any activities in support thereof.

"Fishing trip" means the period between the time a fishing vessel departs from any port after being inspected by a designated agent of the NMFS to carry out fishing operations and the time such vessel unloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Metal tag" means the flexible, self-locking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna as provided in § 285.24.

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker which is issued with a tag and release permit by the NMFS pursuant to § 285.33(b).

"Purse seining" means fishing for, catching or taking a regulated species by means of an encircling net and associated gear used in commercial fishing operations.

"Quota" means the amount of fish measured either by number or weight which may be retained as prescribed in §§ 285.29 and 285.30 of Subpart B of this part and any other sections of this part.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna—the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

(b) For purposes of yellowfin tuna—the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means Atlantic bluefin, yellowfin, skipjack, albacore, or bigeye tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part.

"Round weight" means the weight of a fish prior to gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or her designee.

"Short ton" means 2,000 pounds (907 kilograms).

"Skipjack tuna" means *Katsuwonus pelamis.*

"State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico and territories and possessions of the United States.

"Tuna" means Atlantic bluefin, yellowfin, skipjack, albacore or bigeye tuna.

"Yellowfin tuna" means *Thunnus albacares.*

§ 285.7 Persons and vessels exempt.

This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes, except that §§ 285.23 and 285.30(c) shall apply to persons or vessels engaging in research authorized under § 285.30(c).

§ 235.9 Extensions of regulatory area into territorial seas.

Pursuant to section 9(d) of the Atlantic Tunas Convention Act (16 U.S.C. 971) and § 285.8 of this Title 50 CFR, the Assistant Administrator has determined that the territorial sea of the United States adjacent to the States of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, and Puerto Rico and the Virgin Islands are included in the regulatory area for Atlantic bluefin tuna. The Assistant Administrator further finds that the following provisions of Title 50 CFR as amended, shall be effective in the territorial waters of the United States adjacent to the State of

Maine: Sections 285.1 through 285.9 inclusive, and § 285.20 through § 285.33 inclusive, except for paragraph (a) of § 285.30, paragraph (a) of § 285.31 and paragraph (c)(2) of § 285.32.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

§ 285.20 Effective period of regulations.

These regulations shall remain in effect until superseded, amended, or otherwise suspended.

§ 285.21 Vessel certificates.

(a) *General.* Any vessel which fishes for, catches or takes Atlantic bluefin tuna, except vessels operated by anglers fishing for young school or school Atlantic bluefin tuna, must have an appropriate certificate issued under this section.

Any vessel to which a certificate has been issued under this section shall travel to and from the area where it will be fishing under its own power and the operator thereof shall bring under his control with no assistance from other vessels any Atlantic bluefin tuna, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator.

(1) *Charter boats.* (i) Any vessel owner who presently holds a valid bluefin tuna certificate or who applies for a bluefin tuna certificate under paragraph (a) of this section may register his vessel under the charter boat category established under § 285.30 to fish for the subquota reserved for that category: *Provided,* That no vessel may be registered under this category unless the owner thereof provides proof to the Regional Director that the operator of the vessel holds a valid United States Coast Guard motorboat operator's license or ocean operator license.

(ii) Any vessel owner who holds a valid bluefin tuna certificate and intends to register his vessel under the charter boat category shall send a letter of intent to register as a charter boat vessel together with the requisite proof that the operator holds one of the licenses specified in paragraph (a)(1)(i) of this section to the Regional Director on or before July 1, 1979. Any vessel owner applying for a bluefin tuna certificate under paragraph (a) of this section shall indicate his intent to register the vessel under the charter boat category on the permit application. Both the permit application and the requisite proof that the operator holds one of the licenses specified in paragraph (a)(1)(i) of this section shall be submitted to the Regional Director on or before July 1, 1979. No vessel may register under the charter boat category for the calendar year 1979 after July 1, 1979. In any subsequent year a vessel owner may apply for or withdraw from registration in the charter boat category only on or before May 15 of that year.

(iii) Vessels registered in the charter boat category shall fish only under the quota reserved for this category.

(b) *Buy boats.* Any buy boat must have a certificate for that purpose issued under this section. No vessel to which a valid certificate has been issued under paragraph (a) of this section may be issued a buy boat certificate. No buy boat certificate shall be issued to any vessel unless the owner or operator thereof agrees in writing to allow an agent authorized by the Regional Director to accompany the vessel on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy boat that an agent will be placed on board the vessel. The Regional Director shall reimburse the owner of any buy boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of such observer on that vessel.

(c) *Application.* An application for a certificate under this section shall be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application shall be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the certificate made effective. The application shall state the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the registration or documentation number, the length of the vessel, the tonnage (if known), and the area to be fished.

(d) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a certificate within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application shall be considered abandoned.

(e) *Expiration.* Certificates issued under paragraph (a) of this section expire when the owner or name of the vessel changes or the vessel is retired from the Atlantic bluefin tuna fishery. Certificates issued under paragraph (b) of this section expire when one of the above conditions is met or on December 31 of the year for which it is issued, whichever is earlier.

(f) *Duration.* A certificate issued under this section continues in full force and effect until it expires or is revoked.

(g) *Alteration.* Any certificate issued under this section which is substantially altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement certificates may be issued by the Regional Director. An application for a replacement certificate shall not be considered a new application.

(i) *Transfer.* Certificates issued under this section are not transferable or assignable. A certificate is valid only for the vessel for which it is issued.

(j) *Display.* Any certificate issued under this section must be carried on board the vessel at all times. The certificate shall be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(k) *Revocation.* Certificates issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any regulation promulgated thereunder. Any revocation, suspension, or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(l) *Fees.* No fee is required for any certificate issued under this section.

(m) *Change in application information.* Any change in the information contained in an application submitted for a certificate under this section shall be reported in writing to the Regional Director within 15 days of the change.

§ 285.22 Dealer license.

(a) *General.* Any person purchasing or receiving Atlantic bluefin tuna for a commercial purpose from any person or vessel fishing for such tuna shall have a valid license under this section.

(b) *Application.* An application for a dealer license shall be made in writing, signed by the applicant and submitted to the Regional Director at least 30 days prior to the date upon which the applicant desires to have the license made effective. Applications shall provide all of the following information.

(1) The name, mailing address, and telephone number of the applicant; and

(2) The expected disposition of Atlantic bluefin tuna purchased (e.g., foreign or domestic markets).

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional

Director shall issue a license within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application shall be considered abandoned.

(d) *Expiration.* Any license issued under this section expires on December 31 of the year for which it was issued.

(e) *Duration.* Any license issued under this section continues in full force and effect until it is suspended, revoked, or expires.

(f) *Alteration.* Any license which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement licenses may be issued by the Regional Director. An application for a replacement license shall not be considered a new application.

(h) *Transfer.* Licenses issued under this section are not transferable or assignable. A license shall be valid only for the person to whom it is issued.

(i) *Inspection.* A license issued under this section must be kept at the principal place of business of the dealer. The license shall be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for that purpose.

(j) *Revocation.* Licenses issued under this section may be revoked or suspended by the Assistant Administrator for violations of the Act, or any regulations promulgated thereunder. Any revocation, suspension or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(k) *Fees.* No fee is required for any license issued under this section.

(l) *Change in application information.* Any change in the information specified in this section shall be reported in writing to the Regional Director within 15 days of the change.

§ 285.23. Recordkeeping and reporting.

(a) *Fishing vessel records*—(1) *Vessels using other than purse seine gear.* (i) The owner or operator of any fishing vessel to which a certificate has been issued under § 285.21(a) which fishes for, catches or takes giant Atlantic bluefin tuna with gear other than purse seines shall maintain an accurate and complete fishing logbook on forms supplied by the Regional Director in accordance with this section, and shall submit to the Regional Director weekly logsheets covering all fishing during each month. Such logsheets shall be submitted to the Regional Director within 10 days after the end of each month during which fishing is permitted under § 285.29. Logsheets shall specify for each reporting week the date, number, round or dressed weight and fork length of each giant Atlantic bluefin tuna landed, the type of gear used, the area fished, metal tag numbers used, and the amount of the time fished.

(ii) In addition, such owner or operator shall report within 48 hours the taking of each giant Atlantic bluefin tuna by completing and returning one of the cards provided for this purpose in the logbook. Each card shall show the Atlantic bluefin tuna vessel certificate number, metal tag number affixed to the fish, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught. If no fish were caught or a vessel did not engage in fishing operations in any reporting week during which fishing was permitted under § 285.29 a report stating that no fishing was conducted during that week shall be submitted.

(2) *Purse Seining.* (i) The owner or operator of any fishing vessel to which a certificate has been issued under § 285.21(a) which fishes for, catches or takes school or giant Atlantic bluefin tuna with purse seine gear shall maintain an accurate and complete fishing logbook on forms supplied by the Regional Director in accordance with this section, and shall submit weekly logsheets to the Regional Director covering all fishing during each month. Such logsheets shall be submitted within 10 days after the end of each month during which fishing is permitted under § 285.29. Logsheets shall specify the date, number of sets, location, and approximate weight of fish landed.

(ii) In addition, the owner, operator or designated representative shall notify the NMFS of the catch of such vessel by 8 p.m. every day during which the vessel has engaged in fishing. Such reports shall be made by telephoning (617) 992-7711. The call will be recorded automatically. The report shall include the name of the person calling, the name of the vessel, the Atlantic bluefin tuna vessel certificate number, and the estimated catch of tuna by weight on board the vessel at the time the call is made.

(3) Fishing logbooks required under this section shall be made available for inspection by an Authorized Officer or any employee of the NMFS designated by the Regional Director to make such inspection at any time during or after a fishing trip.

(4) The owner of a vessel to which a certificate has been issued under § 285.21 shall retain in his possession any logbook required by this section for one year after the date of the last entry in the logbook.

(5) Vessels participating in NMFS statistical programs or in authorized research under § 285.30(c) may be exempt from the logbook and reporting requirements of this section. Requests for exemption shall be made to the Regional Director.

(b) *Dealer reports.* Any person issued a dealer license under § 285.22 shall:

(1) Maintain an accurate and complete daily report on forms supplied by the NMFS and file it within two days after the end of each reporting week with the Regional Director. Each report shall specify the number of tuna purchased or received; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names, addresses and, where applicable, country of origin); metal tag numbers (where applicable); round or dressed weight (by individual fish for giant tuna); and any other information requested by the Regional Director;

(2) Permit an Authorized Officer, or any employee of the NMFS designated by the Regional Director to inspect any records of transfers, purchases, or receipts of Atlantic bluefin tuna; and

(3) Retain in his possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(c) *Buy boat reports.* (1) Any person who operates a buy boat to which a certificate has been issued under § 285.21(b) shall maintain a complete and accurate daily report of every Atlantic bluefin tuna received or purchased on forms supplied by the NMFS, and file it within two days after the end of each reporting week with the Regional Director. For each such tuna the report shall include the metal tag number, location where the tuna was caught, date and precise time when received, fork length, whole or dressed weight, and the name of the person catching the fish as well as that of the fishing vessel and its Atlantic bluefin tuna certificate number.

(2) Each person specified in paragraph (c)(1) of this section shall notify the Regional Director of any off-loading and request a vessel inspection at least six hours prior to such off-loading. Arrangements shall be made by calling (617)281-3600, extension 252, between the hours of 8 a.m. and 4:30 p.m.,

Monday through Friday, local time, or at all other times during the day and weekends, by calling (617)992-7711. In making the request for inspection, the owner or operator of the buy boat or his designated representative shall provide his name, the buy boat name and certificate number, the number of tuna received, and the location and anticipated time of landing at port.

(3) Each person specified in paragraph (c)(1) of this section shall retain in his possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(d) *Reporting week.* For the purpose of this section the reporting week begins at 12 midnight on Sundau, and ends at 12 midnight the following Sunday.

§ 285.24 Metal tags.

(a) *Issuance of tags.* Any person receiving a vessel certificate under the provisions of § 285.21(a), except for those purse seine vessels fishing exclusively for school tuna, shall be issued numbered metal tags by the NMFS. Tag numbers shall be recorded by the NMFS under the certificate of the vessel to which they are issued.

(b) *Transfer of tags.* Tags issued under paragraph (a) of this section are not transferable.

(c) *Affixing tags.* Any person who catches a giant Atlantic bluefin tuna shall affix to that tuna between the fifth dorsal finlet and the keel, a tag issued under paragraph (a) of this section at the time the tuna has been brought under control and either brought aboard the vessel or secured to the vessel (see figure 1).

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna shall remain on the tuna until the tuna is either cut into portions for personal consumption or for commercial purposes or sold for export from the United States. If the tag is removed from the tuna for commercial or export purposes, the tag number must be written legibly and indelibly on the outside of any package or container which holds the tuna or parts thereof and which is being exported or transported domestically for commercial use. If a giant tuna is packed for export, the tag shall also be attached to the container until it is shipped from the United States.

§ 285.25 Prohibitions.

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to:

(a) Fish for, take or catch Atlantic bluefin tuna without a valid certificate issued under § 285.21(a) and carried onboard the vessel;

(b) Fish for, take or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.29, except under the provisions of § 285.31, § 285.32(c)(2) or § 285.33;

(c) Fish for, take or catch Atlantic bluefin tuna in excess of the quotas or sub-quotas specified in § 285.30 except under the provisions of § 285.31 or § 285.33;

(d) Fish for, take or catch Atlantic bluefin tuna in excess of the catch limits specified in § 285.32;

(e) Fish for, take or catch Atlantic bluefin tuna with nets other than those specified in § 285.28;

(f) Fish for, take or catch Atlantic bluefin tuna with a buy boat;

(g) Land any Atlantic bluefin tuna in forms other than round, or eviscerated with the head removed;

(h) Retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.33;

(i) Transfer any Atlantic bluefin tuna to another vessel not holding a valid buy boat certificate;

(j) Engage in fishing with a vessel holding a certificate under § 285.21(a) unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control any Atlantic bluefin tuna (secured to the catching vessel or boated) with no assistance from other vessels, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator;

(k) Fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(l) Fail to affix to any giant tuna between the fifth dorsal finlet and the keel an individually numbered metal tag as soon as possible after the tuna has been brought under control and either brought aboard the vessel or secured to the vessel;

(m) Remove any metal tag affixed to a tuna pursuant to § 285.24 before removal is permitted under that section, or fail to write the tag number on the package as prescribed by that section;

(n) Begin fishing or off-loading from any purse seine vessel to which a certificate has been issued under § 285.21(a) any Atlantic bluefin tuna without first requesting an inspection of the vessel by an agent of the NMFS in accordance with § 285.28.

(o) Ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession or control any Atlantic bluefin tuna which he knew or should have known was taken in violation of this subpart;

(p) Purchase or receive Atlantic bluefin tuna taken on board from a person or vessel engaged in fishing for such tuna without a valid buy boat certificate;

(q) Fail to report the taking of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or its contractors;

(r) Fail to report to the Regional Director in writing any change in the information contained in an application for any certificate for a vessel within 15 days of any such change;

(s) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this subpart;

(t) Refuse to permit an Authorized Officer, or any employee of the NMFS designated by the Regional Director for such purposes to make inspections for the purpose of checking any logbooks or records relating to the taking, catching, harvesting, landing, purchase or sale of any Atlantic bluefin tuna;

(u) Make any false statement, oral or written, to an Authorized Officer or an employee of the NMFS designated by the Regional Director to make inspections concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(v) Refuse to permit an Authorized Officer or any person designated by the Regional Director for such purposes to board a fishing vessel or buy boat subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this subpart, or any other regulation promulgated under the Act;

(w) Violate any other provision of this subpart, the Act, or any other regulation promulgated pursuant thereto.

§ 285.26 Presumptions.

(a) For any Atlantic bluefin tuna which is landed eviscerated with the head removed, there shall be a rebuttable presumption for purposes of this subpart that the tuna when caught fell into a weight class in accordance with the following table. For this purpose, all measurements must be taken in a straight line from the middle of the lateral surface (if the fish has been beheaded) to the fork of the tail.

Table I

Original weight class	Length with head off
Young school tuna less than 14 lbs. (6.4 kg).	Less than 18 in. (46 cm)
School tuna equal to 14 lbs. (6.4 kg) but less than 115 lbs. (53.3 kg).	18 in. (46 cm) but less than 39 in. (100 cm)
Medium tuna equal to 115 lbs. (53.3 kg) but less than 300 lbs. (136.4 kg).	39 in. (100 cm) but less than 53 in. (135 cm)
Giant tuna 300 lbs. and over (136.4 kg).	53 in. (135 cm) and over

§ 285.27 Penalties.

(a) Any person who violates paragraphs (a) through (p), inclusive, of § 286.25 shall be assessed a civil penalty of not more than $25,000, and for a subsequent violation shall be assessed a civil penalty of not more than $50,000.

(b) Any person who violates paragraphs (q) through (v), inclusive, of § 286.25 shall be assessed a civil penalty of not more than $1,000, and for a subsequent violation shall be assessed a civil penalty of not more than $5,000.

(c) Any person who violates paragraph (w) of § 286.25 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

§ 285.28 Purse seine vessel gear restrictions and inspection.

(a) *Mesh Size.* Any owner or operator of a vessel with a certificate issued under § 285.21(a) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, shall use a net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24 count thread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if he determines that the net sought to be excluded will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a certificate issued under § 285.21(a) shall request an inspection of the vessel and fishing gear by an agent of the NMFS prior to commencing any fishing trip and prior to offloading any Atlantic bluefin tuna. Requests for such inspection shall be made by calling (617) 281-3600 extension 252; or (617) 992-7711. Requests shall be made at least 12 hours prior to commencement of a fishing trip or offloading.

§ 285.29 Permitted fishing.

(a) *School and Giant Atlantic Bluefin Tuna*—(1) *Commencement.* Fishing for, catching or taking giant Atlantic bluefin by vessels using purse seine gear in the regulatory area may commence on August 15 of each calendar year. Fishing for, catching or taking giant Atlantic bluefin tuna by vessels using gear other than purse seines, and fishing for, catching or taking school Atlantic bluefin tuna by vessels using purse seines or gear other than purse seines in the regulatory area may commence on January 1 of each calendar year: *Provided,* That, consistent with the Convention, the Act, and this part, the Assistant Administrator may change the commencement of fishing under this section for any size class of Atlantic bluefin tuna for any area and vessel gear type if he determines that such a measure will enable scientific research on the status of the stock and will not prevent the quotas for the affected fishery from being caught based upon historical catch data. The Assistant Administrator shall publish a notice in the Federal Register of any change in the commencement of fishing under this section at least 60 days prior to the commencement of the affected fishery.

(2) *Closure.* The Assistant Administrator shall monitor catch and landing statistics of Atlantic bluefin tuna. On the basis of these statistics, he shall project a date when the total incidental and directed catch of school or giant Atlantic bluefin tuna will exhaust any quota or sub-quota under § 285.30, and shall publish a notice in the Federal Register stating that fishing for school or giant tuna by the type of vessels subject to the quota or sub-quota in the area affected must cease on that date at a specified hour. After closure of fishing under this section for a specified weight class of tuna, that weight class of tuna may be caught by the specified type of vessels in the affected area only as an incidental catch under § 285.31: *Provided,* That anglers may continue to catch school tuna as specified in section 285.32(c)(2), and to fish for giant tuna under a tag and release program in accordance with § 285.33, and that vessels registered in the charter boat category in the northern area may recommence fishing on the first day of any month for which a sub-quota is allocated under § 285.30(b)(2).

(b) *Young School and Medium Atlantic Bluefin Tuna.* Fishing for, catching or taking young school or medium Atlantic bluefin tuna by vessels using purse seines or gear other than purse seines in the regulatory area shall be limited at all times during the year to incidental catch in accordance with § 285.31, except that anglers may fish for, catch or take young school and medium tuna at any time in accordance with the limitations specified in § 285.32(c)(2).

§ 285.30 Quotas.

(a) *Purse Seining.*—(1) *School tuna.* The total amount of school Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear before fishing is closed under § 285.29(a)(2) is 650 short tons.

(2) *Giant tuna.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear before fishing is closed under § 285.29(a)(2) is 300 short tons.

(b) *Fishing by other than purse seining*—(1) *Total Quota.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using gear other than purse seines before fishing is closed under § 285.29(a)(2) is 1,218 short tons (approximately 3,240 fish).

(2) *Northern Area.* No more than 1,128 short tons (approximately 2,970 fish) of the total quota in this paragraph may be caught in the Northern Area (the area north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Massachusetts, into the Atlantic Ocean). This quota shall be divided into two sub-quotas as follows:

(i) General—1,026 short tons (±2,700 fish).

(ii) Charter boats—102 short tons (±270 fish).

(A) The sub-quota for charter boats is further subdivided into monthly quotas as follows:

(*1*) June—10 short tons, ±30 fish.

(*2*) July—27 short tons, ±70 fish.

(*3*) August—38 short tons, ±100 fish.

(*4*) September—27 short tons, ±70 fish.

If the sub-quota for any month is not reached, the remainder may be carried over to the following month.

Vessels issued a bluefin tuna certificate under § 285.21(a) shall be placed in the general category, except that a vessel owner either holding a valid bluefin tuna certificate or newly applying for a bluefin tuna certificate under § 285.21(a) may register his vessel under the charter boat category in accordance with § 285.21(a)(1).

(3) *Southern Area.* No more than 90 short tons (approximately 270 fish) of the total quota for vessels fishing by other than purse seining in this paragraph may be caught in the southern area (the area west and south of the line drawn through Gay Head Light including the waters of Narragansett Bay) (See Figure 2).

(c) *Research.* In addition to the quotas set forth in paragraphs (a) and (b) of this section, a scientific quota not to exceed 225 short tons of Atlantic bluefin tuna is established for the purposes of tagging and obtaining age, sex, and other scientific research data. Any research activity shall be authorized by the Director, Southeast Fisheries Center, the Regional Director or their representatives.

(d) *Incidental Catches.* Atlantic bluefin tuna taken incidentally shall be included in the quotas and sub-quotas of this section.

§ 285.31 Incidental Catch.

(a) *Purse seine vessels*—(1) *Giant tuna.* Purse seine vessels fishing for giant tuna in the regulatory area may take incidentally, during any fishing trip, Atlantic bluefin tuna weighing less than 300 pounds round weight: *Provided,* That the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of giant Atlantic bluefin tuna onboard the vessel at the end of the fishing trip.

(2) *School tuna.* Purse seine vessels fishing for school tuna in the regulatory area may take incidentally, during any fishing trip, Atlantic bluefin tuna outside that weight class: *Provided,* That the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of school tuna on board the vessel at the end of the fishing trip.

(b) *Herring, mackerel* and *menhaden purse seine vessels* and *vessels using fixed gear other than traps* (pounds, weirs, gill-nets and longlines). Any person operating a vessel fishing principally for species of fish other than Atlantic bluefin tuna, and possessing an Atlantic bluefin certificate under § 285.21(a) may take, during any fishing trip, Atlantic bluefin tuna of any size class: *Provided,* That the amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish onboard the vessel at the end of the fishing trip.

(c) *Traps.* Any person operating a vessel with a certificate issued under § 285.21(a), which takes Atlantic bluefin tuna incidentally while fishing with traps, may retain such Atlantic bluefin tuna: *Provided,* That such tuna do not exceed 2 percent, by weight, of the total amount of all other fish species taken within the preceding 30-day period.

§ 285.32 Catch limits.

(a) *Northern Area.* In the northern area, as defined in § 285.30(b), vessels fishing for, catching or taking giant Atlantic bluefin tuna with gear other than purse seines shall catch no more than one giant bluefin tuna per day per vessel from the commencement of fishing under § 285.29 until the relevant sub-quota in § 285.30(b) is reached.

(b) *Southern Area.* In the southern area, as defined in § 285.30(b), vessels fishing for, catching or taking giant Atlantic bluefin tuna with gear other than purse seines may take five giant tuna per week per vessel from the commencement of fishing under § 285.29 until the sub-quota in § 285.30(b) for the southern area is reached.

(c) *Angling*—(1) *Giant tuna.* Vessels angling for giant Atlantic bluefin tuna in the regulatory area shall be subject to the catch limits contained in paragraphs (a) and (b) of this section.

(2) *Young school, school and medium tuna.* Vessels angling for young school, school or medium Atlantic bluefin tuna in the regulatory area may take no more than four young school, school or medium Atlantic bluefin tuna each day at any time during the year: *Provided,* That only one of the four may be a medium Atlantic bluefin tuna.

§ 285.33 Tag and release program.

(a) *Tag and Release Permits.* Any angler who wishes to fish for giant Atlantic bluefin tuna after the sub-quota under which his vessel has been issued a certificate has been reached and fishing closed under § 285.29, may fish for giant tuna only with a valid tag and release permit, and tags issued by the NMFS under paragraph (b) of this section. A tag and release permit may be obtained by sending an application after fishing has been closed under § 285.29 to the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149. Such application shall include the name of the vessel, official Coast Guard or State number(s), name(s) of the owner and master, vessel Atlantic bluefin tuna certificate number, and the general area(s) in which the tag and release activity will be carried out. Upon receipt of a completed application, the Center Director shall issue a tag and release permit.

(b) *Plastic tags.* Anglers receiving a tag and release permit under paragraph (a) of this section shall also be issued plastic tags and detailed instructions for their use. All giant Atlantic bluefin tuna caught under a tag and release permit shall be tagged before they are released. Such tuna shall be released immediately with a minimum of injury.

The quotas, allocations, and catch limits prescribed in §§ 285.30, 285.31, and 285.32 are summarized in the following table:

Table II.—*Quotas, Allocations, and Catch Limits*

A. Vessels Fishing With Other Than Purse Seine Gear (Hand Gear Fishery and Recreational Angling)

Size class	Permitted fishery		
	Southern area [1]		Northern area [2]
	Categories		
	General		Charter
Giant:			
Quota	90 tons (±270 fish)	1,026 tons (±2,700 fish)	102 tons (±270 fish).
Catch Limit	5 per week per vessel until quota is reached.	1 per day per vessel until quota is reached.	1 per day per vessel until quota is reached.
Medium:			
Quota	None	None.	
Catch Limit [2]	1 per angler per day	1 per angler per day.	
Young school and school:			
Quota	None	None.	
Catch Limit [2]	4 per angler per day (1 of which may be a medium).	4 per angler per day (1 of which may be a medium).	

B. Purse Seine Vessels

Size class	Permitted fishery
Giant:	
Quota	300 tons (±900 fish).
Catch Limit	None.
Medium:	
Quota	None.
Catch Limit	Incidental only.
School:	
Quota	650 tons (±32,500 fish).
Catch Limit	None.
Young school:	
Quota	None.
Catch Limit	Incidental only.

[1] See figure 2.

[2] An angler is permitted to take no more than four young school, school or medium size tuna per day: *Provided,* That only one of the four may be a medium tuna.

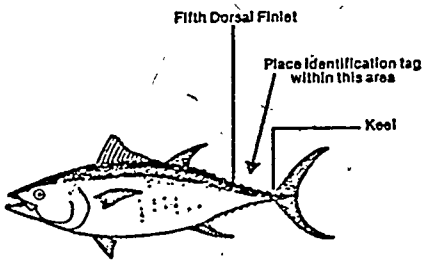

Figure 1

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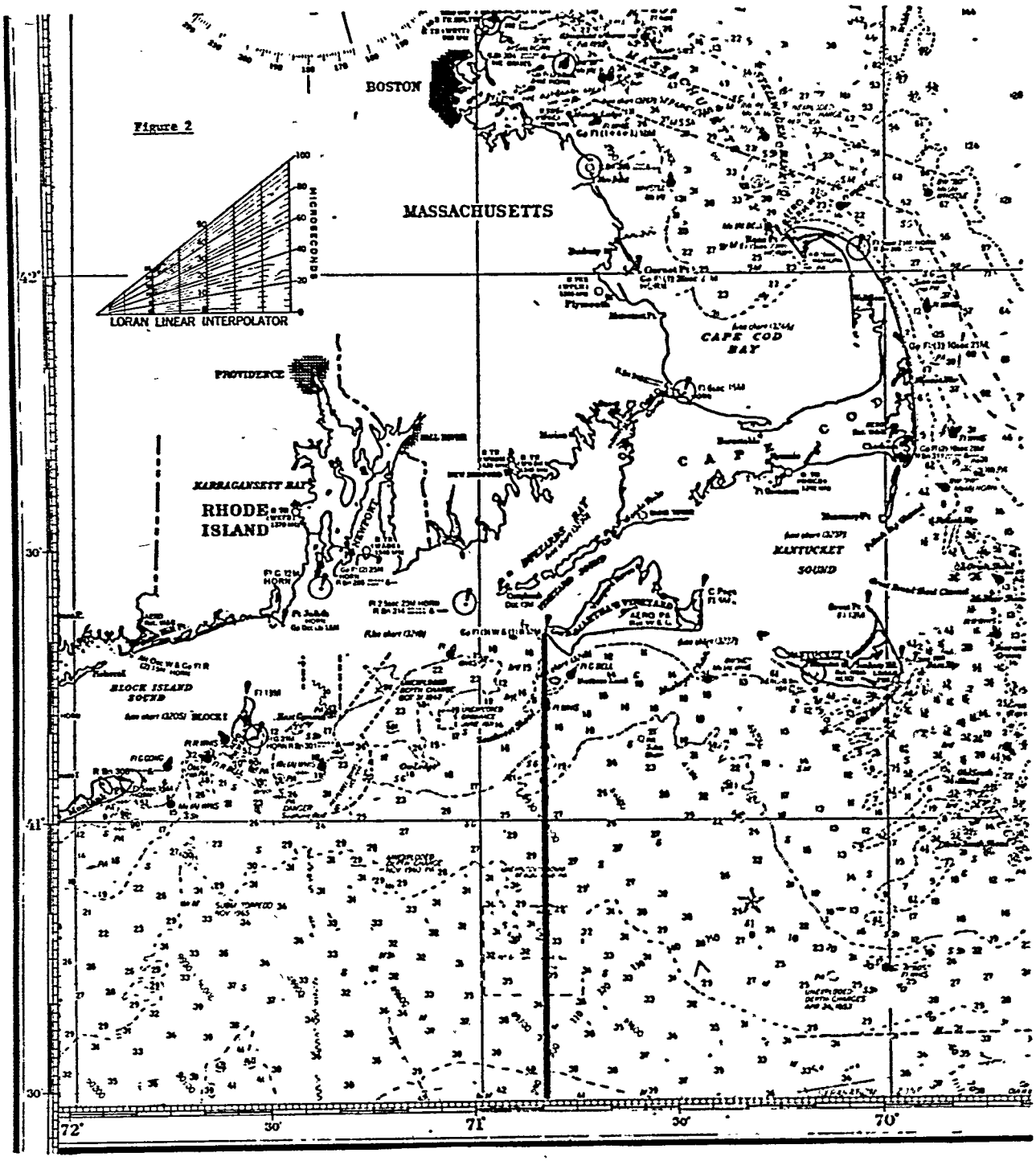

Figure 2. Boundary Line Separating North and South Areas

[FR Doc. 79-19916 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-22-C

50 CFR Part 285

Atlantic Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of closure.

SUMMARY: This notice closes the 1979 purse seine fishing season for school-size Atlantic bluefin tuna at 0001 hours e.d.t., June 16, 1979.

EFFECTIVE DATE: 0001 hours e.d.t., June 16, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930; telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: On June 14, 1979, final regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. Sections 971-971h), and implementing the provisions thereof, were filed with the Office of the Federal Register.

Section 285.30(a) of those final regulations (50 CFR Part 285) establishes an annual quota for school-size Atlantic bluefin tuna taken by purse seine vessels of 650 short tons. Section 285.29(a)(2) provides that the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, shall monitor the catch of school tuna and project a date when the quota for the purse seine fishery for school tuna will be exhausted. Notice of the date and time when the fishery is to be closed is to be published in the Federal Register by the Assistant Administrator.

Notice is hereby given that the Assistant Administrator has projected, based upon reported catches of school tuna, that the 1979 quota of school-size Atlantic bluefin tuna permitted to be caught by vessels using purse seine gear will be caught by Friday, June 15, 1979. Consequently, fishing for school tuna by purse seine vessels must cease at 0001 e.d.t. on June 16, 1979. Actual notice of this closure will be given to all vessel owners holding a valid vessel certificate for this fishery.

Authority.—16 U.S.C. 971-971h.

Signed at Washington, D.C. this 15th day of June, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-19241 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 120
Wednesday, June 20, 1979

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 919]

Peaches Grown in Mesa County, Colo.; Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The proposed action would change the fiscal period of the Administrative Committee from December 1 through November 30 to July 1 through June 30. The proposal is designed to facilitate development of the committee's budget of expenses and rate of assessment under the marketing order program.

DATE: Comments must be received not later than July 20, 1979.

ADDRESS: Comments should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 919.100 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and Order No. 919, as amended (7 CFR Part 919). The order regulates the handling of peaches grown in Mesa County, Colorado. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The proposal to amend said rules and regulations was recommended by the Administrative Committee established under the order as the agency to administer the terms and provisions thereof.

At a meeting held on April 18, 1979, the Administrative Committee recommended pursuant to § 919.10 of the order that the fiscal year be changed to the 12-month period beginning July 1 and ending on June 30. Currently, § 919.102 of the regulations issued under the order provides for a fiscal period beginning December 1 and ending November 30 of the following year. Committee recommendations with respect to the budget and assessment rate depend to a high degree upon anticipated production of the peach crop. Shipments of peaches from the production area normally begin in July. In the past the committee has submitted a recommended assessment rate and a report on the budget as early in the season as practical. The proposed amendment is designed to allow the committee to submit to the Secretary its budget and recommended rate of assessment when sufficient information is available to estimate crop size and evaluate activities for the season. Under the proposal the fiscal period which began December 1, 1978, would terminate on June 30, 1980. Thereafter the fiscal period will begin on July 1 and end on June 30 of the following year.

The proposal is to amend § 919.102 to read on follows:

§ 919.102 Fiscal period.

The fiscal period which began December 1, 1978, is hereby extended and will end June 30, 1980. Thereafter the fiscal period will begin on July 1 and end on June 30 of the following year.

Dated: June 15, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-19111 Filed 6-19-79; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 531]

[Doc. No. 79-343]

Federal Home Loan Bank System; Collateralization of Bank Advances

June 14, 1979.

AGENCY: Federal Home Loan Board.

ACTION: Proposed amendment.

SUMMARY: The proposed changes would revise the Bank Board's Statement of Policy relating to verification of collateral securing Federal Home Loan Bank advances by: (1) no longer requiring that collateralized mortages be physically segregated; (2) setting out minimum requirements for collateralizaton agreements; and (3) providing explicitly that collateralization procedures and verification procedures shall be prescribed by each Bank for its members. The Bank Board believes that such changes are desirable to increase flexibility and efficiency in such procedures while maintaining protection of Bank security interests.

DATE: Comments must be received by August 20, 1979.

ADDRESS: Send comments to Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N. W., Washington, D.C. 20552.

FOR FURTHER INFORMATION, CONTACT: Daniel P. Chase, Office of the District Banks (202-377-6657), or Nancy L. Feldman, Assistant General Counsel (202-377-6440).

SUPPLEMENTARY INFORMATION: Section 10 of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1437), authorizes each Federal Home Loan Bank ("Bank") to make advances upon the security of home mortgages. Pursuant to its authority under the Bank Act, the Bank Board has for many years authorized collateralization procedures permitting borrowing members to retain possession of the collateral, leaving up to individual Banks the particular method by which they would perfect liens and take possession of the collateral, should that step become necessary. However, the regulations authorizing the current collaterization procedures require physical segregation of the collateral assigned as security for advances from other mortgages held by borrowing members.

The Bank Board believes that more modern collateralization procedures could significantly reduce the cost of administering the present collateralization system. The Bank Board's proposal therefore would eliminate the segregation requirement and set out minimum requirements for collateralization agreements, with any

further requirements and collateralization and verification techniques to be established by the Bank.

Accordingly, the Bank Board hereby proposes to revise § 531.4 to read as set forth below.

§ 531.4 Assigned collateral; verification.

A member may retain documents evidencing home mortgages it has assigned to its Bank to secure advances, if it agrees to hold such documents for the benefit and subject to the direction and control of the Bank. The Bank shall obtain a written security agreement signed by the borrowing member and describing the type of collateral, and an opinion by Bank counsel that such agreement is in compliance with applicable law. The Bank shall periodically verify that such mortgage collateral exists and that appropriate collateralization procedures are maintained. The Bank shall prescribe collateralization procedures for members, and shall establish verification procedures in accordance with generally accepted auditing standards.

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board

J. J. Finn,

Secretary.

[FR Doc. 79-19253 Filed 6-19-79; 8:45 am]

BILLING CODE 6720-01-M

[12 CFR Parts 541 and 545]

[No. 79-342]

Federal Savings and Loan System; Loans in Excess of 80 Percent of Value; Three-Family and Four-Family Dwellings

June 14, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The proposed amendments would liberalize the Bank Board's regulations regarding loans in excess of 80 percent of value by permitting loans to be made up to 90 percent of value on the security of three- and four-family dwellings, provided the borrower occupies a unit of the dwelling. It is further proposed to set $60,000 per-unit limits on two-, three-, and four-family dwelling loans in the 90 percent category. The Bank Board believes the amendments would increase opportunities for home ownership, especially in moderate-income neighborhoods in urban areas and, by encouraging owner occupancy in such areas, help alleviate problems associated with absentee ownership.

DATE: Comments must be received by August 20, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, (202-377-6445).

SUPPLEMENTARY INFORMATION: Present § 545.6-2(a)(2) of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.6-2(a)(2)) permits loans in excess of 80 percent of value to be made on the security of single-family and two-family dwellings, subject to certain conditions. The proposed amendments would amend that section to permit loans to be made up to 90 percent of value on the security of three- and four-family dwellings, provided the borrower executes a certificate stating that he or she occupies, or in good faith intends to occupy, the property as his or her principal dwelling.

Present § 545.6-2(b) limits 90-percent loans on two-family dwellings to maximum dollar amounts per dwelling unit as established pursuant to section 207(c)(3) of the National Housing Act. This limitation is not prescribed by statute; section 5(c) of the Home Owners' Loan Act merely requires that the amount of such loan exceeding the 207(c)(3) maximum come within a limited investment category of the association. The Bank Board is informed that the 207(c)(3) insured housing program of the Department of Housing and Urban Development is little used because of the stringency of the dollar limits, and therefore proposes to allow two-, three-, and four-family 90-percent loans at a maximum of $60,000 per dwelling unit. This amount is greater per dwelling unit than the 207(c)(3) maximum, and less than the $75,000 maximum allowed for a 90-percent single-family-dwelling loan. It is also the statutory maximum dollar amount for single-family loans which may be made without limitation by associations. The Bank Board believes such amount per dwelling unit would provide needed flexibility in financing small multi-family homes in varying cost areas in the country. However, comment is specifically invited on whether a flat dollar limit or other type of limitation, such as a sliding scale based on number of rooms in the unit, would be desirable.

By limiting higher ratio loans on the security of such property to owner-occupants, and limiting the dollar amount per dwelling unit of such loans, the Bank Board believes the proposed amendments would be particularly beneficial to inner-city, moderate-income areas which experience problems associated with absentee ownership.

The proposed amendments would also amend (1) § 541.23, which defines two-family dwellings, to provide definitions of three- and four-family dwellings, and (2) § 545.8-7, pertaining to percentage limitations on real estate investments.

Accordingly, the Bank Board hereby proposes to amend §§ 541.23, 545.6-2, and 545.8-7(b), to read as set forth below.

PART 541—DEFINITIONS

1. Amend § 541.23 to read as follows:

§ 541.23 Two-, three-, or four-family dwelling.

A structure designed for two, three, or four dwelling units, respectively.

PART 545—OPERATIONS

2. Amend portions of § 545.6-2 to read as follows:

§ 545.6-2 Monthly installment loans.

Loans repayable in regular periodic payments sufficient to liquidate the debt, principal and interest, within the loan term may be made as follows:

(a) *On the security of homes or combinations of homes and business property.* * * *

* * * * *

(2) *80 percent to 90 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 90 percent, if:

(i) The loan is secured by a first lien on a single-family, two-family, three-family, or four-family dwelling;

* * * * *

(iii) The amount of the loan does not exceed: (*a*) For single-family dwelling, $75,000 ($112,500 for security property in Alaska, Guam or Hawaii) and, for two-family, three-family, and four-family dwellings, $60,000 per dwelling unit ($90,0000 for security property in Alaska, Guam, or Hawaii, or (*b*) 90% of the purchase price of the security property, whichever is less;

* * * * *

(v) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that (*a*) no lien or charge on the property other than the association's lien or any lien or charge which will be discharged from the proceeds of the loan, has been given or executed by the one executing the certificate, or has been agreed to be so given or executed, and (*b*) the borrower

occupies, or in good faith intends to occupy, the property as the borrower's principal dwelling;

* * * * *

(3) *90 percent to 95 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 95 percent for loans secured by first liens on single family and two-family dwellings, if:

(i) The requirements of paragraphs (a)(2)(ii)(iv), (v), (vi), and (vii) of this section are met;

* * * * *

3. Amend the first unnumbered paragraph of § 545.8-7(b) to read as follows:

§ 545.8-7 Percentage limitations on real estate loan investments.

* * * * *

(b) *Percentage limitations for specific types of loans.* Loan investments made under sections containing specific percentage limitations shall be subject to those limitations. Those sections are: § 545.6-2(a)(2) (loans on single-family or two-, three- and four-family dwellings), § 545.6-2(a)(3) (loans on single-family or two-family dwellings), § 545.6-3(d)(4) (loans to facilitate trade-in or exchange), § 545.6-5 (developed building lot loans), § 545.6-6 (land acquisition and development loans), § 545.6-8 (loans for housing for the aging), § 545.6-10 (urban renewal loans), § 545.6-11 (loans guaranteed under the Foreign Assistance Act of 1961), § 545.6-12(d) (nonconforming secured loans), and 545.6-13 (Farmers Home Administration Rural Housing Program guaranteed loans). However, whenever the terms of a loan investment under §§ 545.6-8, 545.6-10, 545.6-12(d) or 545.6-13 meet the requirements for a loan under §§ 545.6-2 or 545.6-3, the loan may be allocated to the applicable percentage-limitation category in paragraph (c) of this section, and if the loan meets the requirements of paragraph (a) of this section, it shall not be allocated to any percentage-limitation category. A loan investment under § 545.6-2(a)(2) (a loan on a single-family or two-to-four family dwelling in excess of 80 percent of value) or § 545.6-2(a)(3) (a loan on a single-family or two-family dwelling in excess of 90 percent of value) within the association's regular lending area may be released from its percentage-limitation category when the loan balance has been reduced to not more than the percent of value permitted under the applicable provision . . .

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-19258 Filed 6-19-79; 8:45 am]

BILLING CODE 6720-01-M

[12 CFR Part 545]

[No. 79-340]

Federal Savings and Loan System; Washington, D.C.-Maryland-Virginia, SMSA Branching

June 14, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposed to amend its regulations to permit Federal associations with offices within the Washington, D.C.-Md.-Va. Standard Metropolitan Statistical Area (SMSA) to branch throughout the SMSA. The Bank Board presently has a general policy of permitting Federal savings and loan associations to branch only within the state in which the home office of the association is located.

DATE: Comments must be received by October 15, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Lois G. Jacobs, Attorney, Federal Home Loan Bank Board at the above address (202-377-6466).

SUPPLEMENTARY INFORMATION: On February 21, 1979, the Federal Home Loan Bank Board, by Resolution No. 79-142 (44 FR 11090-91), requested comments by April 16 on whether or not it should alter its present policy prohibiting interstate branching (contained in 12 CFR 556.5(b)(2)) to allow Federal Associations within the Washington, D.C.-Md.-Va. Standard Metropolitan Statistical Area ("Washington SMSA") to branch throughout the SMSA. The Federal Register notice specifically invited comment on various operational means to accomplish such branching. The Bank Board received 8665 comments from 64 Federal associations, 38 state-chartered institutions, thirteen trade organizations, 8487 individual consumers (most in response to direct solicitation campaigns conducted by metropolitan savings and loans institutins), twenty-four government commenters (Virginia and Maryland state agencies and local and state representatives, U.S. Congressmen and Senators, and D.C. and Federal agencies), and six miscellaneous commenters. Bank Board staff also met with representatives of the Virginia savings and loan community who delivered petitions containing approximately 11,000 signatures opposing such branching.

Thirty-three Federal associations (eight from D.C.), three state-chartered associations, Congressmen Reuss and Fountroy, the Office of Consumer Affairs, the Comptroller of the Currency, the Departments of Commerce and Justice, the Federal Trade Commission, two trade associations, the Metropolitan Washington Board of Trade, the Metroplitan Washington Planning and Housing Association, 4 miscellaneous commnenters, 2317 individual consumers and 5713 post card senders supported the concept, suggesting three benefits of Washington SMSA branching: (1) Increased competition, (2) enhanced consumer services, and (3) unique geographic constraints of Washington, D.C.

The Antitrust Division of the Department of Justice, the Comptroller of the Currency, and the Office of Consumer Affairs supported the concept as a means to increase competition and improve services to the public. The Department of Justice urged revocation of § 556.5(b)(2), the Bank Board's policy statement on interstate branching, to permit nationwide interstate branching, and praised the contemplated Washington SMSA branching as a first step toward branching reform.

The Comptroller of the Currency stated that branching restrictions "are now widely recognized as a simple device to protect outlying bank units from the rigors of regional competition." Authorizing reciprocal branching throughout the Washington SMSA would provide the Bank Board with an opportunity to ease the burden "imposed by arbitrary geographic restraints on the growth and efficient operation of the financial system."

In addition to improved services, individual consumers cited convenience as the most important reason to support Washington SMSA branching. Many commenters would prefer branches closer to home because they are elderly and have difficulty transacting business in person in D.C. Commenters also cited fuel conservation for customers as a probable result of suburban branching by D.C. associations.

Locally, two D.C. agencies asserted that the Washington metropolitan area had successfully applied regional

solutions to other regional problems; SMSA-branching seemed a logical extension of the regional concept. The D.C.-based associations stated that their future growth was at stake. Although the District loan demand had fluctuated in recent years and D.C. associations had been able to invest in suburban mortgages, without the ability to branch into the suburbs and "follow home" the D.C. work force, D.C. associations asserted that they would continue to experience savings loss and gradually lose their ability to meet the D.C. housing mortgage demand. D.C. associations were instrumental in the development of the Washington suburbs, have many suburban account holders, and felt they should be allowed to better meet the credit needs of low- and moderate- income suburban customers by branching into the suburbs.

The 26 associations outside the Washington SMSA supporting interstate branching favored nationwide branching for all areas, metropolitan and rural.

Twenty-eight Federal associations (including 11 from Virginia and 3 from Maryland), thirty-four state-chartered associations (including 23 from Virginia and 1 from Maryland), 11 trade associations, 14 government representatives and agencies (including a unanimous resolution of the Virginia House of Delegates, a joint statement from the Virginia Congressional delegation, U.S. Representatives Bauman, Holt, and Mikulski, and Senator Sarbanes) two miscellaneous commenters, and 456 consumers all opposed the concept of reciprocal branching within the Washington SMSA, questioning the possible benefits of such branching and giving additional reasons described below.

Fifteen institutions and four trade associations predicted that, if Washington SMSA branching is implemented, large associations will overwhelm small ones with resultant greater concentration of a few associations, not greater competition.

Virginia commenters disagreed with the Bank Board's assertion that Washington SMSA branching would promote competition by comparing the national ratio of savings and loan offices to people (1/12,200) with the Northern Virginia ratio (1/9500). This comparison was used to indicate that Northern Virginia does not need additional branches and the presence of so many institutions indicates an extremely high level of current competition in the market area. Additional "foreign" branching into this market would "throw a healthy competitive market into disequilibrium," according to one savings and loan executive. Opposing commenters stated that branching into D.C. by suburban associations would not enhance competition, either. Since D.C. is a mature market area, the Bank Board could not reasonably expect suburban institutions to branch into D.C. Historically, branching in mature markets leads to concentration; such branching would not be desirable or practical.

Commenters also argued that needs of consumers are best met by local institutions. The American Bankers' Association stated that a consumer who maintains a savings account where he works rarely needs to visit that association outside working hours. Commenters asserted that the Bank Board had no factual basis for the conclusion that customer convenience would be enhanced by permitting Washington SMSA branching. In fact, consumers might ultimately be harmed if D.C. associations channeled suburban deposits into D.C.; such an allocation of assets would create a shortage of local money and a resulting rise in interest rates.

Eleven institutions, two trade associations, and one government commenter questioned the Bank Board's consideration of the Washington SMSA as a test of interstate branching. They argued that D.C. was not typical enough to provide meaningful, generally applicable data. They also questioned whether D.C. associations were at a disadvantage in obtaining mortgage money since loan demand was down in D.C. and D.C. associations invested only one-third of their assets in D.C. mortgages. In view of these facts, they asked whether D.C. needed mortgage money at all and if D.C. associations would invest suburban deposits in D.C. loans even if they had the opportunity to capture a greater market share through suburban branching.

Several commenters, including the Maryland and Virginia Leagues, argued that authorization of Washington SMSA-wide branching would merely be a ruse to allow inner-city institutions to abandon their obligations to D.C. They argued that the concept was antithetical to the Community Reinvestment Act because instead of encouraging community lending, it authorized movement away from an association's primary community. In addition, one commenter argued that since Congress predicated the CRA on the regulatory framework existing at the time of implementation of the Act, the Bank Board cannot make substantive changes to that framework without destroying impetus for compliance with CRA.

Maryland and Virginia commenters pointed out that if Federal associations in the Washington SMSA were permitted to branch throughout the metropolitan area, Maryland and Virginia state-chartered institutions would be precluded by present state law from equivalent branching. They felt the contemplated branching therefore seemed to be "special interest" regulation: all D.C. associations are Federally-chartered and therefore could uniformly take advantage of a Bank Board change in branching policy, as there are no "locally-chartered" D.C. institutions to be disadvantaged.

They also argued that authority for Federal associations to branch throughout the Washington SMSA could cause "erosion of state-chartered institutions" and was incompatible with notions of comity in Federal/state relations. They asserted that branching privileges of Federal savings and loans have always conformed to state law applicable to state-chartered associations, and any change in such philosophy would set a dangerous precedent by forcing state legislatures to go against their better judgment to restore parity between state and Federal institutions.

Three Federal associations and one state-chartered institution urged caution in proceeding with Washington SMSA branching on the grounds that Washington SMSA branching will lead to full-scale nationwide interstate branching and disruption of the McFadden principle which applies to bank branching.

Congress is currently studying the economic and social impact of the McFadden Act and may consider changes to it. Many commenters, including members of Congress, urged the Bank Board to wait for the results of the McFadden Study before making a unilateral decision on an issue that should be a national policy determined by Congress for all financial institutions. The Bank Board realizes the importance of the McFadden Study. To give the Bank Board and commenters on the proposed regulation an adequate opportunity to assess the Study which is due to Congress on September 12, comments regarding the proposed Washington SMSA regulation will be accepted until October 15, 1979.

The IBAA accused the Bank Board of avoiding inclusion under McFadden in years past by promising Congress that it would defer to state branching policies; any retreat from that position would be a breach of faith with Congress. The

Virginia Savings and Loan League cautioned that if the Bank Board authorized branching throughout the Washington SMSA at this time, Congress might be forced to reexamine the Bank Board's powers in light of the McFadden Act and curtail the Bank Board's authority in this area. Two state-chartered institutions asked which jurisdiction would have regulatory authority over D.C.-based associations which branch outside D.C. Other commenters questioned whether Maryland-state insured institutions which branched into D.C. would be subject to rate control.

After careful consideration of all comments, the Bank Board proposes to add a new section to the branching regulations to permit branching in the Washington SMSA. The proposed regulation is keyed to simplified branching regulations also proposed by the Bank Board today (Board Resolution No. 79-339, 44 FR 36060). Readers are urged to consider the Washington SMSA branching proposal in light of the simplified branching regulations.

The Bank Board believes that increased opportunities for branching will improve competition and enhance consumer services without harming small competitive institutions. Small associations survive currently in the presence of large institutions in intrastate SMSAs. Branching within an interstate SMSA should not cause dissimiliar results and the Bank Board has ample authority to prohibit additional branching in a particular area if it finds that further branching would be anti-competitive. The Bank Board also agrees with the commenting account holders who believe that Washington SMSA branching will enhance consumer services. The Bank Board believes that the income of the metropolitan population and growth potential of the area indicate that the market is not saturated and can benefit from increased branching within the SMSA.

The Bank Board is also persuaded by Washington, D.C.'s unique situation. Although treated like a state for purposes of branching, it differs from any state in comprising only a 61-square-mile wholly urban area surrounded by two contiguous states. D.C. savings and loan associations are effectively precluded from expanding into major parts of the metropolitan area, but Federal associations in Maryland and Virginia can branch throughout their respective states, including their state portions of the SMSA, each of which has a larger population than the city itself.

In addition, the Bank Board believes that Washington SMSA branching will provide meaningful data regarding the merits of interstate branching. Its special situation should not preclude it as a test site, because any SMSA would have peculiarities which would not be universally applicable.

The Bank Board believes that CRA is, at best, tangential to the issue of Washington SMSA branching. Congress could not have expected a thriving industry to remain forever locked into regulatory procedures existing in October, 1977. The Community Reinvestment Act gives the Bank Board an opportunity to encourage an association to meet the credit needs of its entire community, including low- and moderate-income persons, upon application to the Bank Board for specific deposit facilities. If an association wants to establish a branch, it must comply with the procedural requirements of the CRA regulations and the scrutiny of the Bank Board. The Bank Board will not permit SMSA-wide branching to result in abdication of an association's CRA responsibilities.

The Bank Board does not believe that this proposal threatens the dual system of banking. It is the nature of the dual system of banking that, at times, state or Federal associations may attain a competitive advantage over the other. This does not destroy the dual system; it accentuates its role in promoting a vital financial community. The Bank Board agrees with the Department of Justice that notions of comity do not require automatic acquiescence to all state branching laws.

Although the Bank Board has often followed a policy for Federal associations of deferring to state restrictions on branching, it believes that increased competition for funds between thrifts and commercial banks requires a reappraisal of branching policies. Under section 5(a) of HOLA (12 U.S.C. 1464), the Bank Board has the statutory duty to give "primary consideration to the *best practices* of local mutual thrift and home-financing institutions * * *." (Emphasis added.) The Bank Board's statutory authority to permit branching throughout the Washington SMSA is clear, and analysis of the effects of such branching is a means of determining the best practices. While the Bank Board will closely watch Congressional developments regarding the McFadden Act, it believes it has the authority and duty to authorize a change in branching policy if it will benefit the savings and housing community—savers, lenders, and borrowers.

Bank Board Resolution No. 79-142 posed seven specific questions regarding operational options for Washington SMSA branches. Based on the responses to those questions and further staff evaluation, the Bank Board proposes to allow branching, by any means, including merger, by any Federal association with an office (home or branch) in the SMSA, so long as the resulting branches are within the SMSA. A Maryland or Virginia association without any office in the SMSA would be required to open a branch within the SMSA before applying for an interstate branch. In this way all new branching would be within the SMSA, and the effects of such branching on competition, consumer services, and inner-city lending could be closely followed and analyzed in relation to the SMSA. Any Federal association wishing to branch within the SMSA would follow the procedures for establishing branch offices in 12 CFR 545.14 *et seq.*, except that an association would not be allowed to redesignate its home office from one jurisdiction to another, so that the proposal would not lose its SMSA focus. In addition, a Federal association would be permitted to file only three applications for new branches per calendar year.

Except for the limit on applications, the proposed regulation does not set any limit on the number or permanence of branches approved during the experiment. In addition, for purposes of branching of Federal associations under this regulation, the size of the Washington SMSA would be tied to the official Federal Government designation. If the Washington SMSA were enlarged, additional areas would automatically be included for purposes of Washington SMSA branching. If the defined area of the SMSA were reduced, a Federal association would be permitted to operate branches approved prior to the reduction.

Some commenters asked the Bank Board to delay the effective date of a final regulation on Washington SMSA branching for at least six months after adoption to allow Virginia and Maryland legislatures to consider similar authority for state-chartered institutions.

If a final rule is promulgated on this matter, the Bank Board believes it might be appropriate to delay accepting Washington SMSA branch applications for two months and to require Federal associations to delay opening of approved branches or consummating trades, sales, or mergers under this

regulation until six months after the effective date of a final regulation.

The Bank Board believes that the delay in filing applications would give Federal associaions an important opportunity for long-range planning. The additional delay for opening branches or consummating trades, sales, or mergers would give Maryland and Virginia state legislatures an opportunity to consider similar branching authority for state-chartered institutions. The Bank Board believes that branching by all institutions in the SMSA, both state- and Federally-chartered, could provide additional valuable data for evaluation of interstate SMSA branching. The Bank Board requests comments on the possible impact and practicality of such delays.

The Bank Board also recognizes the importance of the McFadden Study which is due to Congress on September 12. To give the Bank Board and commenters on the proposed regulation an adequate opportunity to assess the Study, comments on Washington SMSA branching will be accepted until October 15, 1979.

Commenters are urged to direct attention to the proposed regulation rather than merely voicing concerns already raised during the earlier comment period on this subject. The Bank Board regards comments received on this issue during both comment periods to be relevant to this rulemaking procedure and will consider both sets of comments when making a final decision regarding Washington SMSA branching.

Therefore, the Federal Home Loan Bank Board proposes to add a new § 545.14a to read as follows:

§ 545.14a Washington D.C.-Maryland, Virginia, SMSA branching.

(a) *General.* A Federal association with a home office or an operating branch office in the Washington, D.C.-Md.-Va. Standard Metropolitan Statistical Area (Washington SMSA), as defined by the Federal Government, may acquire branch offices within the Washington SMSA outside the state in which its home office is located by (1) establishing new branches, (2) buying or trading existing branches, or (3) consolidation, purchase of bulk assets or merger. An association acquiring branches under paragraph (a) (2) or (3) of this section may keep any resulting branch office(s) located outside the state in which its home office is located only if such branch office(s) is within the Washington SMSA.

(b) *Procedure.* All of the provisions of § 545.14 apply to Washington SMSA branching, except that a Federal association may file no more than three applications per calendar year to establish branch offices (under paragraph (a)(1) of this section) outside the state in which its home office is located.

(c) *Prohibition on interstate redesignation of home office.* A Federal association may not redesignate its home office from one state (as defined in § 521.10 of this chapter) to another.

(d) *Redefinition of SMSA.* If the Washington SMSA is enlarged, additional areas are automatically included for purposes of this section. If the defined aea of the SMSA is reduced, a Federal association may operate branches approved prior to the reduction.

(e) *Effective date.* The Board will accept applications under paragraph (a) of this section beginning (2 months after adoption). Federal associations may open offices approved under paragraph (a) beginning (6 months after adoption) and may not consummate trades, sales, or mergers before that date.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-19265 Filed 6-19-79; 8:45 am]

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[12 CFR Part 545]

[No. 79-339]

Federal Savings and Loan System; Branching of Federal Associations

June 14; 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to consolidate the sections of the Rules and Regulations for the Federal Savings and Loan System regarding branching by replacing them with simplified, comprehensive regulations. The Bank Board believes the proposed amendments would both simplify these regulations and, by reducing regulatory branching requirements, provide needed flexibility for Federal associations to better serve their communities in innovative ways.

DATE: Comments must be received by August 20, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION, CONTACT: Lois G. Jacobs, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.Telephone number (202) 377-6466.

SUPPLEMENTARY INFORMATION: The Bank Board's Rules and Regulations for the Federal Savings and Loan System presently contain six separate sections and a policy statement relating to branching by Federal associations: 12 CFR Parts 545.14— "Branch office"; 545.14-1— "Drive-in facility"; 545.14-4— "Mobile facility"; 545.14-5-"Satellite office"; 545.15— "Agency"; 545.16— "Change of office location"; and 556.5— a policy statement on branching. Two sections on data processing, 12 CFR 545.14-2 and 545.14-3, are also contained in branching provisions. Historically, regulations creating new types of facilities were developed to allow Federal associations flexibility in providing savings and loan services to their customers. However, the requirements have become so specific that they actually prevent establishment of some innovative types of facilities which do not conform to narrow specifications.

To eliminate unnecessary restrictions and promote innovative branching, the Bank Board proposes to realign its branching regulations by (1) consolidating the requirements and procedures for all branch, limited facility branch, mobile, drive-in, and satellite offices; (2) separating data processing services from the branching regulations; and (3) maintaining a separate section for agency offices. The Bank Board believes the consolidation would allow Federal associations to better serve all areas of their local communities; to expand services to more segments of the population; and to use greater latitude in designing new types of facilities.

The Bank Board also proposes the following substantive changes which would: (1) Eliminate eligibility requirements for all offices, except as otherwise provided in a working understanding between the Bank Board and a state agency which regulates state-chartered savings and loan associations; (2) revise criteria to include only the "undue injury" test and applicant's performance under the Community Reinvestment Act; (3) add procedures for upgrading and closing branch offices; and (4) apply to branches generally the prohibition on exclusive agreements presently applicable only to satellite offices.

Consolidation

The Bank Board proposes to consolidate its regulations governing various types of facilities into one set of branch office regulations with common requirements and procedures. An exception would be retained permitting Federal associations to establish drive-in and pedestrian offices within 500 feet of an association office. Regulations regarding agency offices and data processing service centers would be placed separately from branching provisions. Loan origination would be added as a pre-approved agency activity, and, for purposes of record-keeping only, an association would be required to notify the Supervisory Agent when it opens or closes an agency. In addition, Federal associations would be permitted to establish data processing service centers without limits on the distance from the home office. The Bank Board believes that location of this type of office should be a business decision of the management of the association.

The Bank Board believes that arbitrary limits on size, location, cost, and hours of operation of customer service facilities may unnecessarily stifle development of innovative means of providing savings and loan services. The proposed consolidation would allow an association to apply for a *branch,* describe the type of branch which would best serve the public, and provide documentation to justify the appropriateness of the proposed branch. No longer would a "satellite"-type facility be required to be within 5 miles of the nearest branch, for example, or a mobile facility be limited to operating only certain hours on certain days of the week. In this connection, Bank Board proposal No. 77–605, 42 FR 55822 (October 19, 1977), which proposed changes in the satellite office regulation, is withdrawn. The Bank Board's policy statement on branching (12 CFR 556.5) will be revised when consolidation is completed. In connection with revision of 12 CFR 556.5, readers may be interested in Bank Board Resolution No. 79–338 (44 FR which eliminates the 100-mile restriction on branching within a state, effective January 1, 1980.

The first step in simplification of branching was accomplished by Bank Board Resolution No. 78–518, 43 FR 47159–47–162 (October 3, 1978), which condensed procedures relating to notice, protest, and oral argument. These procedures would be placed in one regulation in this proposed revision.

Eligibility Requirements

Present eligibility requirements, found in 12 CFR 545.14(b), are lengthy, complex, and tied to current types of facilities and to state procedures. The Bank Board proposes to eliminate these requirements except as otherwise provided in a working understanding between the Bank Board and a state agency that regulates state-chartered savings and loan associations. The requirement in 12 CFR 545.14(b)(1)(iii) that an association submit evidence that an approved office will be opened within a specified time is retained in proposed section 12 CFR 545.14(h).

Criteria

Presently, 12 CFR 545.14(c) lists four criteria for evaluating a branch application: (1) Necessity for the proposed branch in the community to be served by it ("need" test); (2) reasonable probability of success of the proposed branch; (3) establishment of the proposed branch without undue injury to properly conducted existing local thrift and home-financing institutions ("undue injury" test); and (4) the applicant's performance under the Community Reinvestment Act (CRA test). Other facilities currently have different criteria. A mobile facility (12 CFR 545.14–4) has a "need test" for each proposed site and a required showing that it is not feasible to establish a full-time office; under 12 CFR 545.14–5, a satellite office has an "undue injury" test and a requirement that it be established in the primary service area of an existing branch or home office of the applicant association.

The Bank Board proposes to eliminate all regulatory distinctions between full service, limited service, mobile, and satellite offices, and reduce the criteria for all facilities. The Bank Board believes that branching should be a business decision of the management of an association and that it should generally defer to that decision unless supervisory, "undue injury", or CRA problems exist. Therefore, the Bank Board proposes to reduce the criteria to "undue injury" and "CRA", apply these criteria equally to all branch applications, and allow protests to applications only on these two grounds. The Bank Board emphasizes that "undue injury" is not the mere threat of competition, and the Policy Statement (which will be revised when final branching regulations are implemented) will further discuss undue injury. A protestant would be required to give convincing evidence of undue injury before an application could be denied on this basis. Although the Bank Board proposes to eliminate the criteria of need and probability of success, it would still evaluate applications for consistency with safe and sound operation of the applicant and deny on supervisory grounds any application not consistent with such operation.

Procedures for Notice, Protest, and Oral Argument

Presently, the procedures for publication of notice, protest, and oral argument are cross-referenced to charter provisions for the same, and applicants have had difficulty understanding the procedures because of this cross-referencing. The Bank Board therefore proposes to repeat procedural requirements in the branching section to make them more easily understandable.

Upgrading and Closing a Branch

If the Bank Board eliminates various facility office classifications and restrictions, it must provide procedures for upgrading a facility to remove any conditions or limitations imposed on operation of the branch at the time of approval. Under the proposed upgrading procedure, an association would give notice to the Supervisory Agent 30 days before a planned upgrading. The Supervisory Agent could, within 30 days from receipt of the notice, raise supervisory objection to the proposed upgrading, and then require additional information or submission of a branch application. Otherwise, the association could proceed to upgrade the branch. Any upgrading which involved a change of location would be approved under change of office location procedures.

The proposed closing procedure would require a Federal association to give 60 days notice to the Supervisory Agent before closing a branch office. The Bank Board does not intend to question an assocation's sound business decision to close a branch; it merely wants an opportunity to maintain competitive levels of service in all areas of a community, if possible. This notice would give the Bank Board data concerning branch closings and give the Supervisory Agent an opportunity to assist the association in maintaining the branch or to contact other associations which might be willing to take over that site.

Change of Office Location

Application procedures for change of office location would conform to those for branches; however, the applicant would still be required to show a need for the change from the standpoint of future operations of the association.

Twenty-one days would be specified as the length of time for the existing posting of notice requirement. Also, provision for approval for temporary change of office location now in 12 CFR 545.15(g) would not be substantively changed, but merely combined with other approvals for temporary locations in § 545.14(i).

Exclusive Agreements

The new regulations would prohibit for all branches the type of exclusive agreements now prohibited for satellite offices (12 CFR 545.14–5(c)(8)). An association would not be allowed to enter into an agreement for exclusive right to operate a branch in a regional shopping center or in a majority of locations of a chain store or to prevent other financial institutions from operating offices at regional shopping centers or chain stores where the association does not have an office. The Bank Board believes this type of agreement is clearly anticompetitive and should be prohibited.

Application for Branch Office After Conversion or Merger

Section (k) of the proposed regulation would add new paragraphs (2) and (3). Paragraph (2) codifies the current Bank Board policy that prohibits a Federal association from filing a branch application after filing an application to merge with or convert to a state-chartered institution. Commenters are specifically requested to comment on whether the Bank Board should deny an association the opportunity to file a branch application after a merger or conversion application has been pending for a substantial period of time, such as, for example, nine months.

Paragraph (3) expressly provides the Bank Board a regulatory basis for disapproving a branch application if an applicant also has filed either of the applications listed above and the proposed branch would not be operated as a branch of a Federal association.

For example, a Federal association could apply for a branch and thereafter determine to convert to a state-chartered association and file an application to do so. On the other hand, a Federal association might file a branch application knowing it intended to convert a state-chartered association. The applicant's intention when a branch application is filed to operate the branch as a state association, such as in the second example, would be an important factor, among other factors, in the Bank Board's disposition of the branch application request. Accordingly, the Bank Board hereby proposes to substitute new text for 12 CFR 545.14, 545.14–1, 545.14–2, 545.15, and 545.16, and to revoke 12 CFR 545.14–3, 545.14–4, 545.14–5, and to add a new 12 CFR 545.16–1 to Part 545 to read as set forth below.

PART 545—OPERATIONS

§ 545.14 Branch offices.

(a) *General.* A branch office of a Federal association is any office other than its home office, agency office, data processing or administrative office, or a remote service unit. Except as limited by this section, any business of a Federal association may be transacted at a branch office. Except as provided in paragraph (j) of this section, a Federal association shall not establish a branch office without prior written approval of the Board or its Principal Supervisory Agent.

(b) *Eligibility.* A Federal association may apply for a branch regardless of the number of branch applications it has pending before the Board, unless otherwise provided in a working understanding between the Board and a State agency that regulates state-chartered savings and loan associations.

(c) *Application form; filing; completion; supervisory objection.* Applicants shall obtain Board-approved application and notice forms and related instructions from the Supervisory Agent. An application is filed when four copies are delivered to the Supervisory Agent; the application is complete when the Supervisory Agent determines that all required information has been submitted. The Board shall not accept an application if, in its opinion, the association is not eligible, or its policies, condition, or operations afford a basis for supervisory objection. The Surpervisory Agent shall determine that the application is complete, the applicant is eligible, and that as a preliminary matter there is no basis for supervisory objection to the application, before giving direction for publication of notice.

(d) *Amendment of application; additional information.* An applicant may amend an application or file additional supporting information only until the date of notice to publish under paragraph (e) of this section, unless otherwise requested to do so by the Supervisory Agent or the Board.

(e) *Public notice and inspection.* (1) After the Supervisory Agent determines that the application is complete, s/he shall direct the applicant in writing to publish notice within 15 days from the date of the direction. The applicant shall publish notice on the same day of 2 consecutive weeks in a newspaper printed in the English language having a general circulation in the applicant's home office community and in the community to be served by the proposed branch office. If the Supervisory Agent determines that the primary language of a significant number of the adult residents of the community is a language other than English s/he may require the applicant to give notice in the appropriate language(s).

(2) Promptly after publication, the applicant shall transmit to the Supervisory Agent two copies of each notice and publisher's affidavit of publication.

(3) In addition to notice required under paragraph (e)(1) of this section the Supervisory Agent shall give notice of the application to the State official who supervises savings and loan associations in the State in which the branch is to be located and to persons whose requests for announcements under § 563e.6 of this chapter have been received in time for notification. The Supervisory Agent may also give notice to any other persons s/he believes might have an interest in the application, but failure to give notice to persons having such an interest is not a basis for procedural objection.

(4) The Board shall consider the application and its filing confidential until publication of notice, unless otherwise provided in a working understanding between the Board and a State agency which regulates State-chartered savings and loan associations and the applicant is so informed upon filing. Thereafter, the application and all related communications may be inspected by any person at the Supervisory Agent's office during regular working hours excluding those portions of related communications the disclosure of which would constitute a clearly unwarranted invasion of privacy.

(f) *Protest.* Persons shall submit communications and answers to protests only as provided in this paragraph or as requested by the Supervisory Agent or the Board.

(1) Within 10 days of the last date of publication of notice of application (or 30 days after that date if extension is requested in writing within the 10-day period), any person may file a communication in favor or protest of the application by furnishing four copies to the Supervisory Agent.

(2) Within 10 days after filing of a protest, the Principal Supervisory Agent shall advise the protestant and the applicant, in writing, whether the protest is considered "substantial."

(3) The Principal Supervisory Agent shall consider a protest "substantial" only if it is written, filed on time, and contains at least the following:

(i) A summary of the reasons for the protest;

(ii) The specific matters in the application to which the protestant objects, and the reasons for each objection;

(iii) Facts supporting the protest, including relevant economic or financial data;

(iv) Any adverse effects on the protestant which may result from approval of the application.

(4) The Principal Supervisory Agent's determination whether a protest is "substantial" is final. The Principal Supervisory Agent shall not consider insubstantial a protest filed by an individual or community group pertaining to an applicant's performance under § 563e of this chapter merely because of the form in which it is submitted.

(5) The applicant may file an answer to any protest until 15 days after the last date for filing of communications by furnishing four copies of the answer to the Supervisory Agent.

(g) *Oral argument.*—(1) *General.* Oral argument on the merits of an application shall be heard if (i) the applicant or a person who has filed a substantial protest so requests and the request is received by the Supervisory Agent within 10 days after the time for filing answers to all protest has expired; or (ii) the Supervisory Agent, after reviewing the application and other pertinent information, considers oral argument desirable. The Supervisory Agent shall mail notice of the time (at least 10 days after the mailing) and place of oral argument to the applicant and persons who filed communications. In the case of protests pertaining to § 563e of this chapter, the Supervisory Agent shall ensure that the time and place of any oral argument are reasonably convenient to the protestants.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, may hear oral arguments and determine all matters relating to the conduct thereof. Arguments may be made in person or by authorized representative(s). Unless the Supervisory Agent permits otherwise, arguments shall be based only on written information previously filed regarding the application. At least 1 hour shall be allowed to each side for the oral argument. The Supervisory Agent shall make a transcript of the oral argument and include it in the application file.

(h) *Approval by the Board or the Principal Supervisory Agent.* (1) The Board shall approve an application only if, in its opinion, (i) the branch can be established without undue injury to properly conducted existing local thrift and home-financing institutions; (ii) the applicant's assessment under Part 563e of this Chapter is not the basis for a denial; (iii) the policies, condition, and operation of the applicant afford no basis for supervisory objection; and (iv) the proposed branch will open within 12 months of approval unless otherwise allowed by the Board of the Principal Supervisory Agent.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on undue injury or § 563e of this Chapter has been filed on time.

(i) *Approval of temporary or permanent location.* The Supervisory Agent may approve a temporary and/or permanent location of an approved branch office if it is in the immediate vicinity of the approved location and would not be more strongly competitive to any other properly conducted existing thrift and home-financing institution than at the approved location.

(j) *Offices not requiring prior written approval.* A Federal association may establish without prior approval a drive-in and/or pedestrian office opened in conjunction with an approved branch or home office of the association, located within 500 feet of a public entrance of that office and closer to that entrance than to a public entrance of another FSLIC-insured institution, and the functions of which are limited to the ordinary functions performed at a teller-window.

(k) *Application for and maintenance of branch office after conversion, consolidation, purchase of bulk assets, or merger.* (1) An existing institution which converts to a Federal association may not maintain an existing office, and a Federal association which acquires offices through consolidation, purchase of bulk assets, or merger, may not maintain any acquired office, without written Board approval.

(2) A Federal association may not file an application to establish a branch after filing for an application to merge or otherwise surrender its Federal charter.

(3) the Board may deny a branch application if it determines that the applicant will not in fact operate such branch as an office of a Federal association.

(l) *Exclusive agreements.* A Federal association may not enter into any kind of agreement for exclusive right to operate a branch office in a regional shopping center as defined in § 571.11(b) of this Chapter or in a majority of all locations of a chain store, or under which other financial institutions would be excluded from operating offices in the same regional shopping center or a chain store where the association does not have an office.

§ 545.14-1 Upgrading of approved branch office

(a) *General.* A branch office is upgraded if the association is relieved of any of the restrictions imposed on operation of the office when it opened.

(b) *Notice.* A Federal association operating a limited, mobile, or satellite facility approved before

(effective date of this regulation) or a branch office with conditions imposed on its operation shall notify the Supervisory Agent at least 30 days before upgrading the facility.

(c) *Approval.* If within 30 days of receipt of the notice the Supervisory Agent does not notify the association of supervisory objection which would require the association to submit an application or additional information before upgrading, the association may upgrade the facility.

(d) *Upgrading with change of location.* Any upgrading which involves a permanent change of location must be approved under § 545.15.

§ 545.14-2 Closing a branch office.

A Federal association shall notify the Supervisory Agent not less than 60 days, or, in the case of an emergency, as early as circumstances permit, before closing a branch office.

§ 545.14-3 [Rescinded effective:]
§ 545.14-4 [Rescinded effective:]
§ 545.14-5 [Rescinded effective:]

§ 545.15 Change of office location.

(a) *General.* A Federal association shall not change the permanent location of its home office or any approved branch office without prior approval of the Board or the Principal Supervisory Agent.

(b) *Processing of application.* Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.14 (c), (d), (e), (f), (g), (h), and (i), except that (1) the applicant shall publish the required newspaper notice of application in (i) the applicant's home office community, (ii) the community to be served by the new office, and (iii) the

community where the office is to be closed or the home office is to be redesignated as a branch; and (2) the applicant shall post notice of the application for 21 days in a prominent location in the office to be closed or redesignated.

(c) *Approval by the Board.* The Board or Supervisory Agent shall approve an application only if, in its or her/his opinion, the applicant complies with the standards of § 545.14(h) and shows need for the change of location from the standpoint of the future operation of the association.

§ 545.16 Agency.

(a) *General.* A Federal association may, without approval of the Board, to the extent authorized by its board of directors, establish or maintain, within the same state as the home office of the association, agencies which only service and originate (but do not approve) loans and contracts and/or manage or sell real estate owned.

(b) *Additional services.* Offering of any services not listed in Paragraph (a) of this section may be approved by the Principal Supervisory Agent, except that receipt of payment on savings accounts and loan approval services must be approved by the Board.

(c) *Records.* An agency shall maintain records of all business it transacts and transmit copies to a branch or home office as the Federal association may require.

(d) *Notice.* For purposes of the Bank Board's record keeping, a Federal association shall notify the Supervisory Agent when it opens or closes an agency.

§ 545.16-1 Data processing services.

(a) *Definition.* As used in this section, "data processing services" means maintenance of bookkeeping, accounting, or other records primarily by mechanical or electronic methods.

(b) *Office.* Subject to § 545.10, an association may establish or maintain an office with functions limited to providing data processing services primarily for its own use. The association shall not provide these services to others except when incidental or secondary to meeting the needs of the association.

(c) *Service Center.* (1) A Federal association may participate in establishing or maintaining a service center with an FSLIC-insured institution(s) having legal power to do so, through a partnership or other non-corporate arrangement or through capital investment in a service corporation approved under § 545.9-1 if (i) the center is not a business venture (unless incidental to meeting the needs of the participating institutions) and (ii) its investments, costs, and profit or loss in connection with the center are reasonably proportional to those of other users of the center.

(2) Any arrangement shall include a written agreement with the Board by each participating institution and the legal entity, if any, which establishes or maintains the service center that it will (i) maintain records which clearly and fully disclose its operation; (ii) permit and pay the cost of examination and/or audit by the Board's examiners as determined necessary by the Board; and (iii) make available to the Board's examiners upon request, for purposes of examination and/or audit, all records of the center and any participating institution, which, at the time of the request, are physically in the possession of the center.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., P. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-19266 Filed 6-19-79; 8:45 am]

BILLING CODE 6720-01-M

[12 CFR Part 563]

[No. 79-344]

Federal Savings and Loan Insurance Corporation; Transactions With Affiliated Persons

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendments.

SUMMARY: These proposed amendments would modify present regulations which generally prohibit any FSLIC-insured institution or its subsidiary(s) from jointly owning with, purchasing or leasing from, or selling to, any affiliated person of the insured institution any interest in real property. The proposed amendment would permit the Principal Supervisory Agent to approve otherwise prohibited transactions where found to be fair to, and in the best interests of, the insured institution or subsidiary.

DATE: Comments must be received by August 20, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Topelius, Attorney, (202-377-6444).

SUPPLEMENTARY INFORMATION: Section 563.41 of the rules and regulations for Insurance of Accounts (12 CFR 563.41) prohibits, with certain limited exceptions, any insured institution or subsidiary thereof from, directly or indirectly, jointly owning with, purchasing or leasing from, or selling to any affiliated person any interest in real property. Experience with this regulation since it was adopted by Bank Board Resolution No. 76-588 of August 18, 1976 (41 FR 35812-35826), has indicated to the Bank Board that the regulation may be too rigid.

A number of cases have arisen during the past two and a half years where transactions prohibited by the regulation have appeared from available information to be potentially very advantageous to the insured institution or subidiary in question. Such cases may, for example, involve property at a favorable location which an insured institution desires to purchase or lease for establishment of a new branch office, expansion of an existing office, or for automobile parking for such a facility. The Bank Board has also received a number of requests for waiver in cases where an affiliated person desires to purchase from an association a single-family dwelling for use as his or her personal residence. Under present § 563.41, the only alternatives in such cases are for the insured institution or subsidiary to forego the transaction or for the affiliated person to sever his or her relationship with the institution. In some cases, election of the first alternative may deprive an insured institution of an opportunity from which it could derive substantial benefit. And in some cases, election of the second alternative may be impracticable, as where the affiliated person in question is an owner, officer, or especially valued director of the insured institution.

The Bank Board, by Resolution No. 78-561, dated October 25, 1978 (43 FR 50444), had previously proposed addition of a narrow exception to § 563.41, which would have allowed an insured institution or its subsidiary to sell a single-family dwelling to an affiliated person as long as the terms of sale were identical to those offered to the general public. This proposed exception would not have required that the transaction receive prior Principal Supervisory Agent approval. While commenters generally favored revision to § 563.41, many believed that "identical" terms of sale are nearly impossible to assure and difficult to adequately document. Commenters also expressed confusion as to whether

"identical terms of sale" would require identical terms of financing. The Bank Board has, therefore, determined to withdraw its October 25 proposal.

In its place, the Bank Board proposes to amend § 563.41 to provide a general exception for any otherwise prohibited real estate transaction with an affiliated person that the Principal Supervisory Agent determines would be fair to, and in the best interests of, the insured institution or subsidiary. To further safeguard against possible abuse, such transactions would be subject to the existing requirements in the regulation for transactions within its present exceptions, i.e., prior written approval of the Principal Supervisory Agent, an independent appraisal of the property, and prior approval by a disinterested majority of the institution's board of directors or membership after full disclosure.

The Bank Board also takes this opportunity to propose to amend the language and structure of § 563.41 to shorten, simplify, and clarify it.

Accordingly, the Bank Board hereby withdraws its proposal contained in Resolution No. 78-561 (October 25, 1978), and proposes to amend § 563.41 and Instruction 4(f) of Item 6(e), Form AR, § 563.45, as set forth below.

1. Amend § 563.41 to read as follows:

§ 563.41 Restrictions on real property transactions with affiliated persons.

(a) *Scope of section.* Section 584.3 of this chapter is controlling with respect to transactions between an insured institution and a holding company.

(b) *Restrictions.* No insured institution or subsidiary thereof may, directly or indirectly, purchase or lease from, jointly own with, or sell to an affiliated person of the institution any interest in real property unless the transaction is determined by the Principal Supervisory Agent to be fair to, and in the best interests of, the insured institution or subsidiary.

(c) *Conditions.* Transactions permitted under paragraph (b) of this section shall—

(1) Receive prior written approval of the Principal Supervisory Agent;

(2) In their terms, be fair to, and in the best interests of, the insured institution or subsidiary;

(3) Be supported by an independent appraisal not prepared by an affiliated person or employee of the institution or subsidiary; and

(4) Be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of the institution or subsidiary (or alternatively by a majority of the total votes eligible to be cast by the voting members of the institution at a meeting called for such purpose, with no votes cast by proxies not solicited for such purpose). Full disclosure must include the affiliated person's source of financing for the real property involved in the transaction, including whether the insured institution or any subsidiary thereof has a deposit relationship with any financial institution or holding company affiliate thereof providing the financing.

2. Amend Instruction 4(f) of § 563.45, Form AR, Item 6(e) to read as follows:

§ 563.45 Disclosure.

* * * * *

Form AR (Annual Report Form)

* * * * *

Item 6

(e) *Transactions where certain persons have a material interest.*

* * * * *

4. No information need be given in answer to this item as to any transaction where

* * * * *

(f) The transaction is in compliance with 12 CFR 563.41.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425(a), 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 F.R. 4691), 3 CFR, 1943—48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-18203 Filed 6-19-79; 8:45 am]

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CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, and 214]

[EDR-382; Economic Regulations Docket 34533, Dated June 14, 1979]

Proposed Amendment of Rules for Pro Rata and Single Entity Charters

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to reduce the minimum charter size for pro rata and single entity charters from 40 to 20 persons, and to require a notice in all solicitation materials for pro rata charters that warns participants of the lack of consumer protection provisions. This action is being taken in response to a petition by Trans International Airlines. The action is intended to increase flexibility of charters and to provide consumers with more information for their travel decisions.

DATES: Comments by: August 20, 1979.

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: July 5, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 34533, 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 714, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

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

SUPPLEMENTARY INFORMATION: On January 19, 1979, Trans International Airlines (TIA) petitioned the Board in Docket 34533 to amend its regulations governing pro rata, or "affinity," charters in several ways. Affinity charters are charters for which a qualifing group, such as a club or employee organization, contracts with a direct air carrier for air transportation and for which the participants each pay a pro rata portion of the charter cost. Under existing rules the affinity group must be organized primarily for a non-travel purpose, and it must contract for at least 40 seats. If the chartering organization conducts four or more round trip flights per calendar year, all participants departing on the same flight must return together on the same flight, except for up to five percent of the participants, on each leg, who may be transported one way. Also the chartering organization must give the direct air carrier a "passenger manifest" with the names, addresses, telephone numbers, and other specified data about participants, to enable the carrier to see that the participants are bona fide members of the chartering organization.

Participants on affinity charters are not protected by consumer protection provisions to the same extent as Public Charter participants. Payments for affinity charters are often made to a group representative, or to a retail travel agent that has organized a package tour including ground accommodations and services. Affinity charter participant

payment are not protected by a bond or escrow account between the time the money is given to the intermediary agent or representative and the time it is transmitted to the air carrier. The air carrier, once it is paid, must keep the money for the air transportation portion of the trip in an escrow account, or insure it with a bond, until the flights are completed. Funds for the ground services included in the tour are not subject to any escrow or bonding requirements. Affinity charter participants are also not required to sign a participant contract informing them of the rights and risks involved in their charter trip. Public Charter participants, on the other hand, must enter into a written cntract describing such matters as their refund and cancellation rights and the rights of the charter operator to make changes in tour arrangements.

TIA has asked the Board to amend its regulations for affinity charters in five ways: (1) Reduce the minimum charter size from 40 to 20 seats; (2) allow unlimited one-way flights and intermingling of passengers between flights (intermingling means that participants departing on the same flight may return on different flights); (3) eliminate the passenger manifest and air carrier verification requirements; (4) require a notice in affinity charter soliciation materials informing prospective participants that the charter is not subject to government regulations designed to protect participant payments; and (5) relieve air carriers of their special duty to insure that travel agents and affinity organizations comply with the affinity charter rules. Capitol International Airways (Capitol) has filed an answer in support of TIA's petition.

TIA argued that a lower minimum charter size would reduce the costs of empty seats to groups with less than 40 participants, and that there is no rational basis for requiring a minimum of 40 seats for affinity charters while requiring a minimum of 20 seats for Public Charters. TIA added that the minimum size should also be reduced for single-entity charters, on which the charter price is paid in full by the chartering organization instead of pro rata by the actual participants, and for Overseas Military Personnel Charters (OMPC's).

TIA argued that the original purpose for the prohibition on one-way and intermingled flights was to distinguish charter service from individually ticketed service, but that the prohibition is no longer considered necessary to the distinction. Since the Public Charter regulations now permit both one-way charters and intermingling, TIA requested that affinity groups be permitted to operate on the same terms.

TIA asked that affinity charterers be relieved from filing passenger manifests, contending that there is no legitimate need for the biographical information in the manifests. The availability of Public Charters has, it said, eliminated any incentive to use affinity charters to circumvent other charter rules and the verification process only adds delay and extra work at check-in. Also, TIA claimed that the information required to be put in passenger manifests represents a potential threat to the privacy of passengers, who may be absent from their homes for prolonged periods.

The petition suggested that solicitation materials for affinity charters be required to contain a notice informing prospective participants that their payments to group representatives are not subject to government regulations designed to protect deposits. This suggestion was included to allay fears expressed by the Board in the Public Charter rule that affinity charters would be used to circumvent the consumer protection provisions for Public Charters. The apparent assumption is that persons who would otherwise organize illegitimate affinity charters to avoid the consumer protection rules would be thwarted, since participants would be cautious about entrusting their money without protection to someone other than a familiar organization representative.

Finally, TIA argued that air carriers should not be responsible for verifying compliance with the affinity charter rules. It asserted that carriers have no effective control over the content of solicitation brochures or eligibility of group members, and cannot enforce the pro rata requirements of the affinity rules. TIA submitted that the solicitation notice it has suggested will simplify CAB enforcement problems. Therefore, it said, Board policy should be revised to place primary responsibility for compliance on travel agents and chartering organizations, and to make direct carriers' responsibilities no greater than they are under the Public Charter rule.

In its answer, Capitol reiterated the arguments made by TIA.

The Board is proposing by this notice to reduce the minimum contract size to 20 seats for both pro rata and single entity charters. We are also proposing to require a solicitation notice similar to that suggested by TIA to inform prospective affinity charter participants of the lack of consumer protection provisions for them. The minimum contract size for OMPC's is the subject of a separate notice of proposed rulemaking (EDR-381, 44 FR 31199, May 31, 1979). We have decided to deny the other requests for changes to the affinity regulations.

In SPR-142 (42 FR 65487, December 30, 1977), the Board reduced the minimum size for all charters organized by tour operators (except OMPC's) from 40 to 20 persons. Since affinity charters were not the subject of that rulemaking, they continued under the 40-person minimum. Thus, as TIA points out, the difference in minimum size for affinity charters and for Public Charters is the result of procedural history, and not of a formal decision by the Board. There is no affirmative reason for retaining the group-size distinction between affinities and Public Charters. Since lowering the minimum for affinities would allow greater efficiencies and flexibility for small affinity groups, we are proposing to make the change.

We also favor TIA's suggestion to include a notice to affinity participants in their solicitation materials that would enable them to make more informed decisions. We have found through experience that affinity participants do not always realize that they are relying on the honesty and business judgment of the organization representative or travel agent in caring for funds deposited toward affinity charter tours. It is especially important that prospective participants recognize the risks implicit in affinity charter travel, as they may be relatively new to their organization, or it may be so large that they do not know their representatives.

Affinity charter participants are not required to sign a participant contract stating their rights on such matters as cancellations or refunds and stating the rights of the carrier or organization to cancel the flight, change the itinerary, or make other significant modifications. Although TIA's suggested notice referred only to the lack of protection for participant payments, we think that the possibility of itinerary and other changes is also important enough to be included in the notice. Frequently in the past, participants on affinity charters (including members of unauthorized groups) have been surprised to learn, after committing their funds and finalizing their plans, that their charter programs did not include all the consumer protection benefits that they expected. In order for consumers to make informed travel decisions, as well at to avoid unfair or deceptive advertising, we propose to require all printed affinity charter solicitation materials to contain the following

notice, printed in capital letters, in a type size of 10 points or larger:

THIS PROGRAM IS NOT COVERED BY GOVERNMENT REGULATIONS THAT LIMIT TOUR CHANGES AND PROTECT AGAINST LOSS OF PASSENGERS' MONEY.

This would not be an unduly burdensome requirement. The notice is short and simple to understand. Ten point type is standard typewriter size, so that typewritten solicitation materials may easily conform. We recognize that some chartering organizations and their members may be annoyed by the mandatory inclusion of such a notice on their solicitation materials. However, we think that the benefits to participants from fuller information would outweigh whatever inconvenience might result from the notice. We welcome alternative suggestions for wording and format of the notice.

We are denying TIA's requests to permit one-way flights and intermingling of passengers between flights. Affinity charters are intended to be operated only for the limited purpose of enabling organizations, existing for purposes other than travel, to offer the economies of charter travel to bona fide members. The detailed consumer protection provisions imposed on professional charter operators have never been imposed on affinity organizations, because of the different nature and purpose of the relationships between charterer and participant. The Board has traditionally felt that charter participants are less likely to be taken advantage of by organizations in which they share common interests and friendships, than by charter organizers with whom they have no ties other than an interest in the charter itself.

Membership in a legitimate affinity group is difficult to verify, however. In the past many persons have attempted to organize groups for an ostensible non-travel purpose, with the true purpose of marketing affinity charters, in order to avoid more stringent regulations on other types of charters. We do not wish to create an incentive for persons to use illegitimate affinity groups for the purpose of evading the consumer protection requirements for Public Charters. We are therefore reluctant to relax existing requirements for affinity groups to the point where the only significant differences between the two charter forms would be the consumer protection provisions (required only of Public Charter operators) and the existence of a bona fide affinity group (required only of affinity groups). It would then be possible to offer Public Charter-type service, but without consumer protections, by organizing an artificial group. If such a circumvention became common, the enforcement burden would be unmanageable.

Existing regulations are not unduly restrictive for the sort of budget group pleasure trip for which affinity rules were designed. Any group that operates less than four round trip charter flights per year may provide one-way or intermingled service for all passengers, and groups with four or more flights per year may transport up to five percent of their passengers one-way. The requirement that most participants travel together on a round trip plan seems compatible with the interests of an organization existing primarily for a non-travel purpose. Therefore, the potential benefits of allowing the requested travel options on affinity flights do not seem important enough to outweigh the likely detriments from evasion of our consumer protection rules.

We are also denying TIA's suggestion that passenger manifests and verification requirements be removed. These requirements are the only means by which air carriers and the Board can police the legitimacy of affinity group membership. Removal of these requirements would make it far more difficult to detect illegal affinity groups organized to avoid the consumer protection requirements for Public Charters, or for any other reason. However, we specifically request comments on how these procedures could be simplified to reduce delay at boarding time while not impairing the enforcement process.

We also decline to relieve air carriers of their enforcement responsibilities in assuring that affinity groups with which they do business comply with the Board's regulations. There are approximately 13,000 travel agents and uncounted affinity organizations who may organize affinity charters. With such a large field for the Board to police, we think it is reasonable to require air carriers to undertake an affirmative enforcement responsibility as a condition to serving this specialized charter market. Travel agents are themselves responsible for seeing that the affinity rules are followed. *C.A.B. v. Carefree Travel*, No. 74C-915 (E.D.N.Y. Sept. 30, 1974), *aff'd* 513 F.2d 375 (2d Cir. 1975). The responsibilities of affinity groups and participants are less clear. But in any case, we believe that the direct air carriers are in the best position to monitor compliance by agents and groups. We disagree with TIA's assertion that carriers have no effective control over the actions of agents and groups. The carrier has very effective control in its ability to cancel flights for noncompliance with the regulations. Such carrier action has sometimes caused tour operators to reorganize improper affinity charters as Public Charters, which have included consumer protections that would not otherwise have been provided.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Parts 207, 208, 212, 214 as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. The proviso in § 207.11 (c)(9) would be amended to read as follows:

§ 207.11 Charter flight limitations.

* * * * *

(c) * * *

(9) * * *

Provided, That with respect to paragraphs (c)(1), (c)(2), and (c)(9) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to paragraph (c)(4) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (c) of this section shall not be construed to apply to movements of property.

2. Section 207.40 would be amended by adding a new paragraph (e), to read as follows:

§ 207.40 Solicitation of charter participants.

* * * * *

(e) Printed solicitation materials must contain the following notice in boldface, 10-point or larger type—

THIS PROGRAM IS NOT COVERED BY GOVERNMENT REGULATIONS THAT LIMIT TOUR CHANGES AND PROTECT AGAINST LOSS OF PASSENGERS' MONEY.

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

1. The proviso in § 208.6 (c)(9) would be amended to read as follows:

§ 208.6 Charter flight limitations.

* * * * *

(c) * * *

(9) * * *

Provided, That with respect to paragraphs (c)(1), (c)(2), and (c)(9) of

this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to paragraph (c)(5) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further,* That paragraph (c) of this section shall not be construed to apply to movements of property.

2. Section 208.210 would be amended by adding a new paragraph (e), to read as follows:

§ 208.210 Solicitation of charter participants.

* * * * *

(e) Printed solicitation materials must contain the following notice in boldface, 10-point or larger type——

THIS PROGRAM IS NOT COVERED BY GOVERNMENT REGULATIONS THAT LIMIT TOUR CHANGES AND PROTECT AGAINST LOSS OF PASSENGERS' MONEY.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. The proviso in § 212.8(b)(9) would be amended to read as follows:

§ 212.8 Charter flight limitations.

* * * * *

(b) * * *

(9) * * *

Provided, That with respect to paragraphs (b)(1), (b)(2), and (b)(9) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to paragraph (b)(4) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further,* That paragraph (b) of this section shall not be contrued to apply to movements of property.

2. Section 212.40 would be amended by adding a new paragraph (e), to read as follows:

§ 212.40 Solicitation of charter participants.

* * * * *

(e) Printed solicitation materials must contain the following notice in boldface, 10-point or larger type—

THIS PROGRAM IS NOT COVERED BY GOVERNMENT REGULATIONS THAT LIMIT TOUR CHANGES AND PROTECT AGAINST LOSS OF PASSENGERS' MONEY.

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

1. The proviso in § 214.7(b)(8) would be amended to read as follows:

§ 214.7 Charter flight limitations.

* * * * *

(b) * * * *

(8) * * *

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *And provided further,* That with respect to paragraphs (b)(1), (b)(2), and (b)(8) of this section each person engaging less than the capacity of the aircraft shall contract and pay for 20 or more seats. With respect to paragraph (b)(4) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats.

2. Section 214.30 would be amended by adding a new paragraph (e), to read as follows:

§ 214.30 Solicitation of charter participants.

* * * * *

(e) Printed solicitation materials must contain the following notice in boldface, 10-point or larger type—

THIS PROGRAM IS NOT COVERED BY GOVERNMENT REGULATIONS THAT LIMIT TOUR CHANGES AND PROTECT AGAINST LOSS OF PASSENGERS' MONEY.

(Secs. 204, 401, 402, 411 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, 769; 49 U.S.C. 1324, 1371, 1372, 1381.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19207 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-6079, 34-15921, and 35-21101; File No. S7-786]

Oil and Gas Producers; Disclosure Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission has published rules in Accounting Series Release No. 253 that establish financial accounting and reporting practices for oil and gas producing activities. In addition, it has proposed rules (in Release No. 33-5969) requiring the presentation of a supplemental earnings summary of oil and gas producing activities prepared on the basis of reserve recognition accounting. The Commission has been advised that the audit requirement in its rules and proposed rules may not be practicable for fiscal years ending before December 26, 1980 because of the state of development of standards for reserve evaluation and reporting. Therefore, the Commission is proposing an amendment to its reporting requirements for oil and gas producers. The amendment would permit the financial statement disclosure of oil and gas reserve information required by Regulation S-X, Rule 3-18(k)(5) and (k)(6) to be made in a note or separate schedule designated "unaudited" for fiscal years ending before December 26, 1980. The Commission is also announcing its intention to permit the same designation with respect to any required supplemental earnings summary based on reserve recognition accounting (proposed by Securities Act Release No. 5969 [43 FR 40726]) for such fiscal years. The postponement of the audit requirement is intended to allow additional time to establish and implement uniform guidelines and standards for reserve evaluation and reporting.

DATE: Comments should be submitted on or before July 31, 1979.

ADDRESS: Comments should refer to file S7-786 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: James D. Hall, Office of the Chief Accountant, Securities and Exchange

Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: In Accounting Series Release No. 253 ("ASR No. 253"), August 31, 1978, (43 FR 40688), the Commission adopted requirements for the disclosure of oil and gas reserve information (reserve quantities, estimated future net revenues, and present value of future net revenues) in the body of the financial statements, in the notes thereto, or in a separate schedule that is an integral part of the financial statements for years ending after December 25, 1979. In addition, the Commission, in Release No. 33-5969 [43 FR 40726], proposed that a supplemental earnings summary based on reserve recognition accounting be included as part of the financial statements for years ending after December 25, 1979. Final rules for the supplemental earnings summary have not yet been adopted and the comment period on that release has been re-opened until July 25, 1979.

In ASR No. 253, the Commission noted that concerns had been expressed regarding the inclusion of oil and gas reserve information in financial statements because of the inherent imprecision of the data and the lack of expertise of independent public accountants with reserve estimations. In adopting its requirements, the Commission pointed out that the AICPA's Auditing Standards Executive Committee (since replaced by the Auditing Standards Board) had under consideration a proposed audit guide which would establish auditing procedures, including criteria for the auditor's use of specialists with expertise in estimating oil and gas reserves. By using such specialists, "auditors * * * should be able to perform sufficient audit procedures to enable them to reach opinions on financial statements that include information on oil and gas reserves."

Since the publication of ASR No. 253, there have been a number of developments that are relevant to the requirement that oil and gas reserve information be audited.

In April 1979, the AICPA issued for public comment a proposed industry audit and accounting guide which provides that the auditor ordinarily should obtain a consulting reservoir engineer's opinion covering all, or in certain cases a portion, of the entity's reserve information to satisfy the requirement that he obtain sufficient, competent evidential matter concerning information included in the financial statements. The comment period for this document extends to July 13, 1979.

The Society of Petroleum Engineers and the Society of Petroleum Evaluation Engineers have appointed committees to draft professional standards for the evaluation and estimation of oil and gas reserves. Considerable progress has been reported, and representatives of these groups anticipate that final standards can be adopted in 1979. However, this will provide very little opportunity for "field-testing" by the engineering profession prior to December 31, 1979. Various petroleum engineers have stated, in written comments on Release No. 33-5969, that additional time will be needed to establish and implement uniform guidelines and standards for reserve evaluations and reporting.

Concerns have also been expressed as to whether there is a sufficient number of petroleum engineers to provide independent verifications of oil and gas reserve information for all companies subject to the Commission's reporting requirements. Several engineering groups have recently conducted surveys of the availability of petroleum engineers and their willingness to engage in reserve verification work. None of the surveys have conclusively defined the manpower requirements; in part, these requirements will depend on the auditing standards ultimately developed by the AICPA and the estimation and verification standards developed by the engineering profession. The availability of sufficient petroleum engineers also appears to be related to the question of whether professional liability insurance can be obtained. Members of the engineering profession have indicated in comment letters that underwriters are reluctant to write insurance in the absence of standards for the reporting of reserve information.

After considering the progress and developments discussed above and the Commission's ultimate objective of developing a standard method of accounting to be used by oil and gas producers on a timely basis, the Commission continues to believe that auditor association with the disclosure of reserve information is important. However, it has concluded that requiring the audit of this reserve information for years ending after December 25, 1979 but before December 26, 1980 would be premature. A one-year postponement of the requirement that reserve information be audited would allow time for the engineering profession to establish and implement the necessary standards, and for further investigation into questions of manpower requirements and availability of professional liability insurance.

The Commission does not expect a one-year postponement of the requirement that reserve information be audited to adversely affect the timing of the Commission's consideration of further implementation of reserve recognition accounting. The Commission's consideration of adoption of the proposed requirement for a supplemental earnings summary does not hinge on whether the information is audited or unaudited for years ending before December 26, 1980. Independent auditors would be associated with any unaudited supplemental earnings summaries on a review and inquiry basis. Therefore, the Commission is announcing its intention to permit any required supplemental earnings summary based on reserve recognition accounting (proposed by Securities Act Release No. 5969 [43 FR 40726]) to be designated "unaudited" for fiscal years ending before December 26, 1980. Although the accounting profession does not now have standards for auditor association with unaudited reserve information included in audited financial statements, the AICPA has informed the Commission that such standards can be developed in time for 1979 reports.

Accordingly, the Commission is proposing to amend § 210.3-18(k) of Regulation S-X to permit reserve information to be designated "unaudited" in financial statments for fiscal years ending before December 26, 1980. The remaining provisions of § 210.3-18(k) would be unchanged.

Commission Action

The Commission hereby proposes to amend 17 CFR Part 210 by adding a sentence to the introductory text of § 210.3-18(k) as follows:

§ 210.3-18 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(k) *Disclosure of quantities of proved oil and gas reserves and historical financial data.* The following data shall be disclosed in the body of the financial statements, in the notes thereto, or in a separate schedule or other presentation that is an integral part of the financial statements. For fiscal years ending before December 26, 1980, the information in sub-paragraphs (5) and (6) of this paragraph may be disclosed in

a note or separate schedule designated "unaudited."

* * * * *

This amendment is being proposed pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; sections 12, 13, 15(d) amd 23(a) [15 U.S.C. 78*l*, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; sections 5(b), 14 and 20(a) [15 U.S.C. 79e, 79n, 79t] of the Public Utility Holding Company Act of 1935; sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)] of the Investment Company Act of 1940; and section 503 [42 U.S.C. 6383] of the Energy Policy and Conservation Act of 1975.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of this proposed amendment on competition and is not aware at this time of any burden that such rule amendment, if adopted, would impose on competition.

By the Commission.

Dated: June 14, 1979.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-19256 Filed 6-19-79; 8:45 am]

BILLING CODE 8010-01-M

[17 CFR Part 210]

[Release Nos. 33-6080, 34-15922, and 35-21102; File No. S7-753]

Oil and Gas Producers; Proposed Supplemental Earnings Summary

AGENCY: Securities and Exchange Commission.

ACTION: Notice of re-opening of comment period.

SUMMARY: The Commission is re-opening the comment period on the "Supplemental Earnings Summary" it proposed in Securities Act Release No. 5969 (September 12, 1978) (43 FR 40726) to allow respondents to consider experience in preparing and reporting valuation information on oil and gas reserves for the year ended December 31, 1978. The new comment period will expire July 25, 1979.

DATE: Comments should be submitted on or before July 25, 1979.

ADDRESS: Comments should refer to File S7-753 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: James D. Hall, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: In Release No. 33-5969, published on September 12, 1978, the Commission announced that comments pertinent to the supplemental earnings summary should be received on or before April 30, 1979. This lengthy comment period was provided in order to "permit respondents to consider experience in preparing and reporting valuation information on oil and gas reserves for the year ending December 31, 1978." Subsequently, in Securities Act Release No. 33-6008 [43 FR 60418], December 27, 1978, which set forth final rules for the disclosure of reserve valuation information for 1978, the Commission provided an extension of time to June 30, 1979 for the filing of this information.

The Commission has been informed that several interested parties were unable to submit comments on the rules proposed in Release No. 33-5969 prior to the April 30, 1979 deadline because they were still in the process of accumulating the required supplemental data on oil and gas reserves for the year ended December 31, 1978. Therefore, the Commission has re-opened the comment period for Release No. 33-5969 from the date of this release through July 25, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 14, 1979.

[FR Doc. 79-19257 Filed 6-19-79; 8:45 am]

BILLING CODE 8010-01-M

[17 CFR Parts 240 and 249]

[Release No. 34-15838; File No. S7-590]

Filings by Self-Regulatory Organizations of Proposed Rule Changes and Other Materials With the Commission

Correction

In FR Doc. 79-16548 appearing at page 30923 in the issue for Tuesday, May 29, 1979, make the following corrections:

(1) On page 30931, in the first and middle columns, under the heading, *F. Item 2. Procedures of Self-Regulatory Organization,* replace the second and third sentences with the following two sentences:

The Commission proposes to add to Item 2 a requirement that the self-regulatory organization state the name and telephone number of the member of its staff who is prepared to respond to questions and comments on the proposed rule change. Currently, the Commission's staff notifies the self-regulatory organization filing a proposed rule change of the name of the member of the Commission's staff who is primarily responsible for the initial review of the proposed rule change.

(2) On page 30933, in the first column, in footnote number 64, in the 4th line, insert the word "Docket" between the abbreviation "Sec" and the word "would".

(3) On page 30939, in the first column, in the first full paragraph, in the 1st line, delete the phrase, "On or before July 3, 1979," and substitute the following phrase in lieu thereof:

"Within 35 days of the date of publication of this notice in the Federal Register,".

BILLING CODE 1505-01-M

[17 CFR Part 270]

[Release No. IC-10698, File No. S7-701]

Exemption of Transactions by Investment Companies With Certain Affiliated Persons

Corrections

In FR Doc. 79-16044 appearing at page 29908 in the issue for Wednesday, May 23, 1979; make the following changes:

1. On page 29908, third column, nineteenth line from the top, "of" should read "or".

2. On page 29909, second column, second paragraph of Footnote 5, nineteenth line, "as" should read "has".

3. On page 29909, third column, Footnote 7, insert "Id at 310." at the end of the first paragraph.

4. On page 29910, first column, eighth line of Footnote 11, "(3) should read "(e)".

5. On page 29910, third column, seventeenth line of the paragraph numbered 2, insert "not" after "should".

6. On page 29911, first column, fifth line of the amendatory language, insert "as" after "(c)".

BILLING CODE 1505-01-M

[17 CFR Part 270]

[Release IC-10700, File No. S7-784]

Exemption of Certain Joint Purchases of Liability Insurance Policies

Corrections

In FR Doc. 79-16046 appearing at page 29913 in the issue for Wednesday, May 23, 1979, make the following changes:

1. On page 29913, third column, insert Footnote 5 (as it was omitted) after Footnote 4 and delete Footnote 7 (See page 29914 for that Footnote):

[5] Section 17(d) and rule 17d-1 thereunder authorize the Commission to issue an order exempting a proposed transaction where the participation of the investment company or controlled company in such joint enterprise, joint arrangement, or profit-sharing plan is consistant with the provisions, policies and purposes of the Act and where its participation is not on a basis different from or less advantageous than that of other participants.

BILLING CODE 1505-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

Income Tax; Creditability of Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations setting forth the requirements for the creditability of foreign taxes against a person's U.S. income tax liabilty. The regulations would provide guidance to U.S. taxpayers that are also subject to taxation by a foreign country.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 30, 1979. The regulations will not apply to taxable years beginning on or before June 15, 1979, with respect to taxpayers that choose to rely instead on a revenue ruling or regulation in effect on such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Daniel Horowitz of the Legislation and Regulations Division Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 901 and 903 of the Internal Revenue Code of 1954. The amendments are proposed to set forth the requirements for the creditability of foreign taxes against a person's U.S. tax liability. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

Section 901 allows to certain taxpayers a credit against U.S. tax liability for "the amount of any income, war profits, and excess profits taxes paid or accured during the taxable year to any foreign country or to any possession of the United States." Section 903 provides that the term "income, war profits, and excess profits taxes" includes a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by a foreign country or U.S. possession.

The proposed regulations under section 901 define the terms "tax", "income tax", and "paid or accrued". The proposed regulations under section 903 provide rules for determining whether a charge is a tax paid in lieu of an income, war profits, or excess profits tax.

Definition of a Tax

Under paragraph (a)(1) of § 1.901-2, in order for a charge to be a tax for purposes of sections 901 and 903, payment of the charge must be compulsory and must not be compensation for a specific benefit. Under paragraph (a)(2), a payment is complusory only if made pursuant to a legal liability to a foreign government. Paragraph (a)(3) provides rules to distinguish a charge imposed by a government pursuant to its function as a taxing sovereign from one imposed pursuant to its function as a provider of an economic benefit.

Paragraph (a)(3)(i) provides that, subject to the exceptions discussed below, the payment of a charge by a person is presumed to be compensation for a specific benefit if the government provides to that person ("user") a good, service, right to use or extract property which the government owns or controls, or some other economic benefit not provided to persons that do not pay the charge. This presumption may be rebutted only if the user clearly demonstrates that no part of the charge is compensation for the economic benefit provided.

Paragraph (a)(3)(ii)(A) provides one exception to the general rule that a charge paid by a user is presumed to be compensation for a specific benefit. This exception applies if: The charge is computed on the basis of realized net income; a tax is imposed on a substantial amount of realized net income derived by persons other than users; and users generally are not subject to higher rates or provisions that significantly increase the amount of charge paid by users over what this amount would be if users were, instead, subject to the rates and provisions to which persons other than users are subject.

Paragraph (a)(3)(ii)(B), provides the only other exception to the general rule that a charge paid by a user is presumed to be compensation for a specific benefit. This exception applies if: The foreign government does not impose a tax on a substantial amount of income derived by persons other than users; the charge is imposed on the basis of realized net income; and the denominated rate of charge is not greater than 46 percent.

Definition of an Income Tax

Paragraph (b) of § 1.901-2 provides that, in order to be an income, war profits, or excess profits tax, a tax must be computed on the basis of realized net income. The tax must not be related to the availability of a credit for the tax against tax liability to another country.

Paragraph (b)(3) provides that, as a general rule, the tax must be imposed at the time of realization of income in the U.S. sense. However, the realization requirement is satisfied if the tax is imposed after realization (paragraph (b)(3)(i)(B)), at the time of export of certain inventory from the foreign country (paragraph (b)(3)(i)(C)), or on shareholders of a corporation with respect to income realized by the corporation (paragraph (b)(3)(ii)).

Under paragraph (b)(4), to satisfy the net income requirement, a tax must be computed in a manner which allows a reasonable opportunity for the recovery of significant expenses and capital expenditures incurred in deriving gross receipts. However, under paragraph (b)(4)(iii), the net income requirement need not be met in the case or gross taxes similar to those imposed under sections 871(a) and 881(a). This rule applies even if the foreign country bases its taxing jurisdiction on a concept that is slightly broader than the U.S. concept of "trade or business".

Definition of Paid or Accrued

A credit is allowed under sections 901 and 903 only for the amount of income tax that is paid or accrued during the taxable year. Paragraph (d)(3)(i) provides that if the foreign law actually or in effect permits the foreign income tax to be reduced by a charge which is not an income tax, or vice-versa, the amount of the income tax which is considered paid or accrued is only the excess of the income tax over the other charge. In addition, paragraph (d)(4) makes clear that this general offset rule covers indirect offsets which may be effectuated by a provision in the foreign law that the amount of an income tax and the amount of a charge or charges that are not income taxes are computed so that their sum cannot be less than a third amount that is not an income tax.

In-Lieu-of Taxes

Paragraph (a) of proposed § 1.903–1 essentially incorporates the rules of existing § 1.903–1(a) for determining whether a tax is paid in lieu of an income tax and, as a result, is considered a creditable income tax for purposes of section 901. In addition, proposed paragraph (a)(3) requires that the foreign law be structured so that the amount of the substitute charge will generally not be significantly greater than the amount which would otherwise be payable under the general income tax. Proposed paragraph (a)(4) requires that liability for the substitute charge not be related to availability of credit against tax liability to another country.

Paragraph (c) of proposed § 1.903–1 provides that a general income tax is an income tax or a series of separate income taxes which together tax substantially all significant business, investment and personal services income arising within the foreign country. Paragraph (d)(1) of proposed § 1.903–1 provides that the substitute charge need not be imposed because of the administrative difficulty of determining the amount of income subject to the general income tax.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written requerst to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The authors of these amendments to the regulations were David Dolan and Daniel Horowitz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.901–2 is deleted and new § 1.901–2 is added to read as follows:

§ 1.901–2 Definitions.

(a) *Definition of a tax*—(1) *In general.* This paragraph sets forth rules relating to certain of the requirements which a charge must satisfy in order to be considered a tax for purposes of section 901(b). In general, in order for a charge to be a tax, payment of the charge must be compulsory and must not be compensation for a specific benefit.

(2) *Compulsory payments*—(i) *In general.* A payment is compulsory only if made pursuant to a legal liability to a foreign government.

(ii) *Overstatement of liability.* A payment is not compulsory to the extent that it exceeds legal liability. A payment may exceed legal liability, for example, if all effective and practical remedies (including remedies under applicable tax conventions) are not exhausted in seeking a reduction of liability. A payment exceeds legal liability, for example, if advantage is not taken of all available provisions of foreign law which would permanently reduce, with reasonable certainty, the legal liability to the foreign government. a provision of foreign law is not considered to reduce permanently legal liability if, as a result of taking advantage of the provision, legal liability in other periods will be commensurately greater. For example, a deduction for depreciation over a reasonable asset life which is longer than the shortest life permitted by foreign law is not considered to result in a payment in excess of legal liability. (For the Treatment of refunds of foreign taxes which have been credited, *see* § 1.905–3.)

(iii) *Contested charges.* A payment does not cease being compulsory during an action disputing legal liability to pay the charge or the appropriate amount of the payment. A complusory payment includes a payment in *bona fide* settlement of a dispute with the foreign government as to the appropriate amount of the payment.

(vi) *Optional charges.* A payment of a charge is not compulsory to the extent that there is an option either to make some other payment for which consideration of more than nominal value is received or to pay the charge and receive no consideration. For example, the payment of a charge is not compulsory to the extent that it is possible, in lieu of making the payment, to purchase a bond or other security which has more than nominal value.

(v) *Payment to third parties.* A payment to a person other than a foreign government is considered to be a compulsory payment to a foreign government to the extent that the payment reduces a legal liability to the government.

(3) *Specific benefit*—(i) *General Rule.* Except as provided in paragraph in (a)(3)(ii) (A) and (B) of this section, payment of a charge by a person is presumed to be compensation for a specific benefit if the government provides to that person ("user") an economic benefit not provided to persons that do not pay the charge. This presumption may be rebutted only if the user clearly demonstrates that no part of the charge is compensation for the ecomonic benefit provided.

(ii) *Exceptions*—(A) *Charge on users and non-users.* Payment of a charge by a user is not compensation for a specific benefit if—

(*1*) The charge is computed on the basis of realized net income within the meaning of paragraph (b) of this section;

(*2*) A tax is imposed on a substantial amount of realized net income derived by persons other than users; and

(*3*) Users generally are not subject to higher rates or provisions that significantly increase the amount of the charge paid by users over what this amount would be if users were, instead, subject to the rates and provisions to which persons other than users are subject.

(B) *No tax on income of non-users.* Payment by a user of a charge imposed by a foreign country that does not impose a tax on a substantial amount of income derived by persons other than users is not compensation for a specific benefit if—

(*1*) The charge is computed on the basis of realized net income within the meaning of paragraph (b) of this section; and

(*2*) The demoninated rate of the charge is not greater than 46 percent.

(iii) *Definitions*—(A) *Economic benefit.* An economic benefit includes, but is not limited to, a good service, right to use or extract resources, patents or other property which the foreign government owns or controls, or discharge of a contractual obligation or a liability for interest or penalties. An economic benefit generally does not include the right or privilege to engage in a particular line of business or to engage in business in a particular form. However, such a right or privilege is an economic benefit if it is granted to only a limited number of persons. In any event, the right or privilege to use or extract resources, patents or other property which the government owns or controls is an economic benefit.

(B) *Control of property.* A government controls property to which it does not hold legal title if the government exhibits substantial indicia of ownership with respect to the property by regulating, for example, the quantity of property that may be extracted, used or disposed of and the price at which it may be disposed of.

(C) *Providing a benefit.* A government is considered to provide an economic benefit if an agency, instrumentality, or other entity controlled by the government provides an economic benefit. The government is considered to provide an economic benefit to a person if the government provides an economic benefit to another person that is owned or controlled directly or indirectly by the same interests, or that engaged directly or indirectly in a business transaction with the first person.

(iv) *Pension, unemployment, and disability fund payments.* Notwithstanding paragraph (a) (3) (i) of this section, payment of a charge which is generally imposed on employees or on self-employed individuals to finance retirement, old-age, death, survivor, unemployment, illness, or disability benefits for employees or self-employed individuals or for some similar purpose is not considered to be compensation for a specific benefit if the amount of the charge paid by each person is not computed on an actuarial basis. Any charge, however, which is paid to a foreign govenment by an individual with respect to any period of employment or self-employment that is covered under the social security system of the foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act shall not be treated as an income, war profits, or excess profits tax within the meaning of section 901 (b).

(v) *Illustration.* The following example illustrates the rules of this paragaph (a) (3).

Example (1). Foreign country X imposes a 55 percent charge on the realized net income of foreign corporations and corporations owned by non-residents. A substantial amount of revenue collected by the government of country X under this charge is derived from the imposition of the charge on income of persons to whom the government does not provide an economic benefit. The government of country X owns all subsoil mineral resources located within the country. Country X licenses private persons to extract those resources. The government does not retain a share of the resources extracted by the licensee or receive a separately computed royalty from the licensee. The licensee is subject to the charge with respect to its profits from the extraction of the government's resources. In applying this charge, the government does not distinguish between persons extracting resources and persons to whom no economic benefit is provided in measuring gross income, allowing deductions and recovery of capital (including depletion), permitting losses from one activity to offset income from another activity, applying rates of charge, allowing tax credits or in any other manner. Pursuant to paragraph (a)(3)(ii)(A) of this section, the charge imposed on the licensees is not considered to be compensation for a specific benefit.

(b) *Income tax*—(1) *In general.* In order for a foreign tax to be an income, war profits, or excess profits tax for purposes of sections 901 through 908, the tax must be computed on the basis of realized net income. In addition, liability for the tax must not be related to the availability of a credit for the tax against tax liability to another country. Provisions of the foreign law regarding source of income or residence as a basis for tax jurisdiction are generally not taken into account in determining whether a tax is an income tax.

(2) *Income.* Paragraph (b) (1) requires that the base on which the tax is computed must be income. The tax must not be based on wealth, accumulated profits, or other non-income amounts. A tax is not considered to be a tax on accumulated profits solely because it is computed on the basis of the average amount of net income realized in consecutive years prior to the year for which the tax is imposed. A tax is not an income tax if its base is the amount of wages paid by the taxpayer or the value of capital or other assets (for example, the value of units produced or utilized).

(3) *Realization*—(i) *In general.* Paragraph (b) (1) requires that, as a general rule, the tax must be imposed at the time of realization of income. A tax is considered to satisfy the realization requirement if the event giving rise to the legal liability to pay the tax–

(A) Results normally in the realization of income by taxpayers under subtitle A of the Internal Revenue Code and the regulations thereunder;

(B) Occurs subsequent to an event described in paragraph (b) (3) (i) (A); or

(C) Is the export from the foreign country of stock in trade or other property of a kind which properly would be included in the inventory of the taxpayer if on hand at the close of the taxable year, or of property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, provided that the tax is computed on the basif of the fair market value of such property of the taxpayer at the time of export.

Paragraph (b) (3) (i) (C) of this section applies only if the foreign government does not impose any charge on the disposition (outside the foreign country) of the same exported property, upon the occurrence of an event described in paragraph (b) (3) (i) (A) or (B) of this section.

(ii) *Different taxable entity.* A tax is based on realized income if the foreign law requires the taxpayer to compute liability based on the taxpayer's proportionate share of the income realized by an entity such as a corporation, trust, or estate which the taxpayer owns or controls or in which the taxpayer has an interest.

(4) *Net income*—(i) *In general.* Paragraph (b) (1) requires that the tax be computed on the basis of net income. A tax is computed on the basis of net income only if the tax is computed in a manner which allows a reasonable opportunity to recover the significant expenses and capital expenditures incurred in deriving gross receipts.

(ii) *Significance.* In deteriming whether an expense or a capital expenditure is significant, the principal considerations are whether disallowance of the recovery of the expense or expenditure would generally significantly increase the amount of taxable income (in the U.S. sense) of taxpayers subject to the foreign tax, and whether the disallowed expenses or capital expenditures are generally otherwise significant with respect to the types of activities from which the income is derived. The recovery of capital expenditures and expenses may be subject to reasonable limitations. A limitation is not reasonable if it effectively negates the recovery of a significant expense or capital expenditure. Expenses and capital expenditures incurred by any person in

deriving interest or dividend income not derived from the conduct of a trade or business in any country or by an employee in deriving income from personal services are presumed to be not significant. Accordingly, taxes on the gross amount of those items of income satisfy the net income requirement.

(iii) *Gross taxes on fixed or determinable income.* Notwithstanding paragraph (b)(1), a foreign tax need not satisfy the net income requirement if it is imposed on fixed or determinable annual or periodical gains, profits, or income, or other types of income specified in section 871(a) or 881(a) that is derived by nonresident individuals, or by foreign corporations, partnerships, trusts, estates, or other foreign entities and that is not derived from the conduct of commerce within the foreign country imposing the tax. For purposes of this paragraph (b)(4)(iii), a person is not considered to be engaged in the conduct of commerce within a foreign country if the level of its activities in the foreign country is not materially greater than the minimum level necessary for the person to be considered to be engaged in the conduct of a trade or business under U.S. principles. However, for purposes of this paragraph (b)(4)(iii), a person is not considered to be engaged in the conduct of commerce within a foreign country solely because of the presence of an individual or individuals in the foreign country for a period of 183 days or less in a taxable year. For purposes of this paragraph (b)(4)(iii), income is considered derived from the conduct of commerce within a foreign country if the income is generated by assets used in or held for use in the conduct of commerce in the foreign country or if activities of commerce in the foreign country were a material factor in the realization of the income. Income will not be considered not derived from the conduct of commerce within a foreign country solely because that country prohibits the performance of incidental activities (*e.g.*, the maintenance of books and records or the final execution of documents) within that country.

(c) *Rules of application*—(1) *Substantial equivalence.* A foreign tax must satisfy the requirements of paragraph (b)(1) only to a degree which is substantially equivalent to the degree to which the U.S. income tax satisfies those requirements.

(2) *Separate charges*—(i) *In general.* In determining whether a charge is an income tax, the requirements of paragraphs (a) and (b) of this section are to be applied independently to each separate charge imposed by the foreign government. Each separate charge will be considered to be an income tax or not an income tax in its entirety for all persons subject to the charge. If under the foreign law there are separate bases within the meaning of paragraph (c)(2)(ii) of this section, foreign law is considered to impose a separate charge on each base, provided a separate rate of charge is to be applied to each base or a flat rate is to be applied to bases that are combined. If a progressive rate of charge is applied to the sum of separate bases, foreign law is considered to impose a single charge on the aggregate of the bases. A foreign law is also considered to impose separate charges if the law specifies a class of persons with respect to which a separate rate of charge is provided.

(ii) *Separate bases*—(A) *In general.* A base may consist of a particular identified type of income (such as interest income or income derived by a particular class of persons) or an identified amount which is not income (such as wages paid). Two identified types of income constitute one base if expenses related to either type of income may reduce the gain attributable to the other type. If, however, expenses related to an identified type of income may not reduce the gain attributable to other identified types of income, each type is a separate base. If no deduction for expenses is permitted (that is, the charge is imposed on a gross basis), each identified type of income is a separate base, regardless of whether the types are aggregated for purposes of applying a rate of charge.

(B) *Illustration.* A provision of foreign law imposes a single rate of tax on the sum of the gross amount of an individual's wages and rental income. The wage income and the rental income each constitute a separate base. Because a flat rate of tax is applied to the sum of the bases, the tax on each is a separate tax. Accordingly, the determination of whether the tax on gross wages is an income tax is made separately from the determination of whether the tax on gross rental income is an income tax. The fact that the tax on gross rental income may not constitute an income tax will not affect whether the tax on gross wages is an income tax.

(iii) *Particular industry.* For purposes of paragraph (c)(2)(i) of this section, if the foreign law imposing a charge contains provisions which materially affect the liability only of persons engaged in a particular industry, and if imposition of those provisions would result in the charge not being an income tax were the persons engaged in the industry the only persons subject to the charge, the foreign law is considered to impose a separate charge on persons engaged in the industry.

(iv) *Contractual modifications.* For purposes of paragraph (c)(2)(i), if the foreign law is modified by a contract executed by a person and the foreign government, the foreign law is considered to impose a separate charge on the person.

(d) *Illustrations.* The following examples illustrate the rules of paragraphs (b) and (c) of this section.

Example (1). By statute foreign country X imposes a 30 percent tax on interest, dividends, and royalties paid by residents of country X to residents of the United States or of countries A, B, C, D, or E, who are not engaged in trade or business in country X. Interest, dividends, and royalties paid to residents of other countries are exempt from tax imposed by country X. Like the United States, countries A, B, C, D, and E allow their residents to claim a credit against the income tax otherwise paid to those countries for income taxes paid to other countries. Because the 30 percent tax is imposed by country X only on residents of countries which allow a credit for taxes paid to other countries, liability for the tax is considered to be related to the availability of a credit for country X's tax against the tax liability of another country. As a result, under paragraph (b)(1) of this section the 30 percent tax is not considered an income tax.

Example (2). Foreign country X imposes a 25 percent tax on royalties. Country X has a patent license agreement with D, a domestic corporation. Country X agrees, as part of the patent license, to impose the 25 percent tax on royalties due from country X to D only to the extent of the amount available to D as a credit in the United States against D's U.S. income tax liability with respect to its foreign source taxable income in the taxable year. Because liability for the tax is related to the availability of a credit for the tax against the tax liability of another country, under paragraph (b)(1) of this section the tax is not considered an income tax.

Example (3). Foreign country X imposes a tax on the net gain of petroleum companies. Net gain is determined when petroleum is sold or exported, whichever occurs first. Country X's Tax Board uses a set price in determining net gain derived from exports of petroleum. The set price is based on an average of prices used in arm's length sales of similar or identical crude oil over a four-month period. The set price is determined retroactively every four months by the Tax Board. Taxpayers may not contest the price set by the Board. Despite the fact that the oil would properly be included in the inventory of the taxpayer if on hand at the close of the year and is taxed at the time of export from country X, the tax does not satisfy the realization requirement of paragraph (b)(3) of this section because the tax is not computed on the basis of the fair market value of the petroleum of each taxpayer at the time of

export. As a result, the tax is not considered an income tax.

Example (4). Foreign country X allows resident individuals to deposit amounts of earned income in a "retirement savings account" ("RSA") and receive a deduction for the deposit in computing taxable income under its income tax. When amounts are paid out of the RSA, country X subjects those amounts to a separate tax of 20 percent. The RSA does not meet the standards of an Individual Retirement Account set forth in section 408(a) and no deduction would be allowed under section 219(a)(1) for the deposits. Because the tax is imposed at the time of an event (withdrawal) which occurs subsequent to an event with respect to which income is realized under the laws of the United States, the realization requirement of paragraph (b)(3) of this section is satisfied.

Example (5). Foreign country X imposes a tax on business income which is computed by deducting actual expenses from realized income. However, country X limits the amount of expenses which may be deducted to 80 percent of gross receipts. Because this limitation on the amount of deductible expenses does not allow a reasonable opportunity to recover the significant expenses and capital expenditures incurred in deriving gross receipts, the tax imposed by country X does not satisfy the net income requirement of paragraph (b)(4) of this section and is not considered an income tax.

Example (6). Foreign country X levies a charge on the net gain of all persons engaged in a trade or business in country X. In calculating net gain, deductions are allowed for all business expenses. In addition, persons subject to the charge are permitted to amortize capital expenditures over a reasonable period. Country X does not permit related corporations to file consolidated returns. It does, however, permit a carryover of losses to other periods. Country X requires that each oil well within the country be operated by a separate corporation. Otherwise country X imposes no restrictions on whether businesses may operate as a single corporation. As a result, oil companies which are engaged in the extraction of oil within country X typically own several subsidiaries, each of which operates a different oil well. The provision of foreign law precluding the filing of consolidated returns materially affects only companies engaged in the extraction of oil; other businesses may change their corporate structure and operate as a single corporation. Because of the provision precluding the filing of consolidated returns, the charge as it applies to companies engaged in the extraction of oil is considered a separate charge under paragraph (c)(2) of this section. Extraction corporations which incur significant expenses and capital expenditures with respect to an oil well which never results in significant revenues will never be able to recover those expenses and capital expenditures, since those expenses may not offset income from another well or a related activity (for example, refining). Accordingly, the charge imposed by country X as it applies to income of companies engaged in the extraction of oil within country X does not provide a reasonable opportunity for the recovery of significant expenses and capital expenditures and, therefore, does not satisfy the net income requirement of paragraph (b)(4) of this section, and therefore is not considered an income tax. The charge, as it applies to other income, is a separate charge. That charge satisfies the net income requirement and may be an income tax as to other persons subject to the charge.

Example (7). The facts are the same as in example (6), except that country X does not require that each oil well within the country be operated by a separate corporation. Instead, it requires that persons engaged in unrelated lines of business conduct each line of business through a separate corporation. Thus, a person which is engaged in the extraction of minerals within country X and also owns a resort hotel in country X is required to conduct each activity through a separate corporation. Even though country X does not permit the filing of consolidated returns by related corporations, the net income requirement of paragraph (b)(4) of this section is satisfied because a carryover of losses to other periods provides a reasonable opportunity for the recovery of significant expenses and capital expenditures.

Example (8). Foreign country X imposes a separate tax on all gross interest paid by its residents to lenders, regardless of whether the lenders operate inside or outside of country X. No deductions are allowed in computing income subject to the tax. Country X's tax statute does not specifically identify separate classes of taxpayers or types of interest income. Under paragraph (c)(2) of this section, the tax is a single tax.

(e) *Amount paid or accrued*—(1) *In general.* A credit is allowed under section 901 only for the amount of income tax that is paid or accrued during the taxable year. An income tax may be considered to be paid or accrued only to the extent that the total amount of all payments of any kind made by a person to a foreign government exceeds the amount for which the person would have been liable if the person were not liable for any income tax.

(2) *Withholding taxes.* A tax on income subject to withholding is considered paid at the time an amount is withheld only if the amount withheld represents the final tax liability of the taxpayer and thus is not merely an advance collection of, or deposit against, the taxpayer's final liability. Otherwise, a tax on income subject to withholding is considered paid or accrued only at the end of the taxable year or period when the taxpayer's final tax liability can be determined.

(3) *Offsetting foreign taxes*— (i) *In general.* Except as provided in paragraph (e) (3) (ii) a of this section, if under the foreign law—

(A) An income tax can be reduced by a charge that is not an income tax,

(B) A charge that is not an income tax can be reduced by an income tax, or

(C) The total amount of payment is the greater of the amount of an income tax or the amount of a charge that is not an income tax—only the amount, if any, by which the income tax exceeds the other charge is considered to be the amount of income tax paid or accrued. This paragraph (e) (3) (i) applies even if the income tax and the charges that is not an income tax are attributable to different taxable years.

(ii) *Advance corporation taxes.* Notwithstanding paragraph (e) (3) (i), if, in connection with a tax system which paritally or fully integrates corporate and shareholder taxation, payment by a corporaton of a tax on the distribution of corporate profits reduces the payment by the corporation of an income tax on its profits, the payment of the tax on distribution (to the extent that it reduces the income tax) is not considered paid or accrued and the full amount of the income tax is considered paid or accrued in the taxable year for which the income tax is imposed.

(4) *Simultaneously determined amounts*—(i) *In general.* If the amount of an income tax and the amount of one or more charges that are not income taxes are computed so that their sum cannot be less than a third amount that is not an income tax, the amount of the income tax paid or accrued is considered to be the amount, if any, by which the income tax exceeds the third amount. This paragraph (e) (4) applies even if the income tax and the other charge or charges that are not income taxes are attributable to different taxable years.

(ii) *Illustration.* The following example illustrates the rule of paragraph (e) (4) (i) of this secton.

Example (1). Foreign country X imposes a tax on the net income of persons engaged in a trade or business in country X. In addition, country X imposes a royalty on petroleum companeis. Petroleum companies are allowed to deduct the amount of the royalty in computing net income subject to tax. The tax is then determined by applying the generally applicable tax rules and rates. The amount of royalty imposed by country X is determined in such a way that the sum of the royalty and the amount of the net income tax on petroleum companies equals an amount which is based on a percentage of the gross value of petroleum production. Under paragraph (e)(4) of this section, the amount of the net income tax that is considered paid or accrued is zero.

(5) *Refunds.* An amount is not considered paid or accrued if it is a reasonable expectation at the time the amount is paid or accrued that the amount will be refunded on or before a date certain with or without interest. For

the treatment of other refunds of foreign taxes, see § 1.905-3.

(6) *Subsidies.* An amount is not paid or accrued to a foreign government to the extent that it is used directly or indirectly by the government to provide a subsidy to the taxpayer by any means (for example, through a refund or credit) if the amount of the subsidy, refund, or credit is determined directly or indirectly by reference to the amount received by the government or the amount of the tax base. A subsidy is considered to be provided to the taxpayer if it is provided to a person that is owned or controlled directly or indirectly by the same interests or that engaged directly or indirectly in a business transaction with the taxpayer.

(f) *Definition of "foreign".* For purposes of this section, the term "foreign" relates to any foreign state or U.S. possession, or political subdivision thereof. For example, the term "foreign government" means the government of a foreign state or U.S. possession, or political subdivision thereof.

(g) *Possession.* For purposes of this section, the term "possession of the United States" include Guam, Puerto Rico, the Virgin Islands, the Northern Marianas Islands, and American Samoa.

(h) *Taxpayer* (1) *In general.* A credit for income taxes paid or accrued to a foreign country is allowable only to the taxpayer. In general, the taxpayer is the person on whom legal liability to pay the tax is imposed.

(2) *Withholding taxes.* The recipient of income on which a tax is paid by the payor of the income is the taxpayer with respect to such tax if—

(i) The foreign government could assess the tax against the recipient; and

(ii) The recipient would not be entitled to recover the amount of tax so assessed from the payor of the income.

For example, the shareholders of a corporation are the taxpayers with respect to a tax which is imposed at the time of a distribution of profits by the corporation to its shareholders and which is withheld by the distributing corporation from the amount of the distribution: *Provided,* The shareholders would be directly liable to the government upon failure of the corporation to pay the tax and, in such case, the shareholders would have no claim against the corporation for the amount of tax paid by them.

(3) *Tax on income of another.* A person who pays a tax imposed on the income of another is nevertheless considered the taxpayer to the extent that the person bears liability for the tax. Thus, the shareholders of a corporation which is not recognized by the foreign country as a taxable entity are considered the taxpayers with respect to a tax imposed on the income of the corporation to the extent the shareholders are liable for the tax.

(4) *Taxes paid on combined income.* A tax imposed on the combined income of two or more related persons (for example, a husband and wife, or a foreign corporation and its subsidiaries) which are jointly and severally liable for payment of the tax will be treated as if each person paid the amount of tax attributable to its portion of the tax base under foreign law, regardless of which person actually pays the tax.

(i) *Effective date.* This section does not apply to taxable years beginning on or before June 15, 1979, with respect to a taxpayer that chooses to rely instead on a revenue ruling or regulation in effect on that date.

PAR. 2. Section 1.903-1 is deleted and new § 1.903-1 is added to read as follows.

§ 1.903-1 Definition of taxes in lieu of income taxes.

(a) *In general.* For purposes of section 903, a charge is considered to be a tax that is in lieu of an income tax if—

(1) The charge is a tax within the meaning of § 1.901-2 (a) as modified by paragraph (b) of this section;

(2) Income of persons required to pay the charge would, in the absence of a specific provision which exempts such income, be subject to a general income tax within the meaning of paragraph (c) of this section;

(3) The foreign law is structured so that the amount of the charge will generally not be significantly greater than the amount which would otherwise be payable on the income referred to in paragraph (a)(2) of this section if the general income tax were applicable; and

(4) Liability for the substitute charge is not related to the availability of a credit for the charge against tax liability to another country.

To determine the amount of a tax in lieu of an income tax that is paid or accrued, see § 1.901-2(e). To determine who the taxpayer is, see § 1.901-2(h).

(b) *Tax.* In determining whether a substitute charge is a tax for purposes of section 903, this paragraph (b) provides the only exception from the general presumption of § 1.901-2(a)(3)(i). Payment of a charge by a user is not compensation for a specific benefit if—

(1) The conditions of paragraph (a) (2) and (3) of this section are met; and

(2) Similarly situated users generally pay a similar amount of any charge denominated as compensation for the economic benefit regardless of whether they are subject to the general income tax or the substitute charge.

(c) *General income tax.* A general income tax is an income tax or a series of separate income taxes (within the meaning of § 1.901-2) which are imposed on substantially all significant business, investment, and personal services income arising within the foreign country.

(d) *Rules of application.* For purposes of applying paragraph (a) the following rules apply.

(1) The substitute charge need not be imposed because of administrative difficulty in determining income subject to the general income tax or deductions permitted under the general income tax.

(2) All the income derived by persons subject to the subsitute charge need not be exempt from the income tax.

(3) The base of the subsitute charge may be gross income, gross receipts or sales, the number of units produced or exported; the base of the subsitute charge need not bear any relation to realized net income.

(4) If the substitute charge is in lieu of another legal liability in addition to the general income tax, the amount of the substitute charge considered to be in lieu of the general income tax is the amount properly allocable to the general income tax.

(5) In determining whether a charge is a tax in lieu of an income tax, paragraph (a) of this section is generally to be applied independently to each separate charge (within the meaning of § 1.901-2(c)(2) imposed by the foreign government. However, parargraph (a)(3) of this section is to be applied to the aggregate amount of all charges that meet the condition of paragraph (a)(2) of this section.

(e) *Illustrations.* The following examples illustrate the rules of this section.

Example (1). Foreign government X imposes an income tax on foreign persons and corporations owned by foreign persons. Foreign government X does not impose an income tax on nationals of country X or corporations owned by such nationals even though those persons derive significant business income arising in country X. Nationals of country X must, however, make contributions of services and money to country X and certain charities. Under paragraph (c) of this section, the income tax is not considered a general income tax.

Example (2). Foreign government X has a schedular income tax system under which separate income taxes are imposed on realized net income from: investments (30 percent rate of tax); business activities (45 percent rate of tax); and personal services (40 percent rate of tax). Under paragraph (c) of

this section, the schedular income taxes are considered a general income tax.

Example (3). Foreign government X has a schedular system under which separate charges are imposed at different rates on realized net income from investments, petroleum operations, and all other business activities. The rate applicable with respect to petroleum activities is in excess of the rates applicable to investments and other business activities. Income from petroleum operations is a substantial portion of the income arising in country X. Those engaged in petroleum operations are extracting government owned oil. Government X enters into a contract with D, a domestic corporation, to substitute a charge on gross petroleum income for the otherwise applicable charge on realized net petroleum income. Under paragraph (c) of this section, the charge on realized net income derived from petroleum operations is presumed not to be a tax. If this presumption is not rebutted, then under paragraph (c) of this section, country X does not have a general income tax and the contractual charge paid by D cannot be considered a tax in lieu of an income tax.

(f) *Effective date.* This section does not apply to taxable years beginning on or before June 15, 1979, with respect to a taxpayer that chooses to rely instead on a revenue ruling or regulation in effect on that date.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-19194 Filed 6-15-79; 3:30 pm]

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DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is inviting public comment on a proposed rule that would apply to each prisoner sentenced after June 4, 1979 the guidelines in effect on the date that prisoner is sentenced. This proposal would be a prospective policy change only, and would not require recalculation of the guidelines for any prisoner sentenced prior to June 4, 1979. The sole exception to this policy would be a continuation of the Commission's present policy that guideline revisions that produce a more lenient policy be applied retroactively.

DATE: July 25, 1979.

FOR FURTHER INFORMATION, CONTACT: Barbara Meierhoefer, Research Office, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537; telephone 202-724-3095.

SUPPLEMENTARY INFORMATION: The Parole Commission has recently adopted a policy of hearing almost all federal prisoners shortly after they begin service of their sentences. See 44 FR 3404 (Tuesday, January 16, 1979). This rule change has made feasible a policy which would permit the Commission to apply to each prisoner the guidelines in effect on the date of sentencing. This change has frequently been requested by sentencing judges and probation officers in order to facilitate their estimations of what the Commission's paroling policy is likely to be with regard to a convicted defendant. The sole exception to this policy would be that the Commission would continue to apply retroactively any guideline changes that make the Commission's policy more lenient. Keeping this exception will permit the Commission to maintain equitable treatment of similarly situated prisoners.

Prisoners sentenced prior to June 4, 1979 would not be affected by this change. The Commission's previous policy of applying the guidelines in effect at the time of the initial hearing reflected the fact that initial parole hearings were usually held much later than the date of sentencing. In addition, the relative newness of the guidelines had led to their frequent revision and updating as dictated by experience. Maintaining a uniform paroling policy could not have been achieved if the Commission had to follow different sets of guidelines, depending on the circumstances of the case.

Finally, it should be noted that the guideline revisions recently published at 44 FR 26540 (Friday, May 4, 1979) are already being implemented in the manner that would be required by this proposed rule. Thus, the proposed rule would govern only future revisions of the guidelines.

It is proposed to add § 2.61 to read as follows:

§ 2.61 Date of applicable guidelines and retroactive application.

(a) For prisoners sentenced on June 4, 1979 or thereafter, the parole guidelines in effect on the date of sentencing shall be applied at the initial parole hearing: *Provided That,* if a revision to the guidelines after sentencing but prior to the initial hearing has resulted in a more lenient policy for the type of case under consideration, such revised guidelines shall apply. For prisoners whose parole is revoked on June 4, or thereafter, the reparole guidelines in effect at the time of the revocation hearing shall apply.

(b) If a revision of the guidelines (time ranges, severity rating, salient factor score, applicable guideline type) subsequent to an initial hearing or revocation hearing results in a more lenient policy, a prisoner to whom that policy applies shall have the guideline range recalculated no later than his next regularly scheduled hearing and his case reconsidered pursuant to the revised guideline range.

Dated: June 13, 1979.

Cecil C. McCall,

Chairman, U.S. Parole Commission.

[FR Doc. 79-19109 Filed 6-19-79; 8:45 am]

BILLING CODE 4410-01-M

[28 CFR Part 2]

Parole, Release, Supervision, and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents; Proposed Rulemaking

Correction

In FR Doc. 79-17349, published at page 32252, on Tuesday, June 5, 1979, make the following corrections:

1. On page 32252, in the middle column, in the "Summary" paragraph, in the thirteenth line, "Commissionsers' " should be corrected to read "Commissioners' ";

2. On page 32252, in the middle column, under "Supplementary Information", "(1) *Revocation of Parolee*" should be corrected to read "(1) *Revocation of Parole*";

3. On page 32253, in the first column, in § 2.47 paragraph (c), in the last line "§ 252" should be corrected to read "§ 2.52".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

[46 CFR Parts 521 and 522]

[Docket No. 76-63]

Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Maritime Commission hereby proposes to establish procedures governing the filing of agreements submitted to the Commission for approval pursuant to section 15 of the Shipping Act, 1916, and protests and comments to such agreements; and the disposition of those agreements.

DATE: Comments due on or before July 11, 1979.

ADDRESS: Comments should be directed to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission earlier gave notice that it proposed to amend Part 522 of Title 46, Code of Federal Regulations, to establish standardized procedures governing the filing and disposition of agreements submitted to the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (November 23, 1976, 41 FR 51622). Specifically, the proposed rule required that agreements filed with the Commission be supported by evidence, and that protests lodged against those agreements identify the basis of the protest and describe the evidence which supports that basis. Numerous comments to the proposed rule were filed by carriers, conferences of carriers and other interested parties.

The Commission has considered the comments submitted, many of which it concurs in, and has reexamined the proposed rule in light not only of these comments but also in terms of current informational requirements and existing law. On this basis, the Commission has determined not to issue a final rule at this time but rather to invite comment on further revisions to the proposed rule. The Commission is also taking this opportunity to propose additional changes to Part 522 and related Part 521 consistent with the purposes and objectives of this rulemaking but not previously noticed.

By this revised proposed rule, the Commission intends to regularize the procedures employed in the processing of section 15 agreements, to expedite the disposition of agreements submitted for approval, and to maximize the quantity and quality of information provided to the Commission, which it needs properly to evaluate the approvability for such agreements under the standards of section 15.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 15, 21, 22 and 43 of the Shipping Act, 1916, (46 U.S.C. 814, 820, 821 and 841(a)), Title 46, Code of Federal Regulations, is proposed to be amended as follows:

PART 522—FILING OF AGREEMENTS BETWEEN COMMON CARRIERS OF FREIGHT BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES [AMENDED]

A. Part 522 is proposed to be amended:

1. By deleting the title of Part 522, "FILING OF AGREEMENTS BETWEEN COMMON CARRIERS OF FREIGHT BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES," and substituting therefor the following: "FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916,"

2. By amending § 522.1 to read as follows:

§ 522.1 Purpose.

The provisions in this part establish the procedures for: (a) the filing of agreements submitted to the Commission for approval pursuant to section 15, Shipping Act, 1916 (46 U.S.C. 814); (b) the submission of supporting statements; (c) the filing of comments and protests to such agreements; and (d) the approval and disapproval of agreements. The Commission intends to process applications for approval of agreements in the shortest practicable time. Compliance with this part will ensure fair and expeditious processing of such agreements.

3. By deleting paragraph (a) of section 522.2 *Definitions,* and substituting therefor the following:

§ 522.2 Definitions [Amended].

(a) *Agreement.* As used in this part, an agreement is a formal document or written memorandum which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water or "other person" subject to the Shipping Act, 1916, which, because of the nature of the understanding, arrangement, or undertaking, is required by the provisions of section 15 of said Act to be filed with the Commission for approval. As used in this part, the term "agreement" shall include modifications to agreements. Agreements include, but are not limited to, the following types.

4. By deleting the period at the end of paragraph (b) of section 522.2, *Definitions,* and adding the following: ", including, but not limited to the termination, cancellation, or extension of the agreement."

5. By amending section 522.3 to read as follows:

§ 522.3 Filing of agreements.

A true copy and 15 additional copies of any agreement filed for approval shall be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, accompanied by a letter of transmittal which states that the agreement is filed pursuant to section 15 and requests the Commission to approve the agreement. The true copy shall be signed by each of the parties, personally or by an authorized representative, and shall show immediately below each signature the name, position, and authority of the signer. The 15 copies may be made by any permanent process of duplication.

§ 522.4 Modifications. [Amended]

6. By deleting the title of section 522.4, *Modifications,* and substituting therefor the following: *"Form of Modifications."*

7. By amending section 522.5 to read as follows:

§ 522.5 Supporting statements.

(a) All agreements submitted to the Commission for approval shall be accompanied by an original and 15 copies of a supporting statement, signed and sworn to by a party to the agreement, or an authorized representative of the parties, setting forth the economic and commercial reasons which caused the making of the agreement or modification and the results intended to flow from its implementation.

(b) In preparing supporting statements required by paragraph (a) of this section, the following elements should be considered and, to the extent relevant, should be addressed:

(1) Existing competitive circumstances prompting the agreement, including:

(i) Nature and extent of competion, including:

(A) competition between parties to agreement;

(B) competition between parties to agreement and non-parties in same and related markets.

(ii) Impact of competition described in (i) of this subparagraph above on at least the following:

(A) membership, (B) service, (C) malpractices, (D) rate structure, (E) profitability, and (F) non-parties to agreement.

(2) Anticipated anticompetitive impact of agreement on non-parties to agreement, including carriers, shippers and ports.

(3) Applicability and effect of any governmental laws, regulations or decrees. A certified copy of such laws, regulations or decrees and, where appropriate, an English translation

meeting the requirements of 46 CFR 502.7 shall be provided.

(4) Operational data (for previous five-year period unless otherwise indicated, including:

(i) Service frequency and port calls, type and number vessels, total vessel and container capacity committed to the trade, average utilization of committee space (based on actual experience for previous two years);

(ii) The twenty principal liner commodities individually by tariff description and revenue tons;

(iii) Rate experience showing general rate increases and specific reductions;

(iv) Cargo projections for one year;

(v) Projected rate and revenue needs (for one year, with full explanation of basis therefor);

(vi) Revenue tons by service (port-to-port, intermodal, minilandbridge, etc.);

(vii) Average revenue and cost per ton and per TEU;

(viii) Report of shutout cargo.

(5) Environmental impact and energy consumption data.

(6) Plan for passing savings on any expected efficiencies to shipping public.

(c) The supporting statement shall explain how the information provided pursuant to paragraphs (a) and (b) of this section justifies approval of the agreement pursuant to section 15 standards.

8. By deleting existing section 522.6, *Suggested language for parts of section 15 agreements*, in its entirety and substituting therefor a new section 522.6 as follows:

§ 522.6. Notice.

Agreements filed in compliance with §§ 522.3, 522.4 and 522.5 and accepted for filing shall be given public notice by publication in the Federal Register. Such publication shall include:

(a) A short title of the agreement;

(b) The identity of the parties to the agreement;

(c) The Federal Maritime Commission agreement number;

(d) A concise statement of the content of the agreement;

(e) A notification that copies of the agreement and the supporting statement are available for inspection at the Commission's offices;

(f) An express reference to this part;

(g) The date by which comments or protests regarding the agreement must be filed; and

(h) The name and address of the filing agent.

9. By deleting existing section 522.7, *Conditional Approval*, in its entirety and substituting therefor a new § 522.7 as follows:

§ 522.7 Comments and protests.

(a) A comment is a document containing a statement by one or more persons regarding the approvability of the agreement filed. Comments have no prescribed form or content and are not limited in any way, except by the time limits stated in the Federal Register notice as required by § 522.6. Any communication regarding the approvability of an agreement, not conforming to the requirements of paragraphs (b) and (c) of this section, shall be considered a comment. The filing of a comment shall not necessarily entitle the commentator to: (1) any discussion of the comment by the Commission in its disposition of the agreement; (2) the institution of any further Commission proceeding; or (3) participation in any such proceeding. The filing of a comment shall not constitute a prerequisite to intervention in any further Commission proceeding regarding the agreement. Commentators wishing to intervene in a proceeding instituted on the agreement must file a petition for intervention in accordance with § 502.67 of this chapter.

(b) A protest is a document which opposes the approval of an agreement and which complies with the requirements of this paragraph. The filing of a protest shall constitute a representation by the protestant that the protestant shall actively participate as a party, and shall be so named, in any Commission proceeding instituted in response to the protest. Such protest shall:

(1) State the position of the protestant in regard to the approvability of the agreement;

(2) Identify, with particularity, the reasons why the agreement, or any constituent parts, should be disapproved;

(3) Address the accuracy of the statements and conclusions submitted in accordance with section 522.5 of this part;

(4) Allege facts which support the reasons identified in subparagraphs (2) and (3) of this paragraph; and

(5) Specify the source or derivation of the facts alleged pursuant to subparagraph (4) of this paragraph upon which the protestant will rely should any further Commission proceeding regarding the agreement be held.

(c) A copy of all comments and protests filed with the Commission shall be served upon the filing agent at the address provided in the Federal Register notice described in § 522.6 on the same date those documents are filed with the Commission and a certificate of service attesting that this requirement has been met shall be attached.

(d) Within 15 days of the date of service with the Commission of a comment or protest, parties to the agreement or their authorized representative may file a response to each such comment or protest.

(e) Except as otherwise provided in §§ 522.5 and 522.7, and unless specifically ordered by the Commission, no other written or oral communication concerning a pending agreement shall be permitted.

(f) For the purposes of this part, the date stamp of the Office of the Secretary of the Federal Maritime Commission is conclusive of the date of filing of any document.

10. By inserting new section 522.8 as follows:

§ 522.8 Limitation on Commission authority.

Nothing contained in this part shall be construed as a limitation on:

(a) The authority of the Commission to require evidence, information, data, or reports from persons subject to the Shipping Act, 1916 including common carriers, conferences of such carriers, agents, representatives, officers, or employees thereof, separate from, or in addition to, the evidence, information, data, or reports, required by this part, generally or in particular cases; or

(b) The actions, orders, remedies, or authority of the Commission after further proceedings.

11. By inserting a new section 522.9 as follows:

§ 522.9 Approval and disapproval of agreements.

(a) The Commission shall, by order, approve, conditionally approve, disapprove, conditionally disapprove or institute further proceedings regarding agreements filed with it; provided, however, that any agreement which fails to meet the requirements of §§ 522.3, 522.4 and 522.5(a) of this part shall not be accepted for processing and shall be returned to the parties or the filing agent.

(b) The Commission shall institute further proceedings regarding an agreement when:

(1) The Commission in its discretion deems further inquiry desirable;

(2) The facts alleged in a protest, if true and reasonably subject to proof on the basis of their source and derivation, and arguments advanced, if correct, would tend to cause the disapproval of the agreement;

provided, however, that no further proceeding shall be instituted if the

material and relevant issues raised will be resolved by a conditional disapproval or conditional approval of the agreement.

(c) In lieu of further proceedings, the Commission may:

(1) Conditionally disapprove an agreement, when, without regard to whether a comment or protest has been filed, the Commission concludes that the agreement is contrary to the standards of section 15 and must be disapproved unless: (A) an appropriate modification is made to the agreement; or (B) the parties to the agreement request a further hearing and accompany that request with a detailed recital of the facts that they intend to prove at that hearing, a description of evidence intended to be used to prove those facts, and an explanation as to why the facts sought to be proven support the approval of the agreement;

(2) Conditionally approve an agreement, when, without regard to whether a comment or protest has been filed, the Commission determines that the agreement: (A) may be contrary to the standards of section 15 without appropriate modification; and (B) if so modified, would be approvable without further proceeding.

(d) If the parties accept the modification imposed by the Commission within the time specified in its order of conditional approval or disapproval by submitting a complete revised agreement signed by the parties, the agreement as revised will stand appoved from the date of receipt by the Commission of the signed revised agreement. Notice of such date shall be given the parties or their representative by the Commission.

(e) Failure to timely accept the condition imposed by the Commission in an order of conditional disapproval will cause the Agreemnent to be disapproved as of the day after the date the condition was to be met.

(f) Failure to timely accept the modification imposed by the Commission in an order of conditional approval will result in the Commission instituting further proceedings regarding the agreement.

(g) It is unlawful to carry out the provisions of a conditionally approved or disapproved agreement prior to approval by the Commission in the manner specified above.

B. Part 521 is proposed to be amended by deleting section 521.10, *Notice of filing of agreements and modifications under section 15 of the act, and application under section 14(b) of the Act,* in its entirety, and substituting therefor the following:

§ 521.10 Notice of filing.

Notice to interested persons of the filing of applications for permission to use a dual rate contract pursuant to section 14(b) of the Shipping Act, 1916, shall be given by publication in the Federal Register of the applicant's name and address, appropriate identification by Federal Maritime Commission number, and a statement setting forth in general terms the provisions of the application, together with a statement establishing a time within which comments or protests regarding the application must be filed.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-19395 Filed 6-19-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21313; RM-2646; RM-2717; RM-3038; RM-3039; RM-3040]

AM Stereophonic Broadcasting; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning AM stereophonic broadcasting. Petitioner, Magnavox Consumer Electronics Company, states that the additional time is needed in order to review technical details in preparation of comments for submission in this proceeding.

DATE: Reply comments must be filed on or before August 3, 1979.

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

FOR FURTHER INFORMATION CONTACT: Gregory DePriest, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of AM stereophonic broadcasting; *Order extending time for filing reply comments* (See also 44 FR 19000, March 30, 1979).

Adopted: June 12, 1979.

Released: June 13, 1979.

By the Chief, Broadcast Bureau:

1. On September 14, 1978, the Commission adopted a *Notice of Proposed Rule Making,* 43 FR 48669, in the above-entitled proceeding. The date for filing comments has expired and the date for filing reply comments is presently June 15, 1979.

2. On May 30, 1979, Magnavox Consumer Electonics Company ("Magnavox"), by its attorneys, requested a 60-day extension of time in which to file reply comments. A partial opposition to the requested extension was filed by Motorola, Inc. ("Motorola"). An opposition was filed by Hazeltine Corporation ("Hazeltine") to both the Magnavox motion and Motorola's partial opposition.

3. Magnavox states that it was informally agreed among the majority of parties filing comments that they would exchange copies of their pleadings. It notes that delay has been experienced in receiving these comments because of their physical size. Furthermore, it adds, comments of parties not participating in the informal exchange arrangement must be obtained through the Commission's official files, with attendant delay. Magnavox also points out that approximately 12 hours of audio tape recordings were filed by various parties in this matter which are only available for review at the Commission's Reference Room, thus necessitating sending a company representative to Washington for this purpose. Magnavox states that most of the comments filed involve substantial technical detail and require extensive engineering review. This, in conjunction with the 12 hours of audio tapes to be reviewed, makes it impossible for the legal and engineering staff to review and prepare comments by the deadline date.

4. A 60-day extension is opposed by Motorola, Inc. which argues that difficulty exists in the comment filing process in every FCC rule making, and if the Commission were to recognize such a delay as justification for an extension, virtually every reply comment date would be extended. It asserts that although access to the 12 hour tapes is limited for review of their content, Motorola believes an extension of 15 days is ample to satisfy Magnavox's stated requirements.

5. Hazeltine contends that Magnavox has advanced no cogent reason for the substantial additional time since copies of comments filed by parties have been accessible. It states that the tape recordings similarly have been accessible.

6. Since the Commission believes that it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, and since this extension of time would not

prejudice any parties by unduly delaying the proceeding, we are granting additional time in which to file reply comments. We believe a 45-day extension is sufficient time for this purpose.

7. The Commission takes this opportunity to inform parties that the late-filed comments of Belar Electronics are accepted in the event they wish to file replies.

8. Accordingly, IT IS ORDERED, That the request for extension of time filed by Magnavox Consumer Electronics Company IS GRANTED to the extent that the date for filing reply comments IS EXTENDED to and including August 3, 1979, and IS DENIED in all other respects.

9. IT IS FURTHER ORDERED, That the Oppositions filed by Motorola, Inc. and Hazeltine Corporation to the requested extension of time ARE DENIED.

10. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-19201 Filed 6-19-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-131; RM-3288]

FM Broadcast Station in Fordyce, Ark.; Proposed Changes in Table of Assignments; Corrected

AGENCY: Federal Communications Commission.

ACTION: Corrected Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Fordyce, Arkansas, in response to a petition filed by KBJT, Inc. The proposed channel could be used to provide a first full-time local aural broadcast service to Fordyce.

DATES: Comments must be filed on or before July 24, 1979, and reply comments must be filed on or before August 14, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fordyce, Arkansas); Notice of proposed rule making (See also 44 FR 33123, June 8, 1979)

Adopted: May 24, 1979.

Released: June 7, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rule making,[1] filed by KBJT, Inc. ("petitioner"), requesting the assignment of FM Channel 269A to Fordyce, Arkansas, as that community's first FM assignment. No responses to the proposal have been received.

2. Fordyce (pop. 4,690), in Dallas County (pop. 10,022),[2] is located approximately 104 kilometers (65 miles) south of Little Rock, Arkansas. Fordyce is served locally by daytime-only AM Station KBJT. Channel 269A can be assigned to Fordyce in compliance with the minimum distance separation requirements. Petitioner informs us that it will apply for the channel, if assigned.

3. Petitioner states that the area's economy is based on forest products and allied industries. It notes that the Georgia-Pacific and Phelps-Dodge plants are located in Fordyce, each employing over 300 people. In support of its petition, petitioner has submitted detailed information with respect to the form of government, school system, housing and medical facilities. It claims that the proposed assignment would provide a three-county area with its first local nighttime aural service, bringing them local coverage of nighttime sporting events, election returns and severe weather warnings.

4. In light of the above information and the fact that the proposed FM channel could provide Fordyce with its first full-time local aural broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to Fordyce, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Fordyce, Ark.		269A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Public Notice of the petition was given on January 3, 1979, Report No. 1157.

[2] Population figures are taken from the 1970 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 24, 1979, and reply comments on or before August 14, 1979.

7. Further information concerning this proceeding may be obtained by contacting Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered

if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as ling as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-19200 Filed 6-19-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-53; RM-3250; RM-3368]

FM Table of Assignments in West Helena and Stuttgart, Ark.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning proposed FM channel assignments in West Helena, and Stuttgart, Arkansas. Petitioner, West Helena Radio, Inc., states that the additional time is needed so that it can make a response to the counterproposal filed in this proceeding.

DATE: Reply comments must be filed on or before June 25, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (West Helena and Stuttgart, Arkansas); Order extending time for filing reply comments (See also 44 FR 20788, April 6, 1979).

Adopted: June 11, 1979.

Released: June 13, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it a request for extension of time for filing reply comments regarding the *Notice of Proposed Rule Making* in the above-entitled proceeding, 44 FR 18997. The date for filing comments has expired and the date for filing reply comments is presently June 11, 1979.

2. The request, filed by counsel for West Helena Radio, Inc., was for an extension of the filing date for reply comments to and including June 25, 1979.

3. Counsel states that a counter proposal was filed in this proceeding by Dr. John D. Miller proposing the assignment of Channel 288A to Stuttgart, Arkansas. Dr. Miller's filing was not served on counsel for West Helena Radio, Inc., as required by § 1.420(f) of the Commission's Rules. Counsel states that this lack of service delayed matters so that additional time is needed in order to evaluate and respond to the counterproposal made by Dr. Miller.

4. Under the circumstances, we are granting the extension in order to give West Helena Radio, Inc. an opportunity to make a response. Accordingly, IT IS ORDERED, that the request for extension of time for filing reply comments submitted by West Helena Radio, Inc. IS GRANTED to and including June 25, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-19202 Filed 6-19-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 83]

[PR Docket No. 79-139; RM-2916; FCC 79-335]

Exempting Certain Vessels Operating in Vessel Traffic Service (VTS) Areas From the Requirement To Maintain a Listening Watch on VHF Channel 16 (156.800 MHz)

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Amendment of rules to exempt vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a U.S. Coast Guard Vessel Traffic Services (VTS) system from the requirement to maintain a listening watch on VHF Channel 16 (156.800 MHz). This action responds to a petition for rulemaking filed by the Central Committee on Telecommunications of the American Petroleum Institute. The intent is to eliminate the necessity for vessels to maintain listening watches on more than two VHF frequencies. In addition, a temporary waiver of the Channel 16 watch requirement is granted until final action is taken in this proceeding, for vessels operating in VTS systems under the conditions described in the proposed rule.

DATES: Comments must be received on or before August 21, 1979, and Reply Comments must be received on or before September 20, 1979.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: June 7, 1979.

Released: June 15, 1979.

By the Commission: Commissioners Washburn, Fogarty and Jones absent.

In the matter of amendment of § 83.224 of the rules to exempt certain vessels operating in Vessel Traffic Service (VTS) areas from the requirement to maintain a listening watch on VHF Channel 16 (156.800 MHz).

1. In this Notice we are proposing to exempt vessels which are subject to the Vessel Bridge-to-Bridge Radiotelephone Act *and* which are also participating in a

U.S. Coast Guard Vessel Traffic Service system, from the requirement to maintain an efficient listening watch on the frequency 156.800 MHz Channel 16). In addition, we are granting a temporary waiver of this Channel 16 watch requirement for such vessels.

Background

Petition

2. The Central Committee on Telecommunications of the American Petroleum Institute (API)[1] has filed a petition for rulemaking (RM-2916) which requests the Commission to amend Section 83.224 of the rules. Essentially, API asks that an exemption to the VHF Channel 16 (156.800 MHz) listening watch requirement be provided for ship stations onboard vessels operating in U.S. Coast Guard Vessel Traffic Service (VTS)[2] areas when monitoring the designated VTS frequency.

3. The American Institute of Merchant Shipping (AIMS), the national association of the U.S.-flag merchant vessel industry representing 34 companies, filed a statement of support of API's petition. The Pacific Merchant Shipping Association (PMSA) which is comprised of the major U.S.-flag steamship lines in the Pacific, filed a "petition for rulemaking" joining API's petition. The American Waterways Operators, Inc. (AWO) representing the domestic barge and towing industry, also submitted a statement supporting API's petition. Further, AWO points out that the rule amendment sought by API is similar to the relief sought by AWO in its Petition for Reconsideration filed in Docket No. 20683. The substantive distinction between the two petitions is that AWO's seeks an exemption only for tug and tow boats of less than 1600 gross tons. In view of the similarity of the subject matter of the two petitions, we will delay action on AWO's Petition for Reconsideration in Docket No. 20683 pending final action in this proceeding.

Current Watch Requirements

4. Section 83.224 of the Commission's rules requires that a ship station licensed to operate in the VHF frequency band 156-162 MHz maintain an efficient listening watch on the frequency 156.800 MHz (Channel 16) during its hours of service. Channel 16 is the national and international distress safety calling frequency for VHF radiotelephone stations in the Maritime Mobile Service. However, this watch is not required (1) where the station is operated with only single or dual channel equipment for bridge-to-bridge requirements (discussed below), or (2) for tugs and towing vessels of less than 1600 gross tons when operating in a VTS area and maintaining a watch on the VTS frequency and the vessel's "house frequency." [3]

5. The Vessel Bridge-to-Bridge Radiotelephone Act [4] was enacted to provide a positive means for operators of approaching vessels to communicate their intentions by a radiotelephone conveniently located at the operator's navigation station. The Act requires that, among other things, certain vessels, dredges and floating platforms be equipped with a radiotelephone capable of operation from the navigational bridge on a frequency or frequencies in the marine VHF band designated by the Commission.[5] Further, the Act requires that a listening watch be maintained on the designated frequency.[6] In the Report and Order in Docket No. 19343 (adopted May 24, 1972, 37 FR 11245, FCC 72-450) the Commission set aside Channel 13 (156.65 MHz) for bridge-to-bridge communications.

6. As part of a program to implement the provisions of the "Ports and Waterways Safety Act of 1972" (Pub. L. 92-340, 86 Stat. 424, 33 U.S.C. 1221) the Coast Guard is establishing VTS systems for a number of the largest and busiest port areas in the United States.[7] These systems, as indicated above, are vessel movement reporting systems designed to prevent collisions and groundings and protect the environment from damage or loss. At the Coast Guard's request, the Commission amended its rules in order to make up to three frequencies available for exclusive use for VTS purposes within the designated VTS radio protection areas.[8]

Vessels participating in the system must continuously monitor the specified VTS frequency. Essentially, the Coast Guard requires or requests (some VTS areas are being implemented on a voluntary basis) the same types of ships subject to the Vessel Bridge-to-Bridge Radiotelephone Act, to participate in the VTS systems.

API's Argument for Exemption

7. Fundamentally, API gives three reasons for the requested rule amendment. First, the combined force of statutory and regulatory requirements has resulted in many vessels being required to maintain a simultaneous aural watch on three frequencies when navigating in a USCG designated VTS area. These frequencies are the distress, safety and calling frequency (Channel 16), the bridge-to-bridge frequency and the VTS frequency. API submits that requirements for a listening watch on three frequencies imposes a nearly inhuman burden on the two individuals normally found on the bridge and may even create an unsafe condition. Second, it is pointed out that the Coast Guard has indicated that it will respond to all distress and safety communications on Channel 16 in VTS areas. Thus, it is argued, the safety aspects of the Channel 16 watch are provided by the Coast Guard. Finally, API states that the capability "of receiving a call on Channel 16 for the exchange of public correspondence" has little priority when a vessel is operating in a VTS area and monitoring the bridge-to-bridge frequency as well. API concludes that number of VHF channels required to be monitored must be reduced to a maximum of two and that the Channel 16 watch requirement should be eliminated for vessels operating in a VTS system and monitoring the VTS channel.

8. At this point we wish to note that API also filed a Petition for Waiver requesting a temporary exemption to the Channel 16 watch requirements contained in Rule 83.224 for ship stations aboard vessels operating in VTS areas and monitoring the designated VTS frequencies, pending final action in the instant proceeding. API primarily advanced the same rationale stated in its Petition for Rule Making. It did additionally indicate that such a temporary waiver would provide the Commission with an opportunity to evaluate the effect of eliminating the Channel 16 watch.

Discussion

9. In the past we have generally resisted the relaxation of the Channel 16

[1] API is composed of representatives of 40 of the nations leading petroleum and natural gas companies. Many of these companies operate substantial fleets of tankers engaged in high seas and coastwise trade as well as large fleets of tugs and barges on intercoastal waterways and inland river systems.

[2] U.S. Coast Guard VTS systems are, in essence, vessel movement reporting systems designed to prevent damage to or loss of vessels, bridges or other structures in U.S. navigable waters. Additionally, these navigable waters and associated natural resources are sought to be protected from environmental harm resulting from such incidents.

[3] Tug and tow boats by the nature of their operations usually find it necessary to guard a company working frequency. This frequency often is assigned to a limited coast station operated by the company and utilized for operational and business messages.

[4] Pub. L. 92-63, 85 Stat. 165, 33 U.S.C. 1201 et seq.

[5] 33 U.S.C. 1203.

[6] 33 U.S.C. 1204.

[7] The Coast Guard is in various stages of implementing VTS systems in the port areas of Houston, New Orleans, New York, San Francisco, Seattle and Valdez (Alaska).

[8] Report and Order, Docket No. 20444, adopted December 2, 1975, 40 F.R. 57673, 56 FCC 2d 1069.

watch requirement. (Exceptions were made in the case of ships with single or dual channel bridge-to-bridge equipment and certain tug boats in a VTS area.) Our reluctance to compromise the Channel 16 watch was primarily based on three factors. First, elimination of the Channel 16 watch in VTS areas would result in the loss of the capability for other ships or shore facilities to contact ships participating in the VTS system (i.e., most large commercial vessels) for other than navigational purposes. This is much broader than merely eliminating the capability of receiving public correspondence, as described by API. In effect, a ship would be dropped out of the maritime communications system for messages relating to business needs, company operations, intership requirements, as well as personal matters. Although the Coast Guard had indicated it could assume the distress and safety functions of the Channel 16 watch in VTS areas, it previously would make no commitment concerning the relay of nonnavigational messages.

10. Our second reason involved the uniqueness of the Channel 16 watch. Channel 16 is the only frequency that is monitored by all VHF equipped vessels, large commercial ships and thousands of small recreational boats alike. If vessels participating in VTS systems do not monitor Channel 16, recreational boaters would lose the capability to directly contact such vessels in an emergency situation.

11. Third, when the issue of relaxing the Channel 16 watch requirements in VTS areas was initially being raised [9] we felt it was premature to take the requested action. The Coast Guard was in the early stages of implementing the VTS systems. (This implementation process is still ongoing in a number of VTS areas.) We felt that practical experience and exploration of alternatives were required prior to any decision to eliminate the watch on the national and international distress, safety and calling frequency, in VTS areas. For example, in the New Orleans VTS area (which is currently being implemented on a voluntary basis) the Coast Guard has been experimenting with an alternative procedure whereby vessels "watch" the bridge-to-bridge frequency and Channel 16. When the Coast Guard VTS desires to talk to a participating vessel it calls on Channel 16 and advises the vessel to switch to the VTS frequency. At the conclusion of the communications the vessel switches back to Channel 16.

12. Despite our previous refusals to relax the Channel 16 watch requirements, we have not ignored the fact that as VTS systems are implemented potential problems could arise. We have continued to consult with the Coast Guard and industry as operational experience has been gained. A simultaneous listening watch on three relatively busy frequencies has proven to be untenable, especially for smaller vessels with a one man wheelhouse. It now appears that for ships participating in a VTS system dropping the watch on either the bridge-to-bridge or VTS frequencies is less desirable than eliminating the Channel 16 watch in these areas.

13. The capability for vessels in U.S. waters to engage in bridge-to-bridge communications is generally considered to be essential for safety purposes. As to the watch on the VTS frequency, the Coast Guard has indicated that it does not consider the elimination of the watch on the VTS frequency in favor of the Channel 16 watch, satisfactory. As mentioned above, this arrangement requires the VTS control center to call on Channel 16 to instruct a particular vessel to shift to the VTS frequency to receive a message. The Coast Guard believes this system results in unnecessary delays, adds to the time required to exchange VTS communications and prevents vessels participating in the system from obtaining continuous status updates via communications between other vessels and the VTS control center.

14. Further, the Coast Guard has now stated that it will on request and subject to operational considerations, notify ships participating in a VTS system of important non-navigational calls from other stations,[10] as well as provide distress and safety coverage on Channel 16. This will prevent ships from being isolated from the rest of the maritime communications system while operating in a VTS system, which in the past had caused us to have serious reservations.

15. In view of the above discussion, we are proposing to amend the rules substantially as requested by API and those organizations which filed supportive documents. However, as our purpose herein is to prevent vessels from being *required* to "watch" more than two VHF frequencies,[11] we are proposing to exempt from the Channel 16 listening watch only vessels maintaining a watch on *both* the bridge-to-bridge frequency and a separate VTS frequency. It is our intention to include vessels participating on a voluntary basis in a VTS system within the scope of the proposed exemption.

16. In addition, we will grant API's petition for a temporary waiver of the Channel 16 watch for vessels operating under the conditions described in our proposed rule amendment, until final action is taken in this proceeding. We feel the rationale discussed above supports API's request for a temporary waiver as well as initiation of rulemaking.

17. As an ancillary matter, we wish to note that operators of radio equipped recreational boats which frequently navigate on VTS areas may want to acquire the capability to communicate on the bridge-to-bridge frequency (Channel 13) if not already so equipped. In the past recreational boaters have not been encouraged to equip with the bridge-to-bridge channel. This was primarily because of the universal character of the Channel 16 watch and the possibility of congestion on the bridge-to-bridge frequency. However, since many vessels operating in VTS areas ultimately may not be required to monitor Channel 16, recreational boaters who do not have the bridge-to-bridge channel available, may lose the capability to directly contact large

[9] Various members of the maritime industry, including API, AIMS and AWO, have opposed additional VHF watches in general and/or the Channel 16 watch in particular, in each proceeding relating to designation of frequencies for VTS areas (Docket Nos. 20444, 20717 and 20937) as well as in Docket No. 20683 regarding relaxation of the Channel 16 watch for certain tug boats. Further, AIMS filed a Petition for Rule Making (RM 2120) in 1973 requesting that the rules be amended to remove the requirement to "watch" Channel 16 when a ship is maintaining a watch on the bridge-to-bridge frequency. The Petition was denied in a Memorandum Opinion and Order adopted April 18, 1973, 40 FCC 2d 763.

[10] In a letter received March 2, 1979, "a Coast Guard supported view of an operational concept" was represented as follows:

"If a shore station or vessel is unable, after repeated efforts, to establish communications on Channel 16 with a vessel, and if the communications are of an urgent nature, the vessel traffic center will, upon request and subject to operational consideration, advise the vessel that it is being called. Vessels making such requests should utilize VTS Sector frequency to advise the vessel traffic center. Shore stations requesting contact assistance should telephone the vessel traffic center."

The intent, or concept, is to provide on an as able basis, a means whereby ships can be notified of important non-navigational calls on Channel 16. The use of the restrictive language (i.e., communications of an "urgent nature," and "important non-navigational calls") is meant to indicate that routine business and personal calls will not be relayed by Coast Guard personnel.

[11] We wish to note that voluntary listening watches, such as a watch on a "house frequency" (see footnote 3 *supra*) often maintained by tow and tug boats for business reasons, are not considered as required watches herein. Our intent is to reduce the number of watches *required by regulations* to two. Vessel operators maintaining watches on a "house frequency" and the like may choose to cease monitoring the frequency when message traffic is heavy or make other suitable arrangements, as monitoring the "house frequency" at a given period each hour.

vessels nearby, for example, when in danger of a collision.

Proposal

18. Accordingly, we propose to amend Section 83.224(b) of the rules to exempt vessels which are subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Coast Guard VTS system, from the requirement to maintain a watch on 156.800 MHz (Channel 16) when an efficient watch is maintained on *both* the bridge-to-bridge frequency and a separate VTS frequency.

19. This proposed amendment of the Commission's rules as set forth in the attached Appendix, is issued pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

Comments

20. Pursuant to the applicable procedures set forth in Section 1.415 the Commission's rules, interested persons may file comments on or before August 21, 1979 and reply comments on or before September 20, 1979. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

21. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

Temporary Waiver

22. Furthermore, it is Hereby Ordered, That, the requirement contained in Section 83.224 of the Commission's rules that ship stations maintain a listening watch on 156.800 MHz during hours of service, IS WAIVED, for ship stations onboard vessels operating within the parameters described in paragraph 16 above, and the attached Appendix, until such time as final action is taken in this proceeding.

Questions

23. Regarding questions on the matters covered in this document contact Robert McNamara (202) 632-7175.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES.

In Section 83.224, paragraph (b) is amended to read as follows:

§ 83.224 Watch on 156.8 MHz.

* * * * *

(b) For vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on *both* the bridge-to-bridge frequency and a separate assigned VTS frequency.

[FR Doc. 79-19245 Filed 6-19-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 87]

[PR Docket No. 79-141; RM-3293; FCC 79-340]

Providing a Frequency for Use by Helicopters for Air-to-Air Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making.

SUMMARY: The Commission proposes to make a separate frequency available for helicopters to use for air-to-air communications. A petition for rulemaking has pointed out that in many areas frequencies are congested during peak periods of activity. It is during these periods that helicopters flying in the area need to communicate with each other. The Commission proposes to make a previously unassigned frequency available for this use.

DATES: Comments must be received on or before July 23, 1979, and reply comments must be received on or before August 2, 1979.

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

FOR FURTHER INFORMATION CONTACT: John E. Jacobs, Private Radio Bureau, 202-632-7175.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 87 of the rules to provide a frequency for use by helicopters for air-to-air communications; Notice of proposed rule making.

Adopted: June 7, 1979.
Released: June 14, 1979.

By the Commission: Commissioners Washburn, Fogarty and Jones absent.

1. Notice of Proposed Rule Making in the above entitled matter is hereby given.

2. The Commission has received a petition from G. H. Hart Company, Inc. (Hart), asking that a separate frequency be made available for helicopter air-to-air communications in the Houston, Texas, area. This was assigned RM 3293 and placed on public notice on January 3, 1979. One comment supporting the request was received from Burwood Greene Construction Co.

3. The petition submitted by Hart was specifically concerned with the Houston area because of the "* * * increased helicopter operations in the Gulf of Mexico and its proximity to the 'Energy Capital of the World'* * *." They contend that the increase in helicopter activities in the Houston area during the past four years has caused serious * congestion on the frequencies available to be used for air-to-air traffic. We have no doubt that this is true, but feel that the congestion is not limited to the Houston area. Our proposal here is to make the frequency available on a nationwide basis. However, since the congestion does not extend equally across the country, we solicit comments on whether such use should be restricted to readily recognized areas with a high density of helicopter traffic. This use could be restricted to such areas as Houston, Dallas, Los Angeles, New York and the frequency reserved for other uses in other areas.

4. In an earlier action, the Commission made additional frequencies in the 121.9625-123.0375 MHz band available for private aircraft use. Although the frequencies in this proceeding were primarily concerned with aeronautical advisory (unicom) station use, air-to-air communications were considered. The frequency 122.750 MHz was made available for shared use by unicom stations at private airports not open to the public and by private aircraft for air-to-air communications. This frequency is to be used by general aviation for formation flying, group flights and similar communications. Additionally, recognizing congestion on the single frequency available for heliports, we designated an additional frequency for this purpose.

5. We recognize that helicopters, because of the nature of their activities and the relatively restrictive method of their flying, have need to communicate with each other quickly and without interference in many instances. We also recognize that the use of helicopters has increased at a rate far greater than that for fixed wing aircraft in recent years. This, in many areas, is largely due to the increased activity in offshore oil and natural gas exploration, but is not confined to this. Many private concerns with widely separated facilities have found that helicopters are the best method of moving personnel from plant to plant in the normal course of business. Many public safety agencies now use helicopters extensively for surveillance, traffic and emergency medical functions. In many areas, this has caused congestion, not only on radio frequencies, but in use of confined air space.

6. Routinely, in a controlled airspace, (a defined area designated as such by the FAA), there is no need for air-to-air communications. The aircraft in that defined area are under the control of the FAA facility and any air-to-air communications are relayed through the controlling station. In an uncontrolled space, no such control is exercised. For the most part, aircraft will intercommunicate (or at least establish communications) on the unicom frequency assigned to the landing area. In areas where a number of small landing areas are in close proximity and aviation activity is heavy, the radio congestion can be rather severe at times. Hart contends that it is during these times that the need for helicopters to communicate directly with each other is most critical. It is for this reason they have requested an additional frequency be made available. We agree.

7. In the Report and Order in Docket 20123 (42 FR 20469) we designated a number of frequencies for future assignment. These frequencies were 25 kHz channels and were to be assigned at a later date for unicom or multicom use as the need presented itself. We find now, however, that the need to provide a means for airborne helicopters to intercommunicate is more pressing. Consequently, we propose to assign the frequency of 123.025 MHz for helicopter air-to-air communications.

8. In view of the foregoing, we propose to amend rule § 87.183(m) to make 123.025 MHz available for helicopter air-to-air use. At the same time, we will delete the reference to 122.750 MHz being available after January 1, 1978, since this date is no longer relevant.

9. For information regarding this matter, contact John E. Jacobs, telephone 202-632-7175.

10. The proposed amendments to the rules as set forth in the appendix are issued pursuant to the authority contained in Sections 4(i), 303(b), (f) and (r) of the Communications Act of 1934, as amended.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 23, 1979, and reply comments on or before August 2, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. In Section 87.183 paragraph (m) is amended to read as follows:

§ 87.183 Frequencies available.

* * * * *

(m) The frequency 122.750 MHz is authorized for use by private aircraft in air-to-air communications for formation flying, group flights or other air-to-air usage by general aviation not specifically authorized elsewhere in this part of the rules. The frequency 123.025 MHz is authorized for helicopters only for air-to-air communications. Communications on either frequency shall be limited to those directly related to the operation of the aircraft.

* * * * *

[FR Doc. 79-19203 Filed 6-19-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 676]

Comprehensive Employment and Training Act: Regulations Concerning Sectarian Activities Under the Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise the regulation at 20 CFR 676.71, published on April 3, 1979, at 44 FR 20028, concerning sectarian activities under the Comprehensive Employment and Training Act (CETA). The purpose of this document is to clarify when funds under the Act may be used with respect to religious elementary and secondary schools, and other religious activities.

DATES: Interested persons are invited to submit written comments on or before July 20, 1979.

The primary impact of the proposed rule will be on religiously affiliated elementary and secondary schools. Since it is necessary to provide clear guidance to grantees as soon as possible, the comment period has been limited to 30 days.

ADDRESS: Written comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Room 5014—Patrick Henry Bldg., 601 D Street, N.W., Washington, D.C. 20213. Attention: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, at Telephone No. (202) 376-6254.

SUPPLEMENTARY INFORMATION: Final regulations implementing Titles I, II, VI and VII of the Comprehensive Employment and Training Act (CETA), as amended by the CETA Amendments of 1978 (Pub. L. 95-524), were published at 20 CFR Parts 675-679 in the Federal Register on April 3, 1979 (44 FR 19990). Section 676.71(b) of 20 CFR Part 676 sets forth the statutory prohibitions regarding sectarian activities, and states that the Department of Labor would be publishing proposed regulations to further clarify these provisions in the near future. Sections 121(a)(2) and 123(g) of CETA (92 Stat. 1934 and 1943) establish certain limitations on the use of CETA funds in connection with religious activities. These provisions, however, do not resolve many of the questions that may arise with regard to CETA activities at religiously affiliated elementary or secondary schools. They must also be interpreted in light of the standards established by the Supreme Court under the First Amendment. In light of this, and in keeping with the remedial purpose of the statute, the following rule are being proposed.

Accordingly, it is proposed to revise § 676.71 of Chapter V of Title 20, Code of Federal Regulations, to read as follows:

§ 676.71 Sectarian activities.

(a) No funds under the Act may be used to support any religious or anti-religious activity. However, this does not preclude religious organizations from adminstering or operating CETA programs or from the use of the facilities of religious organizations for the operation of such programs within the limits set forth in the Act or other applicable law.

(b) Section 121(a)(2) of the Act (29 U.S.C. 823(a)(2)) provides that:

> Particpants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or will be used for sectarian instruction or as a place of religious worship.

Section 123(g) of the Act (8 U.S.C. 825(g)) provides that the Secretary, by regulation, shall establish such standards and procedures for recipients of funds under the Act as are necessary to assure against program abuses including, but not limited to, the use of funds for religious or antireligious activities. Pursuant to these statutory provisions, a participant may not be employed by a religiously affiliated elementary or secondary school to perform the functions of a teacher, librarian, guidance counselor, janitor or maintenance worker, clerical worker or teacher aide, unless the participant is performing functions or working in programs such as those described in paragraphs (c) or (e) of this section. In applying this prohibition, it is the function actually to be performed by the participant that is to be regarded as controlling, rather than the technical job title given the participant. For example, it would be permissible for a participant (whatever the participant's title) to be employed as an escort to bring students safely to and from school.

(c) Religiously affiliated elementary or secondary schools, may, subject to supervision by the prime sponsor, employ participants in programs such as adult education, recreation, summer programs or other similar activities including remedial tutorial activities, provided that such programs are not a part of the regular school curriculum (including summer school), are open to the community at large, and in which the

community is encouraged to participate, and provided further that such programs do not involve religious activities.

(d) A prime sponsor, or a subrecipient which is not a religious organization, may outstation a participant to a religiously affiliated elementary or secondary school to provide remedial education services which do not involve religious activities, provided that such services are not part of the regular school curriculum (including summer school), that such services also are made available to public school students in the area and that the prime sponsor has established procedures adequate to insure public supervision.

(e) Participants may be employed by a religiously affiliated elementary or secondary school in the following capacities, or performing functions characteristic of these capacities:

(1) Cafeteria work or other work directly related to the provision of food services to students including clerical, custodial or maintenance work related to such services.

(2) Diagnostic or therapeutic speech and hearing services including clerical work related to such services.

(3) Nursing or health services or any other activities relating to the health or safety of students (*e.g.* assisting on school buses or in escorting children to and from school, acting as attendance clerks or school crossing guards, removing asbestos hazards or performing other similar emergency service relating to the health or safety of students), including clerical work related to such services.

(4) Any functions (including secretarial or clerical activities) where such activities are limited to providing support services for the administration of federally funded or regulated programs made applicable to religious institutions.

(5) Functions performed with respect to the administration and grading of State-prepared examinations.

(6) Custodial child care after school hours provided the participant is not providing educational services.

(f) The Secretary may consider, on a case-by-case basis, applications for participation in programs other than those set forth in paragraphs (c), (d), and (e) of this section and may approve those applications for programs that are not inconsistent with the requirements of this section.

Signed at Washington, D.C., this 18th day of June 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-19419 Filed 6-19-79; 8:45 am]

BILLING CODE 4510-30-M

Notices

Federal Register
Vol. 44, No. 120
Wednesday, June 20, 1979

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

DEPARTMENT OF AGRICULTURE

Forest Service

Policy for Management of National Monuments Within the National Forest System in Alaska

This document serves as public notice of the intent of the Secretary of Agriculture to manage the two new National Monuments recently designated within the National Forest System in Alaska in accord with the Presidential Proclamations, No. 4611 and No. 4623, and existing authorities, regulations, and policies of the Department of Agriculture.

Background Information: On December 1, 1978, President Carter proclaimed 17 National Monuments in Alaska, two of which are within the Tongass National Forest. The Admiralty Island and the Misty Fiords National Monuments were established pursuant to Section 2 of the Antiquities Act of 1906 (36 Stat. 225; 16 U.S.C. 431) and Proclamations No. 4611 and 4623, which were published in the Federal Register on December 5, 1978, (43 FR 57009–57132). The Proclamations provide that the two mentioned National Monuments are to be administered by the Secretary of Agriculture.

Admiralty Island and Misty Fiords will be managed to protect their unique ecosystems, scientific and cultural values, and wilderness character. The National Monuments will be made available for human use to the optimum extent consistent with the Proclamations and with maintenance of present conditions. In resolving conflicts in resource uses, natural, historic, and scientific values will be dominant.

Uses and activities which will be permitted include:

1. Occupancy for commercial services; e.g.; packers, outfitters, guides to the extent necessary for the purposes for which the National Monuments were created;

2. Recreational activities; e.g., camping, hiking, hunting, fishing, boating, including continued cabin use and air access;

3. Management of fish and wildlife habitat in cooperation with the State of Alaska;

4. Subsistence uses of fish and wildlife resources by rural residents who comply with applicable State and Federal law;

5. Gathering information about resources, if conducted in a manner compatible with the preservation of the present environment;

6. Gathering or collecting small amounts of seashells, fruits, berries, and driftwood intended for personal use, and dead wood for home or camp fire purposes;

Admiralty Island National Monument, consisting of 1,100,000 acres in the Tongass National Forest of southeast Alaska, is established to protect its superlative combination of scientific and historic objects and values. The area reflects a unique island ecology, particularly with regard to wildlife.

Misty Fiords National Monument consists of 2,285,000 acres in the Coast Mountains of southeast Alaska located within the Tongass National Forest. This area is an unspoiled coastal ecosystem containing extraordinary geologic features of scientific importance, including fiords, steep sea cliffs, active glaciers, and natural canals. The wildlife in the area is representative of nearly every ecosystem in southeast Alaska, and also represents a fertile example of marine and freshwater environments.

The two National Monuments are included in the 11.2 million acres of National Forest System lands withdrawn for 2 years under the authority of section 204(b)(1) of the Federal Land Policy and Management Act of 1976.

Policy Statement: Admiralty Island and Misty Fiords National Monuments are managed and protected under the laws applicable to the establishment and administration of the National Forests and the regulations issued to carry out and enforce those laws. These laws and regulations provide an adequate statutory basis for the management and protection of Admiralty Island and Misty Fiords for the purposes for which these areas were created National Monuments pursuant to the Antiquities Act of 1906.

7. Continued use and occupancy of structures authorized by special use permit under the terms of the permit;

8. Access to valid occupancies and to State and private lands;

9. Mining activity on valid existing claims; and

10. Measures necessary to control fire, insect, and disease, and actions necessary for emergencies involving the health and safety of persons or damage to property.

Activities or uses which will not be permitted include:

1. Commercial timber harvests and associated developments;

2. Mineral entry under the temporary withdrawal;

3. Further State and Native selections of land under the temporary withdrawal until Congress acts; and

4. Prohibitions in Part 261, Title 36, Code of Federal Regulations.

More specific information concerning the management and protection of Admiralty Island and Misty Fiords National Monuments may be obtained from the Regional Forester, Federal Office Building, Box 1628, Juneau, Alaska 99802.

Dated: June 14, 1979.

M. Rupert Cutler,

Assistant Secretary for Conservation, Research, and Education.

[FR Doc. 79-19040 Filed 6-19-79; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket Nos. 35147 and 35279]

Braniff Airways and Ozark Air Lines, Proposed Grant of Dallas/Fort Worth–Little Rock Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause (79-6-93).

SUMMARY: The Board is proposing to grant Dallas/Fort Worth-Little Rock authority to Braniff Airways (Docket 35147) and Ozark Air Lines (Docket 35279) and any other fit, willing and able applicants, the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by July 18, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 35836, which we have entitled the *Dallas/Fort Worth-Little Rock Show Cause Proceeding.*

In addition, copies of such filings should be served on Braniff Airways, Ozark Air Lines, American Airlines, Air Canada, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Texas International Airlines, Air Central, Air Illinois, Chaparral Airlines, Eagle Commuter Airlines, Metroflight, Scheduled Skyways, Southwest Airlines, Mayor of Little Rock, Arkansas Division of Aeronautics, Mountain Home Air Service, Airport Manager, Little Rock Airport, Executive Director, Dallas/Fort Worth Regional Airport, Mayors of Dallas and Fort Worth and Pan American World Airways.

FOR FURTHER INFORMATION CONTACT: James Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-6-99 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-6-99 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board June 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19163 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 33363]

Former Large Irregular Air Service Investigation; Cancellation and Continuance of Hearings

1. The hearings on the applications of Monarch Aviation, Inc., heretofore set for June 15, 1979 (44 FR 24333, April 25, 1979), and of Duncan Tours, Inc., heretofore set for July 2, 1979 (44 FR 33919, June 13, 1979) are cancelled.

2. The hearing on the application of Lone Star Airways, Inc. is continued from July 31, 1979 to October 3, 1979 (44 FR 33919, June 13, 1979) at the time and place heretofore set.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-19164 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-6-85; Docket No. 35754]

Increases in South Pacific Passenger Fares Related to Increased Fuel Costs Proposed by Air New Zealand Ltd.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of June 1979.

By tariff revisions filed May 9, 1979, Air New Zealand Limited (Air New Zealand) proposed increases in passenger fares between the United States and South Pacific points to compensate for increased fuel costs. The increases were proposed for effectiveness on June 8, 1979, between the United States and New Zealand, and on July 8, 1979, between the United States and other South Pacific countries (Australia, French Polynesia, Papua-New Guinea, Fiji and New Caledonia). Air New Zealand proposed increases of seven percent in all fares to the United States, and would match the formula increase proposed by Pan American World Airways from the United States.[1]

We will suspend Air New Zealand's proposed increases in normal economy fares for the same reasons set forth in our denial of similar increases proposed by Pan American.[2] The Board has long been concerned about the generally high level of transpacific fares, and although the recent introduction of service by a new carrier, Continental, has brought a new measure of competition to the South Pacific market, the restrictive bilateral agreement between the United States and New Zealand remains in force. Fares must still be approved by both Governments, and in other respects, most notably restricted opportunities for new carrier entry, the New Zealand agreement contains none of the liberalizations of recently negotiated bilaterals such as those with the Netherlands, Korea, Belgium and Germany. Thus we will follow the same policies here as we did in most North Atlantic markets where we recently approved increases in promotional and first-class fares but suspended increases in normal economy fares.[3]

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801 and 1002(j) thereof:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the Appendix hereof,[4] and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decisions by the Board, we hereby suspend the tariff provisions specified in the Appendix and defer their use from June 14, 1979, to and including June 13, 1980, unless otherwise ordered by the Board and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[5] and it shall become effective on June 14, 1979; and

4. We shall file copies of this order in the aforesaid tariff and serve it upon Air New Zealand Limited.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board[6]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19165 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-6-98; Docket No. 34681]

Interim Essential Air Transportation at Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, and Ogdensburg, N.Y. and Rutland, Vt.

Order to show cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of June 1979.

On February 7, 1979, we adopted Order 79-2-46 which instituted an investigation dealing with the interim

[1] 3.9 percent of the normal economy fare applied as a fixed amount to all fares in a market. For example, all Los Angeles-Auckland fares would be increased $58 round trip.

[2] Order 79-5-218.

[3] Consistent with our recent action on Pan American's tariffs, we will permit Air New Zealand to increase its normal economy fares from Australia to the United States, reflecting our country-of-origin pricing understanding with Australia.

[4] The Appendix is filed as part of the original document.

[5] We submitted this order to the President on June 6, 1979.

[6] All Members concurred except Member Schaffer who did not participate.

essential air transportation requirements of Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, and Ogdensburg, New York, and Rutland, Vermont. This was in response to Allegheny Airlines' notices to suspend service at each of these points.[1] Among other things, Order 79-2-46 directed Allegheny (in conjunction with Air North, an "Allegheny Commuter," if desired) to continue to meet its certificate obligations at the six points from March 7 through April 6, 1979, an additional 30-day period beyond the 90-day statutory notice period, or until a suitable replacement carrier was found.[2]

On April 27, 1979, Allegheny filed a letter[3] with the Board's staff requesting compensation pursuant to section 419 of the Federal Aviation Act[4] for losses incurred during the period from March 7 through April 6 in support of Air North's continued service at the six cities. The requested compensation, based on operations conducted in March 1979, amounted to $54,436, with $38,964 being Allegheny's net unreimbursed handling costs and $15,472 being lost revenue resulting from a joint fare prorate skewed in Air North's favor.

In section 419 cases which involve compelling carriers to continue service, we have decided that the use of interim rates of compensation is an appropriate way to avoid delays in compensating carriers for their recognized losses incurred in such operations. The advantage of using interim rates of compensation is that we can quickly begin payments to a carrier while allowing sufficient time to finally determine amounts of compensation for losses, after operations at the point have ceased. We believe that this strikes an equitable balance between the respective needs of the Board and the carriers.

We intend to make any interim rates of compensation under section 419 effective until a carrier has been relieved by the Board of its certificate obligations at the point(s) for which compensation is being paid. This will ease the administrative burden on both the Board and the carrier by eliminating the monthly filing of requests for compensation and a subsequent order by the Board. Of course, if there is a dramatic change in the financial results of Board-ordered service, a carrier will be free to request an adjustment to the interim rate of compensation.

It should be noted that, in cases where established carriers are compelled to continue service for relatively short periods of time (*i.e.*, three months or less), the Board contemplates that such carriers will submit requests for compensation only after the required service has been terminated. However, in cases such as this (where Allegheny has been required to continue service for three 30-day periods already and additional 30-day periods are likely) or in cases where a carrier's precarious financial condition can be demonstrated, we are prepared to make payments of interim compensation every 30 days, subject to a final accounting and settlement when service has ceased.

We have tentatively concluded that Allegheny should receive an interim rate of compensation of $38,964 for each 30-day period beginning March 7, 1979, and $1,299 per day for any period of less than 30 days, until it discontinues service at the six small New York/Vermont communities. We have reviewed the information contained in its letter of April 27, 1979, and tentatively find that Allegheny's unreimbursed passenger handling costs (as set forth in Appendix A to its letter) appear to be reasonable. We will therefore provide interim compensation to cover these costs. However, we want to consider further Allegheny's indicated loss of revenue from an adjusted joint fare prorate with Air North before reaching a decision on that part of Allegheny's claim. We caution that this is not meant to be the final determination of the legitimacy of any expenses submitted to us by Allegheny in its request for compensation.[5]

We believe that providing Allegheny with interim compensation less than the amount requested is prudent in any case in order to minimize the risk of ultimate overpayment. The Board's auditors will examine the claim submitted by Allegheny. We will withhold a final determination of its validity until we have reviewed their findings.

Based on all of the foregoing, we tentatively find and conclude that the fair and reasonable interim rate of compensation to be paid Allegheny Airlines, Inc., for the provision of essential air transportation at Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, and Ogdensburg, New York and Rutland, Vermont, is $38,964 for each 30-day period beginning March 7, 1979, *Provided*, That for any period of less than 30 days, the interim rate of compensation shall be $1,299 per day times the number of days that essential air transportation was provided.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR Part 302:

1. We direct Allegheny Airlines, Inc., to show cause why the Board should not fix, determine, and publish the aforesaid rate as the fair and reasonable interim rate of compensation to be paid Allegheny for the provision of essential air transportation at Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, and Ogdensburg, New York and Rutland, Vermont, pending a final accounting of the carrier's costs in providing the required services and the fixing of a final rate of compensation in this proceeding;

2. Further procedures with respect to the interim rate proposed in this order shall be in accordance with the procedures in Subpart A of the Board's rules of practice (except § 302.8), and, if there is any objection to the interim rate of compensation specified here, notice thereof must be filed within eight days, and, if notice is filed, written answer and supporting documents must be filed within 15 days after the date of service of this order;

3. If notice of objection is not filed within eight day, or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the interim rate of compensation specified in this order;

4. If notice of objection and answer are filed presenting issues warranting further consideration by the Board, the issues regarding the establishment of the fair and reasonsble rate of compensation specified in this order shall be limited to those specifically raised by such answers;

[1] On April 25, 1979, we adopted Order 79-4-155 which set the interim essential air transportation requirements at each of the six communities. The order also invited interested carriers to submit proposals to meet these requirements.

[2] By Orders 79-4-16, 79-4-155, and 79-5-223, we required Allegheny to continue to abide by its certificated obligations at these six small communities for three additional 30-day periods through July 4, 1979.

[3] We have attached Allegheny's letter as an appendix to this order.

[4] Section 419(a)(7)(B) states, in pertinent part, that:

"If the Board requires an air carrier * * * which is providing air transportation to any eligible point without compensation * * * to continue to provide essential air transportation to such point beyond the 90-day notice period after which * * * such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that the air carrier incurs in complying with this subparagraph after the last day of such 90-day period * * *.

[5] Claims will be subject to verification by the Board's auditors before a final amount of compensation is set.

5. This proceeding shall remain open pending entry of an order fixing the final rate of compensation retroactive to such date as the Board may determine, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

6. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board: [6]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-19166 Filed 6-19-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on July 10, 1979, at 1:30 p.m. in Room 6802, Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends
2. Implementation of textile agreements
3. Report on conditions in the domestic market
4. Other business

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meetings. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

June 24, 1979.

Authur Garel,

Director, Office of Textiles.

[FR Doc. 79-19113 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-25-M

[6] All Members concurred.

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Surf Clam Ocean Quahog Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Surf Clam Ocean Quahog Resources Subpanel (AP), which will meet to discuss the Surf Clam Ocean Quahog Fishery Management Plan (FMP) Amendment No. 2.

DATES: The meeting will convene on Friday, July 27, 1979, at 10 a.m. and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton, Route #13, Dover, Delaware (302) 678-8500.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901. Telephone: (302) 674-2331.

Dated June 14, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries service.

[FR Doc. 79-19112 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-22-M

Washington, Oregon, and Puerto Rico Coastal Management Programs; Intent To Approve Amendments

Notice is hereby given of the intent by the Office of Coastal Zone Management (OCZM) to approve amendments to the Washington, Oregon and Puerto Rico Coastal Management Programs by the addition of procedures to cover three areas:

1. Coastal Shorefront Access and Protection
2. Shoreline Erosion Assessment and Mitigation
3. Energy Facility Siting

Interested parties have 30 days from the date of issuance of this notice to submit comments. If no serious disagreements to the proposed actions are raised during this comment period, the Assistant Administrator for Coastal Zone Management intends to give formal approval to these amendments. Comments should be addressed to:

For Washington and Oregon

Rebecca Barber, Assistant Pacific Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235.

For Puerto Rico

Ann Berger, Assistant Gulf Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235.

The full text of the proposed amendments to the Washington, Oregon and Puerto Rico Programs have been distributed to all relevant Federal agencies. Interested parties wishing to obtain copies of the amendments may request copies from OCZM at the above address.

Dated: June 11, 1979.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

[FR Doc. 79-19101 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-12-M

Office of the Secretary

[Dept. Organization Order 15-9]

Office of Small and Disadvantaged Business Utilization; Statement of Organization, Function and Delegation of Authority

This order is effective June 14, 1979.

Section 1. Purpose.

This Order establishes and prescribes the functions of the Office of Small and Disadvantaged Business Utilization (OSDBU).

Section 2. Establishment and Transfers.

.01 The (OSDBU) is hereby established as a Departmental office which shall be headed by a Director, who shall report and be responsible to the Under Secretary of Commerce. The administrative arrangements for the OSDBU (e.g., budget, personnel, space, etc.) will be handled by the Office of the Deputy Under Secretary.

.02 The functions, personnel, funds, property and records of the Small Business and Contract Compliance Unit of the Office of Procurement and Automatic Data Processing Management (OP&ADPM), are hereby transferred to the OSDBU.

Section 3. Statutory Authority.

The OSDBU is established under authority of the new Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) as enacted by Section 221 of Pub. L. 95-507. This section provides that the OSDBU shall be responsible for the implementation and execution of duties relating to the Department under Sections 8 and 15 of the Small Business Act. This would include labor surplus set aside procurement added to Section 15 of that Act by Section 502 of Pub. L. 95-89.

Section 4. Functions.

.01 In the area of procurement, the OSDBU shall perform the following functions:

a. Act as focal point on matters concerning utilization of small and disadvantaged businesses in Departmental contracts, and represent the Department in dealings with other agencies on these matters.

b. Participate in the development of and recommend for Secretarial approval appropriate small and disadvantaged business and labor surplus area procurement goals.

c. Formulate, with the assistance of the Department's Central Procurement Policy Staff, amendments to Departmental procurement regulations and ensure the implementation of these and other directives that can help achieve small and disadvantaged business and labor surplus procurement goals.

d. Ensure the appropriate and effective assignment and training of Small Business Technical Advisors (SBTAs) in the Department's procuring units.

e. Encourage the awarding of contracts to small and disadvantaged businesses by providing information and assistance to Departmental offices and operating units (hereinafter "organization units"), and encourage the use of the incentive awards system for outstanding accomplishments.

f. Review, evaluate and report to the Under Secretary the performance or organization units in accompanying small and disadvantaged business procurement goals.

g. Negotiate corrective action to goals or performance with appropriate agency officials based on periodic reports filed by SBTAs and complaints received.

h. Prepare the Secretary's annual report to the Small Business Administration (SBA) on the extent of participation by small and disadvantaged businesses in procurement contracts. Also, coordinate and provide input into Departmental positions on proposed legislation and government regulations in this area.

i. Perform the contract compliance function for the Department and coordinate these efforts with the Office of Federal Contract Compliance Programs, Department of Labor.

.02 In performing the functions prescribed in paragraph .01 above, the Director shall have the specific authority to:

a. Exercise counterpart clearance on the hiring and promotion of all SBTAs.

b. Provide technical evaluations of the work of SBTAs to line supervisors that will be incorporated in the advisors' annual personnel appraisals.

c. Obtain immediate notification of the decisions regarding method of procurement (e.g., Section 8(a), set aside, or unrestricted) made on each contract request throughout the Department; and to recommend and negotiate, alternatives, or appeal such decisions to the Assistant Secretary for Administration.

d. Intervene at any level in an organization unit (*procuring* or *program* area) to negotiate or recommend appropriate procurement action. Appeal to the Assistant Secretary for Administration when internal disputes arise or when the Director, OSDBU determines that the unit is not providing adequate opportunity to small and disadvantaged businesses.

e. If an organization unit head, a procurement unit head (within an organization unit), or the Director, OSDBU appeals to the Assistant Secretary for Administration, the Director shall have the option of advocating and recommending the position he/she feels is appropriate.

f. If a procuring official's decision not to place a procurement with SBA (pursuant to Section 8(a)), or not to make a small business set aside (pursuant to Section 15(a)), is appealed by the SBA, the Director, OSDBU may take a position favoring or opposing the appeal and support that position before the Assistant Secretary for Administration, who is delegated agency head authority in procurement matters.

.03 In the area of grants and cooperative agreements, the OSDBU shall perform the following functions:

a. Act as the Departmental focal point on matters concerning utilization of minority businesses in Departmental grants and cooperative agreements.

b. Establish uniform Departmental policy and goals, in cooperation with organization units, for utilizing minority businesses in awards under grants and cooperative agreements.

c. Designate, in conjunction with appropriate organization units, a Minority Business Coordiator who will be responsible on a daily basis for promotion and inclusion of minority businesses in the administration of grants and cooperative agreements.

d. Encourage awards to minority businesses by providing assistance and information to organization units.

e. Review, evaluate, and report to the Under Secretary the performance of organization units in accomplishing minority business goals in the area of grants and cooperative agreements.

f. Coordinate and provide input into Departmental positions on proposed legislation and government regulations in this area.

Juanita M. Kreps,

Secretary of Commerce.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 79-19206 Filed 6-19-79; 8:45 am]

BILLING CODE 3510-17-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 11, 1979.

The USAF Scientific Advisory Board meeting of the Aeronautics Panel Subcommittee on Aeropropulsion System Test Facility published in the Federal Register on May 31, 1979, page 31279, Volume 44, has been rescheduled for July 10-11, 1979. All other information remains the same.

For further information contact the USAF Scientific Advisory Board at (202) 697-8845.

Carol M. Rose,

Air Force Federal Register, Liaison Officer.

[FR Doc. 79-19094 Filed 6-19-79; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Groups of the NPC Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Meeting

Notice is hereby given that two task groups of the Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet in June 1979. The National Petroleum Council was established to provide

advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The two task groups scheduling meetings are the Tank Cars/Trucks Task Group and the Gas Pipeline Task Group. The time, location and agenda of each task group meeting follows:

The fifth meeting of the Tank Cars/Trucks Task Group will be on Friday, June 22, 1979, starting at 9 a.m., in the Terrace Room, Arizona Biltmore Hotel, 24th & Missouri, Phoenix, Arizona. The tentative agenda for the meeting follows:

1. Introductory remarks by Walter B. Smith, Jr., Chairman.
2. Remarks by Barry Yaffe, Government Cochairman.
3. Discuss status of data collection.
4. Review draft primer and glossary.
5. Discuss any other matters pertinent to the overall assignment of the task group.

The eighth meeting of the Gas Pipeline Task Group will be on Thursday, June 28, 1979, starting at 9 a.m., in the Princess Suite, The Warwick Hotel, 5701 Main Street, Houston, Texas. The tentative agenda for the meeting follows:

1. Introductory remarks by Larry E. Hanna, Chairman.
2. Remarks by Lucio D'Andrea, Government Cochairman.
3. Review of preliminary draft of the task group report.
4. Review of timetable for the completion of the report.
5. Discussion of any other matters pertinent to the overall assignment of the task group.

The meetings are open to the public. The chairman of the task group is empowered to conduct the meetings in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Mario Cardullo, Office of Resource Applications, 202-633-8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on June 14, 1979.

George S. McIssac,

Assistant Secretary for Resource Applications.

June 14, 1979.

[FR Doc. 79-19086 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 79-14-NG]

Columbia LNG Corp. et al.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for approval of new import prices for liquefied natural gas (LNG) and invitations to submit petitions to intervene.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application by Columbia LNG Corporation, Consolidated System LNG Company, and Southern Energy Company (applicants) for an order granting interim relief from increased costs, by approving an increase in the f.o.b. price of LNG sold by Sonatrach, the Algerian National Oil and Gas Company. Applicants have requested that such interim relief be granted by August 31, 1979. Applicants also request an order approving the amendments to the Sonatrach contract with EL Paso Algeria to issue not later than December 31, 1979.

Under the contract approved by the Federal Power Commission in Order No. 622-A, the base price for LNG is 30.5¢ per MMBtu. The amendments to the contract provide for the sale of LNG by Sonatrach at a base price of $1.75 per Million British thermal units (MMBtu) effective July 1, 1979, on a firm basis not subject to refund. The $1.75 per MMBtu rate would be adjusted by an initial discount of 60¢ per MMBtu. The discount rate will decrease by 10¢ per MMBtu each 6 months and will reach the maximum base of $1.75 per MMBtu on July 1, 1983. The base price is subject to escalation based on the price of No. 2 and No. 6 fuel oil in New York.

This application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204-25.

Petitions to intervene are invited.

DATES: Petitions to intervene: to be filed on or before July 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, NW., Room, 6318, Washington, D.C. 20461, telephone (202) 254-9730.

Lise Courtney Howe, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, telephone (202) 633-9380.

SUPPLEMENTARY INFORMATION: In 1972, the Federal Power Commission authorized applicants to import the LNG equivalent of approximately one billion cubic feet of natural gas per day into the United States. Pursuant to LNG Sales Agreements between applicants and El Paso Algeria (El Paso), delivers this LNG in cryogenic tankers to applicants' terminals at Cove Point, Maryland, and Elba Island, Georgia. El Paso purchases the LNG from Sonatrach, the Algerian National Oil and Gas Company, f.o.b. Arzew, at a current base price of 30.5¢ per MMBtu f.o.b. Arzew, Algeria, subject to certain escalation provisions. Deliveries of LNG commenced in March 1978. The LNG is delivered at a load factor of approximately 85 percent.

In their application the Applicants state that because of increase of capital and operating costs, Sonatrach needs immediate relief, in the form of a price increase, to continue to deliver LNG to El Paso. Consequently Sonatrach, El Paso, and the applicants negotiated an amendment (Amendment Agreement) to the contract between Sonatrach and El Paso, a copy of which was submitted as Appendix A to the Applicants' application. Under the terms of the Amendment Agreement, the Base Price, f.o.b. Arzew, Algeria, for LNG purchased by El Paso pursuant to the Sonatrach is U.S. $1.75 per MMBtu, effective as of July 1, 1979.

On January 1, 1980, and each July 1 and January 1 thereafter, the Base Price is adjusted in the following manner:

a. Fifty percent of the Base Price is adjusted for changes in the average of the daily prices for No. 2 Fuel Oil as published by *Platt's OILGRAM* under the heading "South and East Terminals (New York Harbor Area) No. 2 Fuel;" and

b. Fifty percent of the Base Price is adjusted for changes in the average of the daily prices for No. 6 Fuel Oil, as

published by *Platt's OILGRAM* under the heading "Atlantic and Gulf Coast Resid (New York District) No. 6 Fuel."

This Base Price, as adjusted, is reduced by certain discounts through June of 1983. The initial discount is 60¢ per MMBtu and this will decrease by 10¢ per MMBtu each 6 months reaching the maximum base of $1.75 per MMBtu on July 1, 1983.

Specifically, the Applicants have requested the following:

(a) An order to issue not later than August 31, 1979, approving and authorizing the payment of an interim price of $1.15 MMBtu price, adjusted for boil-off pursuant to the LNG Sales Agreement, plus any deferred payments payable subject to the Amendment Agreement, on a firm basis, not subject to refund;

(b) An order to issue not later than December 31, 1979 approving the Amendment Agreement, including approval of the fixed base price of $1.75 per MMBtu, adjusted for boil-off pursuant to the Sales Agreement and the escalation provisions contained in the contract;

(c) Amendment of ordering Paragraph (6) of Opinion 622–A (48 FPC 723 (1972)), as amended, by ordering Paragraph (B) of ERA Order issued May 8, 1979 by deleting the 146 cents therefrom and inserting in lieu thereof that the ceiling price shall be determined by a base price of 175 cents per MMBtu, as escalated and discounted in the Sonatrach Agreement, adjusted for boil-off pursuant to the LNG Sales Agreement and transportation costs of 106.16 cents per MMBtu; and

(d) Amendment of ordering Paragraph (7) of Opinion 622–A, as amended by ordering Paragraph (c) of ERA Order issued May 8, 1979 by deleting the 156 cents therefrom and inserting in lieu thereof that the ceiling price shall be determined by a base price of 175 cents per MMBtu, as escalated and discounted in the Amendment Agreement, adjusted for boil-off pursuant to the Sales Agreement and transportation costs of 116.23 cents per MMBtu.

OTHER INFORMATION: The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., July 10, 1979.

Any person wishing to become a party to the proceeding or to paticipate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is scheduled, due notice will be given.

A copy of the subject petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 13, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-19087 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the April 1 Through June 30, 1979 Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect revised utilization of Canadian light crude oil and increases in the export level of Canadian heavy crude oil for the months of April, May, and June 1979.

The revised utilization of Canadian light crude oil is due to a change in availability of condensate for export under an operational constraint through Sarnia, Ontario. Consumers Power Company, Marysville, Michigan (Consumers), a first priority refinery, usually nominates for and receives an allocation of light crude oil, all of which must be condensate. Consumers nominated for 1,200 barrels per day (B/D) of condensate for the second quarter, but because, at the time of issuance of the original notice, no condensate under the operational constraint was expected to be available in the second quarter, the company was given a zero allocation. However, the National Energy Board (NEB) later advised ERA of the availability of a total of 37,200 barrels of Canadian condensate through Sarnia in the second quarter.

The revised issuance of Canadian crude oil rights for the April 1, 1979, through June 30, 1979, allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three month allocation period commencing April 1, 1979, remains at the average level of 55,062 B/D. The revised average export levels for Canadian heavy crude oil by month are 118,715 B/D for April, 89,258 B/D for May, and 75,514 B/D for June. For purposes of determining the allocation of Canadian heavy crude oil, it has been assumed that the average export level will be 94,438 B/D for the three months. Pursuant to 10 CFR 214.35, ERA has given effect to the operational constraint in the revised issuance of Canadian crude oil rights for the April 1 through June 30, 1979, allocation period set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the allocation notice issued on March 16, 1979 (44 FR 17547, March 22, 1979). The Allocation Notice has been revised to provide for the allocation of the condensate to consumers at an average rate of 409 B/D.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 20, 1979.

Issued in Washington, D.C. on June 13, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Appendix.—*Canadian Allocation Program Rights—Apr. 1 through June 30, 1979*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes: Total Canadian runs	Base period volumes: Canadian light crude oil	Base period volumes: Canadian heavy crude oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
Amoco:								
Whiting, Ind	II	26,751	25,560	1,191	0	0	0	0
Casper, Wyo	II	2,991	2,991	0	0	0	0	0
Mandan, N. Dak	II	8,956	8,995	0	0	0	0	0
Sugar Creek, Mo	II	317	317	0	0	0	0	0
Arco: Cherry Point, Wash	II	34,225	34,225	0	0	0	0	0
Ashland:								
Buffalo, N.Y	II	36,752	32,033	4,719	0	0	0	0
Findlay, Ohio	II	2,198	33	2,165	0	0	0	0
St. Paul Park, Minn	I	[1]14,707	[1]13,127	[1]1,580	40,000	27,000	6,570	[2]15,336
Clark: Blue Island, Ill	II	18,764	18,764	0	0	0	0	0
Consumers Power:								
Essexville, Mich	I	13,872	13,872	0	0	0	0	0
Marysville, Mich	I	27,306	27,306	0	1,200	0	[3]409	0
Continental:								
Billings Mont	I	25,994	25,994	0	25,994	0	13,009	0
Denver, Colo	II	4,639	4,639	0	4,638	0	0	0
Ponca City, Okla	II	1,188	1,188	0	1,188	0	0	0
Wrenshall, Minn	I	20,651	20,651	0	20,651	0	10,336	0
CRA:								
Coffeyville, Kans	II	318	318	0	0	0	0	0
Phillipsburg, Kans	II	173	173	0	0	0	0	0
Scottsbluff, Nebr	II	401	401	0	0	0	0	0
Crystal: Carson City, Mich	II	1,104	1,104	0	0	0	0	0
Dow Chemical, U.S.A.: Bay City, Mich	II	2,767	2,767	0	0	0	0	0
Energy Cooperative: East Chicago, Ind	II	10,804	10,267	537	0	0	0	0
Exxon: Billings, Mont	I	15,908	15,908	0	16,000	0	7,962	0
Farmers Union: Laurel, Mont	I	13,439	13,439	0	13,500	0	6,726	0
Gladieux: Fort Wayne, Ind	II	774	774	0	0	0	0	0
Gulf: Toledo, Ohio	II	13,253	13,253	0	0	0	0	0
Husky:								
Cheyenne, Wyo	II	4,865	4,865	0	0	0	0	0
Cody, Wyo	II	806	806	0	0	0	0	0
Koch: Pine Bend, Minn	I	[1]44,383	[1]3,396	[1]40,987	0	95,000	0	[2]70,490
Lake Superior D.P.: Ashland, Wis	I	125	125	0	0	0	0	0
Lakeside: Kalamazoo, Mich	II	1,240	1,240	0	0	0	0	0
Laketon: Laketon, Ind	II	141	10	131	0	0	0	0
Little America:								
Casper, Wyo	II	2,248	2,248	0	0	0	0	0
Sinclair, Wyo	II	709	709	0	0	0	0	0
Marathon, Detroit, Mich	II	10,301	10,159	142	23,687	0	0	0
Mobil:								
Buffalo, N.Y	II	24,995	24,995	0	0	6,036	0	0
Ferndale, Wash	II	45,444	45,444	0	0	10,975	0	0
Joliet, Ill	II	14,606	2,132	12,474	0	12,989	0	0
Murphy: Superior, Wis	I	25,625	20,253	5,372	10,000	10,000	10,000	8,612
NCRA: McPherson, Kans	II	836	836	0	0	0	0	0
Pester Refining Co.: El Dorado, Kans	II	196	196	0	0	0	0	0
Phillips:								
Great Falls, Mont	II	1,222	1,222	0	0	0	0	0
Kansas City, Kans	II	3,352	3,105	247	0	0	0	0
Rock Island: Indianapolis, Ind	II	1,063	1,063	0	0	0	0	0
Shell:								
Anacortes, Wash	II	55,919	55,919	0	0	0	0	0
Wood River, Ill	II	8,673	8,673	0	0	0	0	0
Sohio: Toledo, Ohio	II	29,182	29,182	0	15,000	10,000	0	0
Sun: Toledo, Ohio	II	16,427	16,427	0	0	0	0	0
Tenneco: Chalmette, La	II	1,767	1,767	0	0	0	0	0
Texaco:								
Anacortes, Wash	II	41,229	41,229	0	0	0	0	0
Casper, Wyo	II	1,380	1,380	0	0	0	0	0
Lockport, Ill	II	1,244	1,244	0	0	0	0	0
Texas American: West Branch, Mich	II	2,011	2,011	0	0	0	0	0
The Refinery Corp.: Commerce City, Colo	II	174	174	0	0	0	0	0
Thunderbird: Cut Bank, Mont	II	554	554	0	50	0	[4]50	0
Total Petroleum: Alma, Mich	II	9,727	3,020	6,707	0	8,000	0	0
Union Oil of Calif.: Lemont, Ill	II	11,711	11,711	0	10,000	20,000	0	0
United Refining: Warren, Pa	II	9,917	9,789	128	0	0	0	0
Wyoming Refining Co.: New Castle, Wyo	II	676	676	0	0	0	0	0
Total priority I		202,010	154,071	47,939	127,345	132,000	55,012	94,438
Total priority II		469,029	440,588	28,441	54,563	68,000	50	0
Total I and II		671,039	594,659	76,380	181,908	200,000	55,062	94,438

[1]Adjusted.

[2]Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.

[3]Condensate—Average available for export through Sarnia to Consumers Power during this allocation period.

[4]Operational constraint.

[FR Doc. 79-19172 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

Continued Suspension of Oil Import Fees and Tariffs, June 13, 1979

The Department of Energy hereby gives notice that on June 12, 1979, the Secretary determined, in accordance with the provisions of Proclamation 3279, as amended, that the re-imposition of license fees and tariffs on petroleum and petroleum products would not be in accordance with the purposes of the Proclamation. Hence, the suspension of fees and tariffs which followed the issuance of Presidential Proclamation No. 4655, will continue for an additional six month period.

The Secretary's finding is set forth below. Fees and tariffs will be automatically re-imposed on January 1, 1980, unless the Secretary makes a similar finding. It should be noted that even though fees and tariffs have been suspended, a license is still required to import petroleum and petroleum products. Licenses may be obtained in accordance with the procedures set forth in 10 CFR, Part 213.

FOR FURTHER INFORMATION CONTACT: Robert D. R. de Sugny, Office of General Counsel, Department of Energy, Room 5116—Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

Issued in Washington, D.C., June 13, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Determination to Defer the Reimposition of Import License Fees and Tariffs on Imports of Petroleum and Petroleum Products

On April 6, 1979, the President issued Proclamation 4655 (44 FR 21243, April 10, 1979) which suspended license fees and tariffs on imports of petroleum and petroleum products until July 1, 1979. The Proclamation also delegated to me the authority to defer the reimposition of license fees and tariffs for an additional six months period in the event I determined that their reimposition "would not be in accordance with the purposes of [the] Proclamation."

The President based his action on the fact that in view of the then prevailing market shortages and price conditions, imposition of the fees and tariffs did not serve the purposes of the Mandatory Oil Import Program established pursuant to Proclamation 3279, as amended. As a consequence, the President found that the continued imposition of the tariffs and fees was unnecessary as long as the shortages persist.

Since that time there has been no significant change in international oil supplies. Shortages of crude oil and refined products on the world market have prevented U.S. refiners and importers from obtaining sufficient supplies to meet demand. It is estimated that during the first three months of 1979 imports were 700,000 barrels per day less than the level which would have been

desirable to restore our depleted stocks. As a consequence, the cumulative net shortfall of U.S. refinery stocks has risen to 80 million barrels and middle distillate stocks have fallen below minimum acceptable levels. Refinery utilization rates have decreased since December from 91 percent to 84.1 percent during April reflecting the shortages of petroleum. In addition, the world price of oil has risen dramatically since the April 6 Presidential Proclamation.

In view of the fact that the international shortages and adverse price impacts with respect to petroleum and petroleum products have continued and that there is no prospect for an immediate significant change in the world supply of petroleum, I have determined that reimposition of the fees and tariffs at this time would not be in accordance with the purposes of Proclamation 3279, as amended.

Therefore, in accordance with the authority delegated to me in Sections three and five of Proclamation 4655, I hereby defer imposition of the $0.21 and $0.63 fees, set forth in Section 3(a)(i) and (ii) of Proclamation 3279, as amended, as well as the tariffs listed in Schedule 4, Parts 2 and 10, of the Tariff Schedules of the United States, on imports of petroleum and petroleum products as defined therein until January 1, 1980.

Issued in Washington, D.C., June 12, 1979.

James R. Schlesinger,

Secretary, Department of Energy.

[FR Doc. 79-19188 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GP79-25]

Amoco Gas Co.; Petition

June 13, 1979.

Take notice that on May 24, 1979, Amoco Gas Company (Amoco), P.O. Box 3092, Houston, Texas 77001, filed in Docket No. GP79-25 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order stating that Amoco is an intrastate pipeline as defined in Section 2(16) of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Amoco states that under Section 311(b) of the NGPA, an intrastate pipeline can sell gas to the interstate market without becoming jurisdictional, but that a local distribution company cannot. Amoco presently has access to intrastate gas that it desires to sell to the interstate market pursuant to Section 311(b) of the NGPA and has a prospective purchaser for a portion of such gas. However, states Amoco, it is not clear under the NGPA or the Commission's regulations thereunder whether Amoco would be classified as an intrastate pipeline or local distribution company for the purposes of the NGPA. Amoco states that it cannot commit itself to make interstate sales until this uncertainty is resolved.

Since Amoco does not engage in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act, it must be classified as either an intrastate pipeline or a local distribution company, it is stated. Amoco indicates that the ambiguity surrounding Amoco's proper classification is caused by that language in the definition of an intrastate pipeline which excludes from intrastate pipeline status those pipelines not subject to the jurisdiction of the Commission solely by reason of Section 1(c) of the Natural Gas Act. Amoco feels that this language, read in isolation from other portions of the NGPA, excludes all so-called Hinshaw pipelines from the status of intrastate pipelines under that Act. It is stated that the prohibition against interstate gas sales by local distribution companies under Section 311(b) of the NGPA is understandable only if applied to those companies which receive gas from one or more interstate pipelines for resale to industrial, commercial, and residential consumers. Amoco alleges that it receives interstate gas only under a transportation and exchange agreement; therefore, all the gas which Amoco would sell interstate would be attributable to intrastate sources.

Amoco contends that it has no distribution facilities as all of its sales are made directly off of its pipelines and laterals; thus, its physical plant does not fit the common interpretation of a local distribution company. Amoco states that to classify it as such would not only bar Amoco from selling intrastate gas to the interstate market under Section 311(b) of the NGPA, but would make Amoco eligible to purchase gas from out of state intrastate pipelines under Section 311(b).

It is stated that classifying so-called Hinshaw pipelines which do not receive interstate gas for general system supply as local distribution companies would frustrate one of the major goals Congress sought to achieve in enacting the NGPA; that is, getting intrastate gas to the interstate market. Additionally, states Amoco, there are no disadvantages from an administrative or public policy point of view in classifying Hinshaw pipelines like Amoco's as intrastate pipelines.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19118 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER-77-521]

Arizona Public Service Co.; Notice of Motion For Approval of Settlement Stipulation

June 13, 1979.

Take notice that Arizona Public Service Company (APS) on May 22, 1979, tendered for filing a motion for approval of a settlement stipulation entered into by APS and all the customers appearing in this proceeding.

APS indicates a rate increase was originally filed on July 21, 1977, a hearing was held and Judge Raymond Zimmet rendered an Initial Decision on December 19, 1978. APS states that subsequently all parties participated in settlement discussions which resulted in this stipulation. APS further states that the Commission Staff has not expressed any reservations as to the substance of the stipulation.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before July 5, 1979. Protests 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. 79-19119 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-145]

Arizona Public Service Co., Notice of Certification

June 13, 1979.

Take notice that Judge Thomas Howe on May 24, 1979 certified to the Commission a Stipulation and Offer of Settlement. The Judge indicates that no hearing was held.

Any person desiring to be heard or to protest said certification should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before July 5, 1979. Protests 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. 79-19120 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-391]

Central Illinois Light Co.; Notice of Filing Modification No. 3

June 13, 1979.

The filing Company submits the following:

Take notice that Central Illinois Light Company ("CILCO") on May 30, 1979, tendered for filing proposed Modification No. 3 to the Interconnection Agreement (Agreement) dated August 31, 1976, between Central Illinois Light Company and Central Illinois Public Service Company. The Commission has previously designated the August 31, 1976 Agreement as Central Illinois Public Service Company Rate Schedule FPC No. 81 and Central Illinois Light Company Rate Schedule FPC No. 20.

The parties state that Modification No. 3 provides for a proposed increase in the charges effective Aug. 1, 1979 for Maintenance, Short-Term Firm and Short-Term Non-Firm Power transactions between Central Illinois Public Service Company and Central Illinois Light Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 79-19121 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-385]

Central Telephone & Utilities Corp.; Notice of Filing

June 1, 1979.

The filing Company submits the following:

Take notice that on May 25, 1979, the Central Telephone & Utilities Corporation (CTU) tendered for filing an Interconnection Contract, dated May 22, 1979, between CTU, Western Power Division, and the City of Stockton, Kansas. Included with this filing are Agreements between CTU and the City of Stockton covering Service Schedules A1, Firm Power Service, and Service Schedule B, Emergency Service, which are attachments to the Interconnection Contract dated May 22, 1979.

Copies of the filing were served upon the City of Stockton, Kansas, and the Utilities Division, Kansas Corporation Commission, Topeka, Kansas.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before June 22, 1979. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19122 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-387]

Central Telephone & Utilities Corp.; Notice of Filing

June 1, 1979.

The filing Company submits the following:

Take notice that Central Telephone & Utilities Corporation (CTU) on May 29, 1979, tendered for filing proposed changes in its Federal Power Commission Electric Service Tariff No. 33.

CTU states that the filing is Service Schedule P, Participation Power Service, which provides electric power and accompanying energy to be supplied June 1, 1979, through May 31, 1980, to Sunflower Electric Cooperative, Inc., (Sunflower). CTU further states that CTU desires to sell Sunflower 25 MW of capacity from the CTU total generation system.

CTU proposes an effective date of June 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10. All such petitions or protests should be file on or before June 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19123 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-142, RP76-135, RP78-76 (PGA79-2 and AP79-2)]

Cities Service Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

June 12, 1979.

Take notice that Cities Service Gas Company (Cities Service) on June 1, 1979, tendered for filing Substitute Second Revised Third Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is in compliance with the Commission's order of May 18, 1979, accepting Cities Service's March 22, 1979 filing and requiring that a substitute tariff sheet be filed which would eliminate such charges by suppliers which they were not authorized to charge Cities Service at April 23, 1979.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP 76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before June 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19124 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-326]

Columbia Gulf Transmission Co.; Notice of Petition To Amend

June 1, 1979.

Take notice that on May 14, 1979, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP77-326 a petition to amend the order of August 5, 1977, issued in said docket pursuant to section 7(c) of the Natural Gas Act so as to permit Columbia Gulf to increase the volume of gas to be transported on behalf of Sea Robin Pipeline Company (Sea Robin) from 50,000 Mcf per day to 100,000 Mcf per day, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.[1]

Columbia Gulf has entered into a gas transportation agreement with Sea Robin, dated March 15, 1977, which provides that Columbia Gulf would accept and receive up to 50,000 Mcf of natural gas per day and that Sea Robin, at its election, had the right to have transported to it, and additional 50,000 Mcf of gas per day, it is stated. It is indicated that the Commission in Docket No. CP77-326, *et al*, authorized Columbia to commence transportation of up to 50,000 Mcf per day of gas to Sea Robin with the provision that Sea Robin has the option of increasing its transported volume by an additional 50,000 Mcf per day of gas, to be exercised within 24 months from the completion of the necessary facilities by Columbia Gulf.

Columbia Gulf states that an amendment to the transportation agreement, dated March 21, 1979, provides that Columbia Gulf would transport for Sea Robin an additional volume of 50,000 Mcf of gas per day which Sea Robin has available from West Cameron Blocks 609 and 617, offshore Louisiana, to Egan, Louisiana through facilities authorized in Docket Nos. CP75-262 and CP75-359 and through the Blue Water Project, which was constructed under authorizations granted in Docket Nos. CP68-231, CP74-180, CP75-297, CP76-349 and CP77-65. Columbia Gulf further states that at Egan, Louisiana, the gas would be retained in Columbia Gulf's pipeline with a thermally equivalent volume of gas being delivered to Sea Robin at Erath, Louisiana at the terminus of Sea Robin's offshore pipeline.

It is asserted that Columbia Gulf has agreed to a reduction in the contract demand by 10,000 Mcf per day of gas or any multiple thereof, to no less than a total contract demand of 60,000 Mcf per day, with no reduction being effective prior to the expiration of twelve months from the last reduction. Columbia Gulf states that such reductions would be at Sea Robin's election and was granted in view of the possibility that the deliveries to Sea Robin from West Cameron Blocks 609 and 617 would decline in the foreseeable future.

It is stated that the amendment to the agreement changes Section 2.1 of the agreement to delete language not now applicable and Section 9.1 to set forth the full understanding of Columbia Gulf and Sea Robin regarding curtailments of the contract demand.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 25, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19125 Filed 6-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER79-383]

The Connecticut Light & Power Co.; Notice of Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice that on May 24, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Ipswich Municipal Light Department (IPSWICH).

CL&P states that the Transmission Agreement provides for a transmission service to IPSWICH during the period from April 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of

the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which IPSWICH is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by IPSWICH to intervening systems.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and IPSWICH, Ipswich, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19128 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01

[Docket No. ER79-420]

The Connecticut Light & Power Co.; Notice of Transmission Agreement

June 13, 1979.

The filing Company submits the following: Take notice that on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Middleton Municipal Light Department (MIDDLETON).

CL&P states that the Transmission Agreement provides for a transmission service to MIDDLETON for the wheeling of MIDDLETON's entitlement in the Vermont Yankee nuclear generating facility during the period from April 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of Poll Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which MIDDLETON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by MIDDLETON to intervening systems.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and MIDDLETON, Middleton, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 79-19127 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-421]

The Connecticut Light & Power Co.; Notice of Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice that on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Holden Municipal Light Department (HOLDEN).

CL&P states that the Transmission Agreement provides for a transmission service to HOLDEN for the wheeling of HOLDEN'S entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which HOLDEN is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by HOLDEN to intervening systems.

CL&P requests an effective date of March 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO Hartford, Connecticut; WMECO, West Springfield, Massachusetts and HOLDEN, Holden, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19128 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-422]

The Connecticut Light & Power Co.; Notice of Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Middleborough Gas and Electric Department (MIDDLEBOROUGH).

CL&P states that the Transmission Agreement provides for a transmission service to MIDDLEBOROUGH for the wheeling of MIDDLEBOROUGH's entitlement in the Vermont Yankee nuclear generating facility during the period from April 1, 1979 to October 31, 1981.

The transmission charge is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which MIDDLEBOROUGH is entitled to receive during such month. The monthly transmission charge will be reduced 50% to give due recognition for payments made by MIDDLEBOROUGH to intervening systems.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and MIDDLEBOROUGH, Middleborough, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19129 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No ER79-423]

The Connecticut Light & Power Co.; Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice that on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) West Boylston Municipal Light Department (WEST BOYLSTON).

CL&P states that the Transmission Agreement provides for a transmission service to WEST BOYLSTON for the wheeling of WEST BOYLSTON's entitlement in the Vermont Yankee nuclear generating facility during the period from April 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which WEST BOYLSTON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by WEST BOYLSTON to intervening systems.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and WEST BOYLSTON, West Boylston, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19130 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No ER79-424]

The Connecticut Light & Power Co.; Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice that on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Templeton Municipal Light Department (TEMPLETON).

CL&P states that the Transmission Agreement provides for a transmission service to TEMPLETON for the wheeling of TEMPLETON's entitlement in the Vermont Yankee nuclear generating facility during the period from April 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which TEMPLETON is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by TEMPLETON to intervening systems.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and TEMPLETON, Baldwinville, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19131 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-425]

The Connecticut Light & Power Co.; Transmission Agreement

June 13, 1979.

The filing Company submits the following:

Take notice that on *June 6, 1979,* The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Hull Municipal Light Department (HULL).

CL&P states that the Transmission Agreement provides for a transmission service to HULL for the wheeling of HULL's entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-month), and (ii) the number of kilowatts which HULL is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by HULL to intervening systems.

CL&P requests an effective date of March 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and HULL, Hull, Massachusetts.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19132 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2580]

Consumers Power Co.; Notice of Application for Approval of Revised Exhibit R

June 11, 1979.

Take notice that on October 23, 1978, an application for approval of revised Exhibit R was filed by the Consumers Power Company (CPC), Licensee for the Tippy Project No. 2580 located on the Manistee River in Manistee County, Michigan. Correspondence regarding the application should be sent to: Mr. Paul A. Perry, Secretary, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

CPC submitted its revised Exhibit R (Recreation plan) in accordance with Article 33 of the license for the Tippy Project. As described in the recreational plan, CPC currently leases (1) three

areas to the Department of Natural Resources, (2) two areas to private individuals for commercial access, (3) nine sites for private cabins, and (4) other areas to service groups, including the Boy Scouts. CPC maintains a canoe portage over the embankment north of the powerhouse for public use.

CPC proposes to reserve 5 areas of project lands for future recreational development. The areas are described as follows: (1) a canoe takeout and vehicle parking area consisting of 23 acres located on the east shore of the Pine River just downstream of Stronach Dam; (2) a fishing site and parking area, consisting of 77 acres located immediately downstream of Tippy Dam; (3) a camping area, boat launching and fishing site, consisting of 16 acres, located on the north shore of Tippy Pond adjacent to an existing recreation lease; (4) a wilderness camping area consisting of 37 acres located on the upstream area of the Manistee River; and (5) a camping and fishing access site consisting of 80 acres and located on the Manistee River arm of the Tippy Project.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 20, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-19134 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-419]

Duke Power Co.; Notice of Supplement to Electric Power Contract

June 13, 1979.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on June 7, 1979 a supplement to the Company's Electric Power Contract with York Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 146.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 13 of 1800 Kw.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of August 20, 1979.

According to Duke Power copies of this filing were mailed to York Electric Cooperative, Inc. and the South Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19133 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-47]

El Paso Electric Co.; Notice of Application

June 5, 1979.

Take notice that on May 30, 1979, El Paso Electric Company (Applicant), filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue up to 1,500,000 shares of common stock, no par value, via competitive bidding. The Applicant is a Texas corporation, with its principal business office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The proceeds from the sale of the common stock will be used to reduce outstanding short-term debt incurred for construction purposes. The short-term debt is expected to aggregate approximately $67 million at the time of sale and prior to the application of the proceeds. The Company estimates that its cash construction expenditures for the period 1979–1982 will be approximately $446 million.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 25, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19135 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-195]

Florida Power Co.; Notice of Joint Motion

June 13, 1979.

Take notice that Florida Power Corporation and the Florida municipalities which have intervened in this case on May 29, 1979 tendered for filing a joint motion requesting the Commission to accept filing and terminate docket.

On April 10, 1979, the Commission ordered a hearing in this docket concerning the lawfulness of revisions filed by the Company to its transmission service tariff. The Company and the Intervenors indicate that they have been able to agree before the hearing on tariff language which will resolve all the issues in this docket.

Together with this motion the Company and the Intervenors file revised sheets to its transmission service tariff which incorporate language agreed upon, and urge prompt Commission acceptance of this filing.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before July

5, 1979. Protests 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. 79-19136 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-389]

Florida Power Corp.; Notice of Rate Change Filing

June 13, 1979.

The filing Company submits the following:

Take notice that on May 30, 1979, Florida Power Corporation ("Florida Power") tendered for filing a revision to the daily capacity charge for its scheduled interchange service to Florida Power & Light Company ("FP&L") under an interconnection agreement between the two companies. According to Florida Power, the revised charge of $67.26 per MW per day is based on 1978 data and is derived according to the same method shown in cost support schedules submitted with the interconnection agreement. According to Florida Power, the present daily capacity charge based on 1976 data is $54.11 per MW per day.

Florida Power requests that the revised daily capacity charge be made effective on May 1, 1979 and requests waiver of the 60-day notice requirement.

According to Florida Power, the filing has been served on FP&L and the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before June 26, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Florida Power are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19137 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-390]

Florida Power Corp.; Notice of Rate Change Filing

June 13, 1979.

The filing Company submits the following:

Take notice that on May 30, 1979, Florida Power Corporation ("Florida Power") tendered for filing a revision to the daily capacity charge for its scheduled interchange service to Tampa Electric Company ("TECO") under an interconnection agreement between the two companies. According to Florida Power, the revised charge of $67.26 per MW per day is based on 1978 data and is derived according to the same method shown in cost support schedules submitted with the interconnection agreement. According to Florida Power, the present daily capacity charge based on 1976 data is $54.11 per MW per day.

Florida Power requests that the revised daily capacity charge be made effective on May 1, 1979 and requests waiver of the 60-day notice requirement.

According to Florida Power, the filing has been served on TECO and the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before June 26, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Florida Power are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19138 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-49]

Gulf States Utilities Co.; Notice of Application

June 13, 1979.

Take notice that on June 8, 1979, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of up to 350,000 shares of New Preferred Stock, $100 par value, via competitive bidding. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge, Louisiana and vicinity.

The proceeds from the sale of the new securities will be used to pay off a portion of the Company's outstanding short-term bank notes previously authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 29, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petition or protests in accordance with the reqiurements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19139 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-392, ER79-393, ER79-394, ER79-395, ER79-396, ER79-397, ER79-398]

Illinois Power Co., Notice of Filing

June 13, 1979.

Take notice that Illinois Power Company on May 30, 1979 tendered for filing Agreements for Purchase of Power between Illinois Power and the following municipalities located in Illinois:

City of Princeton—ER79-392
City of Waterloo—ER79-393
City of Peru—ER79-394
City of Mascoutah—ER79-395
Village of Freeburg—ER79-396
Cities of Breese and Carlyle—ER79-397
City of Highland—ER79-398

Illinois Power requests waiver of the Commission's notice requirements to allow for a May 1, 1979 effective date for these agreements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19140 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-103]

Indiana & Michigan Electric Co.; Notice of Certification

June 13, 1979.

Take notice that the Presiding Judge Graham McGowan on May 30, 1979, certified to the Commission a proposed settlement agreement entered into by Indiana & Michigan Electric Company and Northern Indiana Public Service Company on May 9, 1979. The Judge indicates that the parties and Staff stated that the settlement agreement was a full settlement of the issues existing among them.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before July 5, 1979. Protests 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. 79-19141 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-384]

Indianapolis Power & Light Co.; Notice of Proposed Changes in Rates and Charges

June 13, 1979.

The filing Company submits the following:

Take notice that Indianapolis Power & Light Company (Indianapolis Company) on May 24, 1979, tendered for filing Modification No. 5 dated as of May 1, 1979, to the Interconnection Agreement dated December 2, 1968, as heretofore modified, between Indianapolis Company and Southern Indiana Gas and Electric Company (Southern Indiana Company), designated Indianapolis Rate Schedule FPC No. 6.

Indianapolis Company indicates that Section 1 of Modification No. 5 provides for an increase in the Demand Charge for Short Term Power from $0.60 to $0.70 per kilowatt per week and from $0.10 to $0.12 per kilowatt per day for Short Term Power sold (purchased) for periods less than one week. Indianapolis Company further indicates that Section 2 of said Modification provides for an increase in the Demand Charge for Limited Term Power (Firm) from $3.25 to $3.75 per kilowatt per month. Waiver of any requirements of Section 35.13 of the Commission's Regulations under the Federal Power Act not already complied with is requested. Waiver of notice requirement is also requested pursuant to Section 35.11 of the Commission's Regulations to permit an effective date of May 1, 1979 for Modification No. 5. A copy of this filing was sent to Southern Indiana Company and the Public Service Commission of Indiana, according to Indianapolis Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding, any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19142 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-382]

Iowa-Illinois Gas and Electric Co.; Notice of Tariff Change

June 12, 1979.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company (Applicant), 206 East Second Street, P.O. Box 4350, Davenport, Iowa, 52808, on May 24, 1979, tendered for filing pursuant to § 35.13 of the Regulations under the Federal Power Act, a proposed change in its Rate Schedule WES (applicable only to Sherrard Power System, Orion, Illinois), FERC Wholesale Electric Tariff, Original Volume No. 1. The change, proposed to be effective July 23, 1979, would increase revenues from jurisdictional sales and service by $1,020,498 based on the Period II 1979 test period.

Applicant alleges that the reason for the proposed increased revenues is because its operating income has declined to a level which provides an inadequate return. It further alleges that it is essential in the interest of preserving its financial integrity that its revenues and operating income be restored to a level to adequately meet the operating expenses necessary to provide good electric service and to attract the additional capital required.

Copies of the filing were served upon Sherrard Power System and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's

Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19143 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-166]

Kansas City Power & Light Co.; Notice of Filing

June 13, 1979.

Take notice that on May 29, 1979, the Kansas City Power & Light Company ("KCPL") tendered for filing Supplement A to its original filing, pursuant to the Commission's Order of March 28, 1979.

KCPL indicates that Supplement A contains revised exhibits and rate schedules to reflect summary dispositions with regard to the federal income tax rate, nuclear fuel in rate base, and EPRI contribution issues.

KCPL also submitted for filing, supplement B to its original filing, which contains revised exhibits to reflect the effect of other changes which occurred during the test year ending June, 1978, or thereafter, through January 1, 1979.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before July 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19144 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2911]

Ketchikan Public Utilities; Notice of Application for Major License for an Unconstructed Project

June 11, 1979.

Take notice that on February 28, 1979, Ketchikan Public Utilities (Applicant) filed an application with the Federal Energy Regulatory Commission (Commission) under the Federal Power Act, 16 U.S.C. 791a–825r for a major license for the unconstructed Swan Lake Project No. 2911. (Correspondence to Mr. Donald D. Bowey, Utilities Manager, Ketchikan Public Utilities, 334 Front St., P.O. Box 7300, Ketchikan, Alaska 99901) The project is located on Falls Creek in the Ketchikan Gateway Borough, Alaska.

The Swan Lake Project affects public lands of the United States located within the Tongass National Forest.

The Swan Lake Project has a projected total installed capacity of 22,000 kW and an estimated cost of $80,924,000. The project would consist of the following principal features:

(1) a double-curvature concrete arch dam, 190 feet high and 500 feet long at its crest, located ¾ mile downstream from the outlet of the existing Swan Lake, and having a 100-foot-wide ungated ogee service spillway section flanked by 50-foot-wide auxiliary spillways; (2) Swan Lake Reservoir, with a surface area of 1,500 acres and usable storage of 86,000 acre-feet at a normal maximum reservoir elevation of 330 feet (local datum); (3) a 2,400-foot-long concrete-lined power tunnel, 10 feet in diameter; (4) an indoor-type concrete powerhouse, located north of the mouth of Falls Creek on Carroll Inlet, containing two generating units of 11,000 kW each; (5) a substation adjacent to the powerhouse; (6) port facilities consisting of a high-tide barge landing grid and a small dock; (7) an access road, 0.8 miles long, from the port facilities to the powerhouse and dam; and (8) a 30.5-mile-long, 115-kV transmission line leading from the powerhouse substation to the Southwest Bailey Substation in Ketchikan.

The power generated at Project No. 2911 would be marketed throughout Applicant's system.

In order to enahnce recreational opportunities in the project area, Applicant proposes to: (1) construct a boat dock on Carroll Inlet near the point where Falls Creek enters the Inlet; (2) provide picnic tables and sanitary facilities on the shore; (3) allow the Swan Lake access road to be used as a hiking trail for fishing access to the lake; and (4) provide a public information area at the powerhouse site.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.18 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before August 12, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-19145 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-14 (PGA79-1) (DCA79-1) (AP79-2) and RP79-39]

Michigan-Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Conditions and Consolidating Proceedings

Issued June 8, 1979.

On March 15, 1979, Michigan-Wisconsin Pipe Line Company (Mich-Wisc) filed First Revised Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1, which reflects an overall increase in purchased gas costs of $124,371,631. On May 9, 1979 Mich-Wisc submitted supplemental information in response to a deficiency letter. The filing reflects increased purchased gas costs, an advance payments rate adjustment, and a surcharge to recover costs incurred during 1978 for transportation by HIOS.[1] Mich-Wisc proposes May 1, 1979 as the effective date for this revised tariff sheet.

Based upon a review of Mich-Wisc's filing, the Commission finds that the proposed PGA rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise

[1] High Island Offshore System.

unlawful. Accordingly, the Commission shall accept Michigan-Wisconsin's First Revised Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1 for filing, subject to conditions, grant waiver of the 30 day notice requirements and suspend the effectiveness such that it shall become effective, subject to refund, as of May 1, 1979.

Mich-Wisc proposes a repricing of its company-owned production from post October 7, 1969, leases to reflect the NGPA prices allowed independent producers pursuant to the NGPA. The Commission has not yet determined the appropriate price to be assigned to pipeline production under the Natural Gas Policy Act (NGPA) of 1978. The Commission shall therefore require that the costs associated with Michigan-Wisconsin's pipeline production be collected subject to refund and subject to the Commission's final NGPA Regulation (on rehearing) governing this issue.

Mich-Wisc further proposes an advance payments adjustment in the form of a commodity rate decrease of .32 cents per Mcf. Upon review of the information submitted by Mich-Wisc in support of this adjustment, the Commission finds an insufficient basis upon which to determine the appropriateness of the repayments reflected herein. Additionally, the Commission notes that Mich-Wisc has pending a general rate increase request in Docket No. RP79-39. Among the issues to be resolved in Docket No. RP79-39 is the proper treatment of certain advance payments by Mich-Wisc.

The proceeding in Docket No. RP79-39 is in its preliminary stages, and a hearing has not yet commenced. Based upon a review of the advance payments issue in both Docket No. RP79-39 and this Docket No. RP73-14, the Commission finds that common issues of law and fact are involved. Accordingly, we shall consolidate the two proceedings for purposes of hearing and decision on the advance payments issue.

The acceptance of this filing is further conditioned upon the elimination by Mich-Wisc of those costs from its producer and pipeline suppliers which those suppliers were not actually authorized to charge as of May 1, 1979, pursuant to the Natural Gas Act, the regulations pursuant to the Natural Gas Act, the NGPA, and the regulations pursuant to the NGPA. These proposed costs have not been found to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Mich-Wisc is additionally required to submit data in response to the items listed in Appendix A to this Order.

This filing also reflects $28,749,385 in NGPA costs which were estimated during the period from December 1, 1978 through April 30, 1979. Mich-Wisc proposes to recover that amount over a 12-month period commencing May 1, 1979. The Commission finds that Mich-Wisc may recover the $28,749,385 over a 12-month period, consistent with the Commission Order issued January 29, 1979 in Docket No. RM79-7.[2] Mich-Wisc is therefore permitted to recover those estimated increased purchased gas costs which are directly attributable to the NGPA for the period December 1, 1978 through April 30, 1979, over the twelve month period from May 1, 1979 through April 30, 1979.

The Commission Orders:

(A) Subject to the conditions of the Orders Paragraphs below, Michigan-Wisconsin Pipe Line Company's proposed First Revised Sheet No. 7 to F.E.R.C. Gas Tariff, Original Volume No. 1, is accepted for filing and suspended, and waiver of notice requirements is granted such that the filing shall become effective May 1, 1979, subject to refund.

(B) Michigan-Wisconsin shall file within 15 days of issuance of this order revised tariffs sheets to become effective subject to refund on May 1, 1979, reflecting the elimination of costs from producer and pipeline supplies which those suppliers are not authorized to charge Michigan-Wisconsin on or before May 1, 1979 pursuant to applicable Commission orders, the NGPA, the Natural Gas Act and the Regulations thereunder. This filing shall be accompanied by the data prescribed in Appendix A to this order.

(C) Docket No. RP73-14, *et al.*, and Docket No. RP79-39 are consolidated for purposes of hearing and decision on the issue of advance payments. The consolidated proceeding shall be conducted pursuant to the procedural schedule to be set in Docket No. RP79-39.

(D) The costs associated with Michigan-Wisconsin's company-owned production shall be collected subject to refund, in accordance with Ordering Paragraph (A) above. The ultimate determination as to the just and reasonable rate to be charged for such company-owned production shall be governed by the Commission's final NGPA Regulations on rehearing governing this issue.

(E) Waiver of Michigan-Wisconsin's PGA clause is granted and Michigan-Wisconsin is permitted to recover estimated NGPA costs for the period from December 1, 1978 through April 30, 1979 over a 12-month period, consistent with the Commission order in Docket No. RM79-7.

By the Commission.

Kenneth F. Plumb,

Secretary.

APPENDIX A.

The revised filing should clearly indicate the adjustments to the original submittal and for those sources of supply covered by maximum lawful prices prescribed under Sections 102, 103, 107 and 108 of NGPA and included in the revised rates, the following information should be provided for both the current adjustment and for amounts to be recouped through the surcharge:

(1) Identification of each source of supply, including the well identification number or other information sufficient to identify the well and the contract date or rate schedule number where the gas was committed or dedicated to interstate commerce on November 8, 1978;

(2) where multiple wells are metered through a common delivery point or where production from multiple wells is sold under single contract, identify each well where the gas is priced as new natural gas and certain OCS natural gas, natural gas from onshore production wells, high-cost natural gas or stripper well natural gas;

(3) identify each source of supply being priced under the Commission's transitional rule and include statement, under oath, that to the best of pipeline purchaser's knowledge the filing requirements for collection of the price have been met;

(4) identify each source of supply where a maximum lawful price is being paid pending determination of eligibility by the jurisdictional agency and provide date of receipt of producer filing under the interim collection procedure;

(5) identify each source of supply where a jurisdictional agency determination has been made and provide date of receipt of notice from producer of election to collect the applicable price;

(6) described basis for payment of the above prices and show for each source of supply whether payment is in response to area rate clause, clause related to Congressional action, contract amendment or other (explain).

For those prices escalated under Sections 104 and 106(a) of NGPA and included in the revised rates, the pipeline should provide explanation for the payment of these escalated prices. Where payment is in response to area rate clauses, clauses related to Congressional action, contract

[2] The Commission granted waiver of § 154.38(d)(4)(x)(*a*) to permit a 12-month recovery period for the amounts directly attributable to the NGPA for the period December 1, 1978 through April 30, 1979, upon finding that ". . . the dollar amount attributable to NGPA that will be recorded in the deferred account and included in the May 1, 1979 adjustment will be sufficient to warrant recovery over a longer period than the 6 months provided in the PGA clause."

amendments or other agreements the explanation should so indicate.

[FR Doc. 79-19146 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-61]

Mountain Fuel Resources, Inc.; Notice of Filing of Stipulation and Agreement

June 12, 1979.

Public notice is hereby given that on April 27, 1979, Mountain Fuel Resources, Inc. ("Resources") filed a stipulation and agreement in the proceeding on Resources' proposed rate increase in Docket No. RP78-61. The stipulation and agreement represents a settlement consented to by Resources, Mountain Fuel Supply Company (the sole sale-for-resale customer of Resources), intervenor Rocky Mountain Natural Gas Company, Inc., and the Commission staff.

The original rate filing made by Resources on April 28, 1978, as amended on May 15, 1978, proposed a rate increase from $0.8458 per Mcf (at 14.73 psia) to $0.99 per Mcf. Under the proposed settlement agreement, the increased rate would be reduced to $0.8475 per Mcf. The settlement rate would be made effective retroactively to November 16, 1978, the date upon which the filed rate went into effect subject to refund.

In addition, the rate for transportation service rendered by Resources for Rocky Mountain Natural Gas Company, Inc. would be increased. The new unit price for transportation would be $0.1405 per Mcf. The increase in the transportation rate would become effective July 15, 1979.

Any person desiring to be heard or to protest or comments with respect to application should, on or before June 29, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Replies to such comments should be filed on or before July 9, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19147 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-875]

Nevada Power Co., Notice of Compliance Filing

June 13, 1979.

Take notice that Nevada Power Company on April 26, 1979, tendered for filing, in accordance with the Commission letter dated January 26, 1979, modified by the March 12, 1979 meeting among representatives from the Commission Staff, CP National and Nevada Power Company, the following schedules:

(1) Summary Cost of Service, Schedules Nos. 1, 2, 3, 4, 6 and 9.

(2) Revenues under proposed rates for the twelve months ending 07/31/77.

(3) Revised rate schedule for CP National at Needles, California.

(4) Revised statement 00-1 reflecting the use of interchanges out credit.

(5) Revised statement 00-2 using incremental costs for interchanges out.

On May 8, 1979, Nevada Power Company refiled (1) Revised rate schedule for CP National at Needles, California, (2) Revised statement 00-1 and (3) Revised statement 00-2, because there were certain errors contained in the schedules submitted April 26, 1979.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10).

All such protests should be filed on or before July 5, 1979. Protests will be considered by the Commission in determining the approrpriate 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. 79-19148 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket NO. ER79-418]

Pacific Power & Light Co.; Notice of Filing

June 13, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on June 6, 1979, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for power sales to Tucson Gas & Electric Company (Tucson).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective June 1, 1979, which it claims is the date service is to commence.

Copies of the filing were supplied to Tucson.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19149 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2000]

Power Authority of the State of New York; Notice of Application for Approval of Revised Exhibit K

June 11, 1979.

Take notice that on April 16, 1979, an application for approval of revised Exhibit K was filed by the Power Authority of the State of New York (PASNY), Licensee for the St. Lawrence Project No. 2000 located on the St. Lawrence River in the State of New York. Correspondence regarding the application should be sent to: Mr. George T. Berry, Executive Director, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019; also to Lewis R. Bennett, Esq., General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

PASNY seeks Commission approval to remove 163.7 acres of land from the project area. These lands contain developed and undeveloped residential lots and a road system that serves the

Wilson Hill residential subdivision. 283 of the lots are located on Wilson Hill Island in Lake St. Lawrence. The remaining five lots are located on the mainland in an area known as Mutton Ridge. The majority of the lots (158) are leased to private individuals for residential purposes. No recreational facilities are located on the lands proposed to be excluded from the project and PASNY states that such lands do not have recreational value.

Once removed from the project boundary, PASNY plans to sell the currently leased lots to the lessees. The remaining unleased lots in the Wilson Hill subdivision cannot be sold or improved until suitable water and/or sewer systems are approved by the New York State Department of Health.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 20, 1979. The Commission's address is: 825 N. Captiol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-19150 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-414]

Puget Sound Power & Light Co.; Notice of Filing

June 13, 1979.

Take notice that on May 21, 1979, the Puget Sound Power & Light Company ("Company") pursuant to a letter of April 8, 1975, accepting for filing Supplement No. 1 and 2 to Rate Schedule FPC No. 55 and Terminating Docket No. E-9326, tendered for filing supporting data in regard to service furnished under certain sections of Supplement No. 2. To date Puget Sound Power & Light Company has filed five prior reports; designated Puget Sound Power & Light Company Supplement No. 2 to Rate Schedule FPC No. 55, the last of which were accepted for filing on February 3, 1977.

The Company indicates that during the period January 1978, through December 1978, the Company made additional sales under "Rates" of Supplement No. 2 to Rate Schedule FPC No. 55. These are reported on Attachment No. 1 of this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19151 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-49 (PGA No. 79-2)]

South Georgia Natural Gas Co.; Notice of Revision to Tariff

June 13, 1979.

Take notice that on May 29, 1979 South Georgia Natural Gas Company (South Georgia) tendered for filing Ninth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information is being filed 30 days before the effective date of July 1, 1979, pursuant to the Purchased Gas Adjustment Provisions set out in Section 14 of South Georgia's Tariff.

Additionally, South Georgia tendered Alternate Ninth Revised Sheet No. 4. South Georgia states that its pipeline supplier, Southern Natural Gas Company (Southern) filed an Alternate Rate Sheet and South Georgia requests that its Alternate Rate Sheet be accepted for filing if the Commission accepts Southern's Alternate Rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19153 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EF79-3021]

Southeastern Power Administration; Notice of Filing

June 13, 1979.

Take notice that the Assistant Secretary for Resource Application of the Department of Energy, by Rate Order No. SEPA-4, confirmed and approved, on an interim basis, Wholesale Power Rate Schedules CR-1-D and CR-2-D applicable to power from the Cumberland Basin Projects, Tennessee and Kentucky. These rate schedules are submitted to the Commission for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204-33. Approval is requested for a period ending June 30, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19152 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-27 [1]]

State of North Dakota, Section 102 NGPA Determination, Gulf Oil Corp., State 1-18-3D, Martin Weber 1-18-1C, Marinenko 1-32-1A, Gloventsky 1-17-4A; Notice of Preliminary Finding

Issued June 1, 1979.

On April 17, 1979, the North Dakota State Industrial Commission, Oil and Gas Division submitted to the Commission a notice of determination which states that four Gulf Oil Corporation wells (State 1-18-3D, Martin-Weber 1-18-1C, Marineko 1-32-1A, Glovatsky 1-17-4A) meet all the requirements of the new onshore reservoir provision in section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621. The Commission published the notice of the determination in the Federal Register on May 3, 1979.

According to section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new onshore reservoir if, among other things, natural gas could have been produced in commercial quantities from such reservoir through the old well before April 20, 1977.

The record shows that the reservoir was penetrated by, and produced commercial quantities of crude oil through, the State 1-18-3D well before April 20, 1977. Since the State 1-18-3D is an old well and the reservoir in question demonstrated its capability to produce natural gas, the reservoir is subject to the behind-the-pipe exclusion in section 102(c)(1)(c)(ii) and is not a new onshore reservoir as defined in the NGPA.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(c)) that the determination submitted by the North Dakota State Industrial Commission, Oil and Gas Division, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19154 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

State of Utah; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

June 4, 1979.

On June 1, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining

FERC Control Number: JD79-6615
API Well Number: 43-047-302334
Section: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 33-16 #30234
Field: Chapita Wells Field
County: Uintah
Purchaser: Mountain Fuel Supply Co.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19117 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-30]

State of Utah, Section 103 NGPA Determination, American Quasar Petroleum Company, No. UPRR 5-1 Well; Notice of Preliminary Finding

Issued June 8, 1979.

On April 26, 1979, the Division of Oil, Gas and Mining of the Utah Department of Natural Resources (Utah) submitted to this Commission a notice of determination concerning a well for which classification as a new onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA) is sought. The notice states that the American Quasar Petroleum Company (American) NO. UPRR 5-1 well qualifies as a new onshore production well. The Commission published Utah's notice of determination on May 7, 1979.

In order for a well to qualify as a new, onshore production well under section 103, the well must, inter alia, be a new well "the surface drilling of which began on or after February 19, 1977." The notice of determination submitted by Utah indicates that the American UPRR 5-1 well was spudded on December 21, 1971,[1] by Occidental Petroleum Corporation and then plugged and abandoned on March 29, 1972, at a total depth of 10,527 feet. American reentered the abandoned well on September 1, 1977.

This evidence indicates that the American UPRR 5-1 well was spudded before February 19, 1977. Thus, it appears that the record does not contain substantial evidence to support Utah's determination that the American UPRR 5-1 well is a new, onshore production well.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR 275.202(a)(1)(i)), that the determination submitted by Utah should be reversed.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19155 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RA79-26]

Stephens and Cass; Notice of Extension of Time

June 12, 1979.

On June 1, 1979, counsel for the Secretary of Energy filed a motion to extend the time for filing the administrative record and reply to the petition for review in this proceeding. The motion states that additional time is necessary because of a backlog in certification of administrative records in the Office of Hearings and Appeals.

Upon consideration, notice is hereby given that an extension of time for filing the record and response is granted to and including June 20, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19156 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-317]

Texas Eastern Transmission Corp.; Notice of Application

June 12, 1979.

Take notice that on May 21, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-317 an application pursuant to

[1] The docket number GP79-40 was incorrectly assigned to the initial release of this notice.

[1] At that time it was designated as the Occidental Petroleum Corporation No. 1 Pineview well.

section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional delivery point with National Gas and Oil Corporation (National), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate an additional delivery point on Applicant's 24-inch line in Butler County, Ohio, in order to deliver natural gas to National under Rate Schedule DCQ–C and I–C, pursuant to the terms of a service agreement dated May 18, 1979, between Applicant and National. Construction of the facilities is estimated by Applicant to cost approximately $27,900, which cost National would reimburse Applicant.

Applicant states that it is presently authorized to deliver up to 22,261 dekatherms equivalent of natural gas per day to National on a saturated basis (22,655 on a dry basis) under its Rate Schedules DCQ–C and I–C at two existing delivery points in Perry and Noble Counties, Ohio. Applicant further states that the combined deliveries through the existing and proposed delivery point would not exceed the total volumes presently authorized.

The application states that the additional connection for National would provide it with a delivery point to connect with Cincinnati Gas & Electric Company, who in turn would deliver gas supplies to National's major customer the Ford Motor Company Plant in Batavia, Ohio, and would allow National some degree of flexibility presently lacking on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene it 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. 79-19157 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CP77-402 and CP77-435].

Transcontinental Gas Pipe Line Corp.; Notice of Proposed Change in FERC Gas Tariff

June 5, 1979.

Take notice that on May 31, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2 for effectiveness on July 1, 1979:

1. *Rate Schedule X-157* (Transportation Agreement between Transco and Florida Gas Transmission Company (Florida Gas), dated March 18, 1977, as amended August 30, 1978): First Revised Sheet Nos. 1417, 1419, 1420, 1421, 1426, 1428 and 1429.
2. *Rate Schedule X-158* (Transportation Agreement between Transco and Southern Natural Gas Company (Southern), dated April 5, 1977, as amended August 30, 1978): First Revised Sheet Nos. 1434, 1436, 1438, 1443, 1446 and 1447.
3. *Rate Schedule X-159* (Transportation Agreement between Transco and United Gas Pipe Line Company (United), dated May 20, 1977, as amended August 30, 1978): First Revised Sheet Nos. 1451, 1453, 1455, 1460, 1463 and 1464.

Transco states that under the foregoing transportation arrangements, Transco provides transportation services for Florida Gas, Southern and United from a point of receipt on Transco's Central Louisiana Gathering System in the Pecan Island Area, Vermilion Parish, Louisiana to points of connection between the Transco system and these three pipelines, or to points of connection between Transco and other pipelines where delivery is made for such three pipelines' account. Transco further states that the principal purpose of the revised tariff sheets is to change the form of the rate for the transportation services rendered for Florida Gas, Southern and United from a demand charge based on a fixed daily Contract Demand Quantity to a commodity charge applied to the volume of gas actually transported for each of the three pipelines. The change in rate, Transco states, is in consideration for transportation services which Florida Gas and Sea Robin Pipeline Company propose to render for Transco pursuant to applications pending in Docket Nos. CP79-171 and CP79-172, utilizing, on a best efforts basis and without charge, a portion of their capacity in pipeline facilities jointly owned with Transco, extending from Shell Oil Company's production platform in Block 22, Vermilion Area, offshore Louisiana to a point of connection with Transco's Central Louisiana Gathering System in the Pecan Island Area, to assist Transco in delivering into its system gas supplies from Blocks 56 and 57, East Cameron Area which will be connected to Block 22 by pipeline facilities which Transco has been authorized to construct and operate in a certificate issued in Docket No. CP79-131.

Transco states that copies of the instant filing have been served upon Florida Gas, Southern and United.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19158 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-340]

Transcontinental Gas Pipe Line Corp.; Notice of Application

June 13, 1979.

Take notice that on June 6, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-340 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for a term of two years on behalf of Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Con Ed, the application indicates, has arranged to purchase gas from National Fuel Gas Distribution Corporation (National Distribution) which would make available, through facilities of its affiliate National Fuel Gas Supply Corporation (National Supply), quantities of natural gas of up to 65,000 dekatherms equivalent per day to Texas Eastern Transmission Corporation (Texas Eastern), at an existing interconnection between Texas Eastern and National Supply in Pennsylvania, and Texas Eastern would transport and deliver some or all of such quantities to Transco at the existing Texas Eastern-Transco Lambertville interconnection in Somerset County, New Jersey, or at other mutually agreeable existing interconnections with Transco in Texas Eastern's Zone D. Transco would deliver equivalent quantities to Con Ed at Transco's existing delivery points to Con Ed in the New York metropolitan area. The proposed transportation service is on an interruptible basis at Transco's sole discretion, and would be subordinate to Transco's deliveries to Con Ed under Transco's Rate Schedule CD, PS, GSS, and WSS, it is asserted.

It is indicated that for all quantities transported and delivered pursuant to this proposed service, Con Ed would pay to Transco initially a rate of 7.0 cents per dekatherm. Of the quantities received by Transco for Con Ed's account, .6 percent would initially be retained by Transco for compressor fuel and line loss make-up, subject to change by Transco if such change is warranted by operating conditions. The transportation rate and fuel retention percentages are the same as those contained in Rate Schedule T of Transco's FERC Tariff, Second Revised Volume No. 1, for similar service, it is stated.

Transco asserts that the transportation agreement among Transco, Con Ed and Texas Eastern provides that for the period commencing May 8, 1979, the quantities transported pursuant to the instant proposal shall be used solely by Con Ed in the generation of electric and/or steam energy at existing Con Ed generating stations which are or have been exempt from the provisions of the Powerplant and Industrial Fuel Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-19159 Filed 6-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP76-107]

Transwestern Pipeline Co.; Notice of Petition To Amend

June 13, 1979.

Take notice that on May 24, 1979, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP76-107 a petition to amend the order of April 2, 1976,[1] as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Pacific Interstate Transmission Company (Pacific Interstate) from one additional well, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of April 2, 1976, Petitioner was authorized to transport natural gas in interstate commerce for Pacific Interstate pursuant to a transportation agreement dated September 29, 1975, between Petitioner and Pacific Interstate, which transportation service commerced April 2, 1976. Petitioner states that the gas which it is transporting for Pacific Interstate is being purchased by Pacific Interstate from Pacific Lighting Gas Development Company (PLGD) and is being sold by Pacific Interstate to its sole customer, Pacific Lighting Service Company (Service Company). Pursuant to subsequent orders issued November 2, 1976, March 17, 1977, and September 30, 1977, and May 3, 1978, Petitioner was granted authorization to transport gas from additional wells for the account of Pacific Interstate to Service Company, in the instant docket.

Pacific Interstate has advised Petitioner that it has contracted with PLGD to purchased gas from one additional well and Pacific Interstate has agreed to sell this gas to Service Company. Consequently, pursuant to an amendment dated May 11, 1979, Petitioner proposes to transport this gas for the account of Pacific Interstate to Service Company, which gas Pacific Interstate would purchase from PLGD from the #1 University "17-6" well, in Ward County, Texas. Petitioner states that it would transport the gas through its existing main line system and would

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

deliver it to Service Company at an existing interconnection between the two companies at the Arizona-California border near Needles, California. Petitioner is still obligated to transport on a best efforts basis no more than 25,000 dth equivalent of gas per day during each contract year, and Petitioner indicates that it has ample capacity to render this transportation service.

Petitioner further requests authorization to transport gas from any other well from time to time as circumstances permit for Pacific Interstate's account.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 5, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19160 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-381]

West Penn Power Co. and Duquesne Light Co.; Notice of Filing

June 12, 1979.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on May 22, 1979 tendered for filing on behalf of West Penn Power Company (West Penn), one of the electric utilities which make up the integrated Allegheny Power System, and Duquesne Light Company (Duquesne), Amendment No. 7 to the Interchange Agreement dated February 1, 1968 between West Penn and Duquesne designated West Penn Rate Schedule FPC No. 24 and Duquesne Rate Schedule FPC No. 9.

Amendment No. 7 provides for (1) an increase in the demand charge for short-term power from $0.60 to $0.70 per kilowatt week and (2) provides for the supplying party to sell to the other party short-term power and energy obtained from another system at the price paid therefor plus $0.175 per kilowatt week. Amendment No. 7 is to become effective May 15, 1979. Applicants state that since such transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increases in revenues which would result from Amendment No. 7.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19161 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-417]

Wisconsin Electric Power Co., Notice of Filing

June 13, 1979.

Take notice that Wisconsin Electric Power Company (WEPC) on June 1, 1979, tendered for filing a notice of cancellation of a contract for wholesale electric service between WEPC and the City of New London (FERC No. 41).

WEPC indicates that the purpose of this cancellation is to prevent the contract from automatically renewing for a successive ten year period.

WEPC indicates that it intends to provide uninterrupted service to the City of New London under its current rate approved by the Commission in Docket No. ER78-512.

WEPC requests that this cancellation be made effective June 30, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19162 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Gas Research Institute Program Review Study Group of the Energy Research Advisory Board; Meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.L. 92-463, 86 Stat. 770), notice is hereby given that the Gas Research Institute Program Review Study Group of the Energy Research Advisory Board (ERAB) will meet June 27, 1979, from 9:00 a.m. to 5:00 p.m., in Room B-11, 400 First Street, NW., Washington, D.C.

Less than the usual 15-day notice for this meeting is given because as part of the approval process for the 1980 Gas Research Institute Program and Plan the Federal Energy Regulatory Commission has asked the ERAB to assist by carrying out an independent review of the program. The filing date was June 4 and the Study Group charged with the review met on that date.

Subsequent to receipt and review of individual issue papers, it was determined that an additional meeting would be necessary. Because the approval process adheres to a strict schedule, it is not possible to postpone the meeting to allow 15-days' notice.

The meeting is open to the public. The Chairperson of the Study Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Study Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should call the Advisory Committee Management Office, 202/252-5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts of the meeting will be available for public review and copying at the Freedom of Information Public

Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on June 18, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-19421 Filed 6-19-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 947]

Dunbar Customs Services; Order of Revocation

On June 11, 1979, Dunbar Customs Services, 714 N. La Brea, Inglewood, California 90302, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 947 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 947 issued to Dunbar Customs Services be and is hereby revoked effective June 11, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Dunbar Customs Services.

Robert M. Skall,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 79-19084 Filed 6-19-79; 8:45 am]

BILLING CODE 6730-01-M

Gateway Forwarders, Inc.; Independent Ocean Freight Forwarder Licenses; Correction to Notice of Revocation

By Decision served July 24, 1978, in Docket No. 77-53, *Licensing of Independent Ocean Freight Forwarders,* (43 FR 32776), the Federal Maritime Commission amended its General Order 4 (46 CFR Part 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. The amendment stated that if a licensee fails to file such bond on or before December 1, 1978, the license shall be revoked in accordance with Rule 510.9 of General Order 4.

The Commission published a Notice of Revocation in the Federal Register on January 3, 1979 (44 FR 953-955) wherein notice was given of the independent ocean freight forwarders who had failed to file with the Commission a surety bond in the amount of $30,000 and whose licenses were revoked effective December 2, 1978.

The Commission's Notice of Revocation erroneously omitted:

Gateway Forwarders, Inc., FMC 1595R, 1421 South Peters Street, New Orleans, Louisiana 70130.

Therefore, Notice is hereby given that Independent Ocean Freight Forwarder License No. 1595R, issued to Gateway Forwarders, Inc., was revoked on December 2, 1978, for failure to submit the $30,000 bond.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-19085 Filed 6-19-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225. 4 (b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 12, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York (insurance activities; national, international): To act, through a subsidiary, CMC Insurance, Inc., to the extent permissible under state law, as agent or broker with respect to the following types of insurance directly related to extensions of credit including secured and unsecured loans, credit card transactions, and loans made by mail) or the provision of financial services (servicing loans and other extensions of credit) by the bank holding company system: insurance that assures repayment of an extension of credit in the event of death or disability fo the borrower (for example, credit life and credit accident and health insurance), and property and casualty insurance, including physical damage and liability insurance such as homeowners insurance related to first and second mortgage loans and single and dual interest auto insurance. These activities would be conducted nationally and the proposed services would be available from offices of Chase Manhattan Bank, N.A., in New York, Guam, Puerto Rico, the Canal Zone, and the Virgin Islands, and from offices of other subsidiaries in New York, New York: Miami, Florida; Chicago and Schiller Park, Illinois; Los Angeles, California; Cleveland, Ohio; Canton and Boston, Massachusetts; Atlanta, Georgia; and San Juan, Puerto Rico.

2. Citicorp, New York, New York (finance and insurance activities; Washington): To engage, through a subsidiary, West Coast Credit Corporation (d.b.a. Fidelity Finance Company), in making and servicing installment personal loans; purchasing and servicing installment sales finance contracts; making loans for the account of others such as one-to-four family unit mortgage loans; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family, or household usage; and the sale of life and accident and health or decreasing or level (for single-payment loans) term life insurance, and property and casualty insurance (to include liability coverage on home and automobile policies where such is the

general practice) directly related to its extensions of credit, by licensed agent or brokers to the extent permissible under applicable state insurance laws and regulations. These activities would be conducted form an office in Tukwila, Washington, serving Washington.

B. *Federal Reserve Bank of Cleveland,* 1455 East sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (consumer finance and insurance activities; Florida): To engage, through a subsidiary, Freedom Financial Services Corporation, in general consumer finance activities; and to act as agent with respect to the sale of life, accident and health, and property insurance directly related to its extensions of credit. These activities would be conducted from an office in West Palm Beach, Florida, serving that city.

C. *Federal Reserve Bank of Richmond,* 701 East Byrd Street, Richmond, Virginia 23261:

Piedmont Corporation, Davidson, North Carolina (consumer finance and insurance activities; North Carolina): To engage, through a subsidiary, Carolina Finance Company, in direct lending under the North Carolina Consumer Finance Act: and the sale as agent of life, accident and health, and property insurance directly related to its extensions of credit. These activities would be conducted from an office in Huntersville, North Carolina, serving that town and the surrounding market area in Mecklenburg County.

D. *Federal Reserve Bank of Kansas City,* 925 Grand Avenue, Kansas City, Missouri 64198:

1. First State Bancorp, Inc., Tulsa, Oklahoma (bank management consulting activities; Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, Texas): To engage in providing management consulting services to nonaffiliated banks, directly or through a wholly owned subsidiary. These activities would be conducted from an office in Tulsa, Oklahoma, serving the seven states listed in the caption to this notice.

2. First State Bancorp, Inc., Tulsa, Oklahoma (insurance activities; Oklahoma): To act, through subsidiaries, an Oklahoma Business Trust and Citizens Insurance Agency, Inc., as agent or broker with respect to any insurance for the applicant and its bank-related subsidiaries, and credit life, accident and health, or any insurance that is directly related to an extension of credit by the applicant or its existing subsidiary bank. These activities would be conducted from offices in Tulsa, Oklahoma, serving Tulsa and an area within a 50 mile radius of Tulsa.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19175 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Copper Bancshares, Inc.; Formation of Bank Holding Company

Copper Bancshares, Inc., Silver City, New Mexico, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of American National Bank, Silver City, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19176 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Greenbush Bancshares, Inc., Formation of Bank Holding Company

Greenbush Bancshares, Inc., Greenbush, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 69 per cent of the voting shares of Greenbush State Bank, Greenbush, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 13, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19177 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Levy County Bancorporation; Formation of Bank Holding Company

Levy County Bancorporation, Chiefland, Florida, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Levy County State Bank, Chiefland, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 13, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19178 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Lima Bancshares, Inc.; Formation of Bank Holding Company

Lima Bancshares, Inc., Lima, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.2 per cent or more of the voting shares (less directors'

qualifying shares) of The State Bank of Lima, Lima, Illinois, The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19179 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Otto Bremer Co.; Acquisition of Bank

Otto Bremer Company, St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 60.9 percent of the voting shares of Union State Bank, Amery, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(a)(3)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19180 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Otto Bremer Co.; Acquisition of Bank

Otto Bremer Company, St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 77.5 per cent of the voting shares of Peoples State Bank, Colfax, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19181 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Otto Bremer Co., Acquisition of Bank

Otto Bremer Company, St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 92.7 per cent of the voting shares of Washburn State Bank, Washburn, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19182 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

Otto Bremer Co.; Acquisition of Bank

Otto Bremer Corporation, St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 91.1 per cent of the voting shares of Farmers State Bank, Frederic, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19183 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

United Bank Corp. of New York; Acquisition of Bank

United Bank Corporation of New York, Albany, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Schenectady Trust Company, Schenectady, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 13, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-19184 Filed 6-19-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on June 14, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request, are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before July 9, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of the following notice, recordkeeping and reporting requirments contained in Part 207 of the Board's Economic Regulations, "Charter Trips and Special Services". Section 207.8 sets out the requirements for an air carrier who plans to perform any special service in interstate, overseas or foreign air transportation. Section 207.9 requires each air carrier to obtain and retain certain records in accordance with Part 249. Section 207.14(b) permits a carrier to furnish substitute transportation in cases of emergency and requires the carrier to submit a report to CAB setting forth the circumstances of the carriage within 30 days thereafter. Section 207.16 sets forth the conditions whereby an air carrier can request a waiver of the provisions of Part 207. Section 207.22(b) requires a carrier to notify CAB within 5 days after a charter contract has been executed that its execution took place within 15 days of the flight date. Section 207.24 sets forth requirements that shall be met by the carrier, travel agent and charterer prior to performing a charter flight. Section 207.25 sets forth requirements pertaining to timely payment to carriers performing departing and return flights of the chartered price. Section 207.45 requires that the charterer file with the air carrier a list of passengers and other data to each one-way or round-trip flight. Section 207.46 provides that a chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, dates of departure and the number of round-trip flights which have been conducted for the organization by any carrier or carriers during the calendar year. Section 207.47 requires that charterers shall execute and file with the air carrier section B of part II of the "Statement of Supporting Information" at such time as required by the carrier to afford it due time for review thereof. The CAB estimates that respondents will be approximately 370 certificated route air carriers and that the estimated average number of hours required per respondent for § 207.8 will be 15 minutes; for § 207.9, no burden; for § 207.14(b), 15 minutes per report; for § 207.16, 1 hour per report; for § 207.22, 15 minutes; for § 207.24, 30 minutes per report; for § 207.25, 30 minutes per report; for § 207.45, 30 minutes per report; for § 207.46, 15 minutes per report; and for § 207.47, 15 minutes per report.

John M. Lovelady,

Assistant Director, Regulatory Reports Review.

[FR Doc. 79-19193 Filed 6-19-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 37063, 37064, 37065, 37067, 37069, and 37070]

New Mexico; Applications

June 11, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 23 N., R. 6 W.,
  Sec. 17, E½SW¼.
T. 27 N., R. 7 W.,
  Sec. 5, lot 2 and SW¼NE¼.
T. 27 N., R. 8 W.,
  Sec. 27, SE¼SW¼ and S½SE¼.
T. 30 N., R. 10 W.,
  Sec. 25, lots 12, 13 and 14;
  Sec. 27, lots 9 and 10;
  Sec. 35, lots 10, 15 and 16.

These pipelines will convey natural gas across 1.556 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-19209 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37073]

New Mexico; Application

June 11, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 24 N., R. 3 W.,
  Sec. 6, lot 6 and SW¼SE¼;
  Sec. 7, lot 1.

This pipeline will convey natural gas across 0.187 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-19210 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 36230]

State Director, New Mexico; Redelegation of Authority

Under the authority of Secretarial Order No. 3003, Dated April 26, 1977, subject to the limitation of section 4(b) of that order, the New Mexico State Director is authorized to issue all initial grants, permits, and amendments thereto, across public and other appropriate Federal lands for the Rocky Mountain Pipeline project, (NM 36230-FG13), and associated ancillary facilities in the States of New Mexico, Colorado, Utah and Wyoming. The New Mexico State Director is also authorized to enforce the terms and conditions of all grants and permits, and amendments thereto, across public lands and to enter into cooperative agreements with other Federal agencies for the enforcement of terms and conditions of grants and permits, and amendments thereto, across other Federal lands for the Rocky Mountain Pipeline project and associated ancillary facilities in the States of New Mexico, Colorado, Utah and Wyoming. These authorizations are made pursuant to section 28 of the Mineral Leasing Act of 1920, as amended, U.S.C. 185.

The New Mexico State Director shall not redelegate this authority.

Arnold E. Petty,

Acting Associate Director.

June 13, 1979.

[FR Doc. 79-19211 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Florida Game and Fresh Water Fish Commission, 620 South Meridian St., Tallahassee, Florida 32304.

The applicant requests a permit to remove from the wild in Florida various numbers of eggs and birds of both sexes and several age classes of Cape Sable (*Ammospiza maritima Mirabilis*) and dusky seaside sparrows (A. m. *nigrescens*) for scientific and propagation purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4329. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 20, 1979. Please refer to the file number when submitting comments.

Dated: June 14, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-19098 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Tennessee Valley Authority, Norris, Tennessee 37828.

The applicant requests a permit to take (capture and kill) up to twenty-five gravid birdwing pearly mussels (*Conradilla cailata*) from the area between river mile 177.5 and 179.0 of the Duck River, Tennessee, in 1979 and 1980 to obtain glochidia to be used for scientific research to determine the fish host(s).

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4252. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 20, 1979. Please refer to the file number when submitting comments.

Dated: June 14, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-19099 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Bldg., 500 N.E. Multnomah St., Portland, Oregon 97232.

The applicant requests a permit to take (capture, transplant, and kill) Devil's Hole pupfish (*Cyprinodon diabolis*) for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4268. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before July 20, 1979. Please refer to the file number when submitting comments.

Dated: June 14, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-19100 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On May 7, 1979, a Notice was pubished in the Federal Register (44 FR 79-14158), that an application has been filed with the Fish and Wildlife Service by Dr. C. L. Kooyman, Scripps Institution of Oceanography, University of California—San Diego, California 92093, for an amendment to permit PRT 2-1609. This permit authorizes certain scientific research with sea otters (*Enhydra lutris*) in Alaska.

Notice is hereby given that on June 4, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and

Wildlife Service issued Amendment No. 2 to permit PRT 2-1609, to authorize the placing of plastic "temple" tags on each sea otter captured and released, subject to certain conditions set forth therein.

The amendment is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: June 14, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-19097 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Montezuma Castle National Monument and the Coconino National Forest; Exclusion and Addition of Certain Lands

By virtue of Section 301(13) and Section 302 of the Act of November 10, 1978, Pub. L. 95-625, 92 Stat. 3467, and with approval of the Secretary of Agriculture and the Secretary of the Interior, the lands hereinafter described are hereby transferred from Coconino National Forest to Montezuma Castle National Monument and further, those additional lands described are hereby transferred from Montezuma Castle National Monument to Coconino National Forest, effective on June 20, 1979; and the boundaries of the National Park System and National Forest System lands are hereby adjusted accordingly:

Area Transferred From Coconino National Forest to Montezuma Castle National Monument

Gila and Salt River Base and Meridian Yavapai County, Ariz.

That portion of the N½NE¼SE¼ of sec. 8, T. 14 N., R. 5 E., lying East of the East right-of-way of Interstate Highway 17, and the S½NW¼NW¼SE¼ of sec. 8, T. 14 N., R. 5 E., containing 13 acres, more or less.

Area Transferred From Montezuma Castle National Monument to Coconino National Forest

Gila and Salt River Base and Meridian Yavapai County, Ariz.

That portion of the S½NE¼SW¼ and of the NW¼NW¼SE¼SW¼ of sec. 8, T. 14 N., R. 5 E., and further described as a triangular area between the East right-of-way of Interstate Highway 17 and the northwest corner of Montezuma Castle National Monument, containing 4.80 acres, more or less.

Effective on June 20, 1979.

Dated this 20th day of June 1979.

Cecil D. Andrus,

Secretary of the Interior.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-19170 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Intent to Enter Into Temporary Water Service Contracts

The Department of the Interior, through the Bureau of Reclamation, is presently conducting a temporary water marketing program from certain Bureau of Reclamation and Corps of Engineers projects in the western portion of the United States.

In most years, many Bureau and Corps projects have surplus stored water which can be made available on a temporary basis. Such water can be regulated, released, and possibly transported for agricultural, municipal, industrial, domestic, and waterfowl ponding purposes. When such water is available, it can be sold to water users under short-term water service contracts setting forth the specified quantities, rates, and other terms and conditions common to Reclamation law.

Each Regional Director of the Bureau of Reclamation has or will make a local news release specifying the project that has water surplus to project needs, the approximate quantities of water, and the general area that can be served.

Any person who is then interested and who may be served from such temporary supply of water from a Bureau or Corps project, should apply in writing to the nearest regional office of the Bureau of Reclamation. The appropriate Bureau officials to contact are:

Ms. Patrica Gallagher, Department of the Interior, Bureau of Reclamation, Box 043—550 West Fort Street, Boise, ID 83724, Telephone: (208) 384-1160.

Mr. James Moore, Department of the Interior, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (916) 484-4680.

Mr. George Blake, Department of the Interior, Bureau of Reclamation, P.O. Box 427, Boulder City, NV 89005, Telephone: (702) 293-8536.

Mr. Wayne Eldredge, Department of the Interior, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, UT 84147, Telephone: (801) 524-5435.

Mr. Ira Stevens, Department of the Interior, Bureau of Reclamation, Herring Plaza Box H-4377, Amarillo, TX 79101, Telephone. (806) 376-2445.

Mr. William Crosby, Department of the Interior, Bureau of Reclamation, P.O. Box 2553, Billings, MT 59103, Telephone: (406) 657-6413.

Mr. Robin McKinley, Department of the Interior, Bureau of Reclamation, P.O. Box 25247, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234-3327.

Dated: June 13, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-19081 Filed 6-19-79; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Floodplain Management and Wetlands Protection; Final Procedures

AGENCY: Department of the Interior.

ACTION: Final Procedures.

SUMMARY: This notice provides the Department of the Interior's final procedures for complying with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). These procedures have been issued as Chapter 1 of Part 520 of the Department of the Interior Manual, and are published in their entirety below. Chapter 1 was issued on June 11, 1979 and is effective as of that date.

EFFECTIVE DATE: These procedures are effective on June 11, 1979.

ADDRESS: Inquiries should be directed to: Mr. Bruce Blanchard, Director, Office of Environmental Project Review, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

FOR FURTHER INFORMATION CONTACT: Terence N. Martin, Office of Environmental Project Review, Department of the Interior, Washington, D.C. 20240, 202-343-6128.

SUPPLEMENTARY INFORMATION: These procedures apply to all bureaus and offices of the Department in preparation of program procedures and the application of the Executive Orders to projects and activities that will affect floodplains and wetlands. Interim procedures were published in the Federal Register on June 9, 1978. Public comments were received through July 10, 1978, and were considered in the preparation of the final document. Also, the Water Resources Council, the Council on Environmental Quality, and the Federal Emergency Management Agency (formerly the Federal Insurance Administration) were consulted in accordance with Section 2(d) of

Executive Order 11988. Results of the consultations have been incorporated.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

June 11, 1979.

Department of the Interior

Departmental manual

Environmental Quality

Protection of the Part 520 Natural Environment

Chapter 1—Floodplain Management and Wetlands; Protection Procedures

1.1 Purpose.

This chapter sets forth the procedures to be followed in implementing Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977), which are hereinafter referred to as the Orders. Whenever only one Order is referred to it will be identified by its Executive Order number (e.g., EO 11988).

1.2 Policy

The Department has a general mandate and broad responsibility for the management of the Nation's natural resources, including its streams, wetlands and floodplains. The Department's policy is to:

A. Exercise leadership and take action to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of wetlands and floodplains;

B. Avoid the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative;

C. Reduce the risk of flood loss and minimize the impact of floods on human health, safety and welfare;

D. Restore and preserve the natural and beneficial values served by floodplains and wetlands;

E. Develop an integrated process to involve the public in the floodplain management decisionmaking process;

F. Incorporate the Unified National Program for Floodplain Management into relevant Departmental programs.

1.3 Authority

A. Executive Order 11988, which revoked and replaced Executive Order 11296 (August 10, 1966), was issued in furtherance of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, and the National Environmental Policy Act of 1969 (NEPA). Section 2(d) of EO 11988 requires issuance of new or amended agency procedures.

B. EO 11990 was issued in furtherance of the National Environmental Policy Act of 1969, and Section 6 of EO 11990 requires issuance of new or amended procedures.

1.4 References.

The following references are made an integral part of this chapter.

A. Executive Order 11988, Floodplain Management;

B. Executive Order 11990, Protection of Wetlands;

C. Unified National Program for Floodplain Management, Water Resources Council;

D. Floodplain Management Guidelines, Water Resources Council, February 10, 1978 (43 FR 6030);

E. Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended;

F. OMB Circular A-95.

1.5 Interrelationships.

A. *General.* The Department recognizes that the requirements of the Orders have basic interrelationships with and condition the implementation of existing Federal activities and guidance documents. Therefore, to the extent possible, the Department will integrate floodplain management and wetland protection requirements into its programs and will utilize existing consultation, planning and decision processes.

B. *Water Resources Council (WRC) Guidelines.* The WRC Guidelines for implementing EO 11988 are the basic guidance for interpreting that Order and conducting the floodplain management planning and decision process. Where it is deemed appropriate for the Department to diverge from the WRC Guidelines, this chapter will supersede that document. In general, the substantive requirements of EO 11988 as interpreted and explained in the Executive Summary of the WRC Guidelines are adopted by this Department. This Department will adhere to the methods, standards and definitions of terms as set forth in the WRC Guidelines for determining risks and hazards of flood loss; minimization of impact on health, safety and welfare; and evaluation of alternatives.

C. *Protection of Wetlands.* EO 11990 requires Federal agencies to avoid destruction or modification of wetlands whenever there is a practicable alternative. Since almost all wetlands are found in floodplains, the Department will, in general, conduct its activities regarding wetlands in accordance with this chapter.

D. *NEPA Compliance.* For actions located in floodplains and wetlands, the requirements of the Orders supplement those of NEPA. Since most Federal actions in floodplains and wetlands will impact these resources, an environmental document (environmental statement or assessment) will probably be required to comply with NEPA. For ease and economy of documentation, the Orders' requirements will be included in the NEPA compliance documents for each such action.

E. *Interagency Review.* Because of its broad responsibility for the protection, maintenance and enhancement of the Nation's natural resources, the Department maintains an effective review function which monitors other agency activities in floodplains and wetlands. Under the auspices of various laws, regulations and interagency agreements, the Department suggests methods of study and solutions for many problems which impact floodplain and wetland resources.

1.6 Responsibilities.

A. *Assistant Secretary—Policy, Budget and Administration (PBA).* The Assistant Secretary—PBA will:

(1) Have overall responsibility for ensuring that the Secretary's responsibilities under the Orders are carried out. In performing this duty the Assistant Secretary—PBA will prepare program directives and other necessary guidance as required.

(2) Approve bureau and office procedures for complying with the Orders.

(3) In consultation with program Assistant Secretaries, prepare any required reports to the Water Resources Council and/or the Council on Environmental Quality.

(4) Mediate conflicting interests between two or more Assistant Secretaries, and either resolve differences between the parties, or refer the conflicting views to the Secretary with a recommended course of action.

B. *Program Assistant Secretaries.* The Program Assistant Secretaries will:

(1) Maintain general supervision of bureaus and offices under their jurisdiction in order to ensure compliance with the Orders and this chapter.

(2) Review and concur with the floodplain and wetland procedures of their bureaus and offices prior to forwarding them to the Assistant Secretary—PBA for approval.

(3) Be responsible for resolving any conflicts among the bureaus and offices under their individual jurisdiction.

C. *Heads of Bureaus and Offices.* The heads of bureaus and offices will:

(1) Review their programs for compliance with the Orders and, at a minimum, apply the Orders to the following types of activities:

(a) Planning and designing new Federal facilities;

(b) Modifying existing Federal facilities or constructing new ones;

(c) Acquiring, managing and disposing of Federal lands and facilities;

(d) Carrying out and influencing programs involving land use and water planning and development, including regulating and licensing activities;

(e) Administering construction, improvement and land acquisition programs supported or assisted by Federal grants, loans or other forms of financial assistance.

(2) Develop procedures for determining, for the activities listed above and any other covered activities, the degree of risk present, and whether or not an alternative location or other course of action is practicable. If not practicable, the procedures will indicate what steps to take to minimize harm to facilities, to the floodplain and to wetland resources.

(3) Furnish with all requests for new authorization or appropriations (for proposals to be located in floodplains and wetlands) a statement that the proposal complies with the Orders.

(4) Be responsible for assuring compliance with the public information and other procedural requirements of the Orders.

(5) Inform private parties and State and local governments participating in regulatory, financial and land transactions of the hazards and impacts of locating structures in floodplains and wetlands. Appropriate information should include the levels of expected flooding, location in a riverine or coastal high hazard area, existence of multiple flooding sources or combinations of hazards, and other important information for the safety of potential floodplain occupants and development.

(6) Be the responsible official for all statements of findings (WRC Guidelines, Part II, Step 7). This responsibility may not be given to subordinate levels of the bureau or office.

1.7 Procedures for Bureau and Office Guidance.

A. *General.*

(1) Bureaus and offices are required to prepare or update written procedures for complying with the Orders. Initially, bureau and office procedures will be prepared or updated in consultation with the Assistant Secretary—PBA and the appropriate program Assistant Secretary. Once approved by the Assistant Secretary—PBA, periodic minor revisions can be made without extensive reconsultation. Any major amendments, however, will require concurrence of the appropriate program Assistant Secretary and approval by the Assistant Secretary—PBA.

(2) Secretarial and other Departmental offices do not have to prepare separate procedures, but will comply with the Orders and these procedures. The Office of Environmental Project Review is available to provide guidance for any specific compliance activities.

B. *Specific.*

(1) Procedures will be prepared in accordance with this chapter, its references and existing policies and will be published in the Federal Register.

(2) Procedures initially prepared in accordance with this chapter will be circulated for review to the Council on Environmental Quality (CEQ), Water Resources Council (WRC), Federal Emergency Management Agency (FEMA), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS) and Corps of Engineers (CE).

(3) Minor procedural amendments to procedures do not require extensive reconsultation; however, substantive amendments will be circulated as required in 520DM1.7B(2).

(4) Procedures will be prepared in the most logical format. The following two formats are recommended:

(a) *Single Procedure Document.* This format would present bureau and office procedures in one document and explain its application to all affected programs.

(b) *Dispersed Procedures.* This format would present a summary of and reference the various separate procedures of the bureau and office programs. With this approach detailed procedures would be issued separately as additions or revisions to existing program guidance.

(5) Procedures, when published in the Federal Register, will also provide a listing of any handbooks, manuals or other guidelines which will be modified, the schedule for completion of the modification, and how and where copies can be obtained for review.

C. *Criteria for Evaluation.* The following criteria will be used by the Assistant Secretary—PBA and the program Assistant Secretaries to evaluate all procedures prepared for compliance with this chapter. The procedures must provide for:

(1) Leadership with respect to natural and beneficial values of floodplains and wetlands;

(2) Utilization of the principles of the "Unified National Program for Floodplain Management";

(3) A systematic review of existing procedures to involve protection and restoration of values and a sound policy to apply floodplain and wetlands principles in all stages of planning, implementation, monitoring and evaluation of bureau and office activities;

(4) Avoidance of long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands;

(5) Avoidance of direct or indirect support of floodplain development whenever there is a practical alternative;

(6) Reduction of flood losses;

(7) Minimization of flood impacts on human health, safety and welfare;

(8) Development of an integrated process to involve the public in the floodplain and wetlands decisionmaking process;

(9) Technical consultation with WRC, CEQ, FEMA, FWS, and CE and other institutions with expertise in the natural and beneficial values of floodplains and wetlands;

(10) Assurance that planning programs and budget requests reflect consideration of natural and beneficial values of floodplains and wetlands;

(11) Documentation of specific analysis of actions and examples of responses to EO 11988 for reporting purposes under that Order.

1.8 Procedures for Bureau and Office activities.

A. *General.* Procedures to be followed in applying EO 11988 to all activities are set forth in Part II of the WRC Guidelines. The Department has adopted this process and will deviate from it only when Departmental missions and programs will be more adequately served by modified procedures. When the affected floodplain includes wetlands, the application of these procedures will also reflect the wetlands considerations and will demonstrate how the wetlands will be protected.

B. *Procedures.* When an action is proposed in wetlands or a floodplain, the following procedural steps (summarized from the WRC Guidelines) will be addressed and integrated into the planning process.

(1) Identification of whether a proposed action is located in the 100-year floodplain (500-year floodplain for

"critical actions") and assessment of the type of hazard involved. This requirement is discussed in Step 1 of the WRC Guidelines.

(2) Identification of the overall audience to be reached for public notice and involvement, the vehicles for public participation and the purpose and timing of public notice actions. This requirement is discussed in Step 2 of the WRC Guidelines.

(3) Identification of practicable, alternative sites or actions and how such alternatives will be reviewed and evaluated. This requirement is discussed in Step 3 of the WRC Guidelines.

(4) Identification of direct or indirect impacts associated with the occupancy and modification of the floodplain; direct and indirect support of floodplain development; and how they will be reviewed and evaluated. This requirement is discussed in Step 4 of the WRC Guidelines.

(5) Identification of minimization of harm to lives and property, and to natural and beneficial floodplain values; how this will be achieved; and what restoration and preservation of the natural and beneficial values will be made. These requirements are discussed in Step 5 of the WRC Guidelines.

(6) Re-evaluation of proposed actions to determine if they are still practicable at a floodplain site in light of the exposure to flood risk and ensuing disruption of floodplain values. This requirement is discussed in Step 6 of the WRC Guidelines.

(7) Identification of the contents of the written statement of findings and public explanation, and appropriate integration of this process into existing procedures and documents. This requirement is discussed in Step 7 of the WRC Guidelines.

(8) Assurance that the actions are implemented according to the requirements of EO 11988. This requirement is discussed in Step 8 of the WRC Guidelines.

C. *Documentation and Circulation.*

(1) Case-by-case documentation is required for all actions covered by the Orders. Project files will be kept current and reflect compliance with the decisionmaking process outlined in the WRC Guidelines.

(2) Circulation of information and data on casework is necessary to satisfy Sections 2(a)(2), (3) and (4) of EO 11988. Section 2(a)(2) is a general notice of actions to be taken. Section 2(a)(3) assures compliance with A-95 reporting procedures. Section 2(a)(4) calls for early public review whether or not the action will require preparation of an environmental impact statement.

(3) Steps 2 and 7, Part II of the WRC Guidelines give thorough information for compliance with the public notice requirements of EO 11988. A notice will be published in the Federal Register when the proposed action has national significance or impact. On actions of lesser geographic coverage, the Federal Register may be used, but bureaus and offices will also use other public information methods, such as news releases, newsletters, and public meetings to inform the interested public.

(4) To assure interagency coordination notices, NEPA documents and decision statements on proposals in floodplains and wetlands will be circulated to the following agencies:

(a) Environmental Protection Agency (EPA)

(b) Federal Emergency Management Agency (FEMA)

(c) U.S. Fish and Wildlife Service (FWS)

(d) Geological Survey (EGS)

(e) Bureau of Reclamation (LBR)

(f) Corps of Engineers (CE)

(g) Soil Conservation Service (SCS)

(h) State Water Resources Agency (if not covered by the A-95 process)

1.9 Statement of Findings.

The WRC Guidelines in Part II, Step 7, describe the post-decisional process for the statement of findings and explanation to the public in the event that re-evaluation results in locating the project in the floodplain. All procedures will include the process in its pre-decisional activities including the re-evaluation of alternatives (Step 6). Bureaus and offices should work the key parts of the WRC Guidelines into their NEPA process so that floodplain and wetlands considerations remain pre-decisional. A proposed statement of findings would then be attached to a finding of no significant impact. If the final decision differs significantly from the proposed action, then bureaus and offices are required to issue a separate statement of findings in accordance with Step 7.

1.10 Intra-Departmental Conflict Resolutions.

When two or more bureaus and offices of the Department hold conflicting views on a particular project, the following steps will be taken to achieve a satisfactory solution:

A. A meeting will be held between field-level officials of the bureaus and offices involves to resolve the matter or to clarify their differences.

B. If there is no resolution, a meeting will be held with the Regional Environmental Officer (REO) of the Office of Environmental Project Review and regional officials of the involved bureaus and offices to find a solution or refer to higher authority.

C. If referred to a higher authority, each involved bureau and office and the REO will prepare and forward to headquarters a complete case report which provides background, analysis, acceptable alternative positions, conclusions and recommendations. Supporting material (maps, associated reports, position papers, etc.) will accompany the case report. If the supporting materials are too voluminous, they should be summarized in the case report and made available to higher authority upon request.

D. If the opposing views are upheld within a program area under one Assistant Secretary, that Assistant Secretary will review the issue, document the findings, and decide the issue.

E. If the opposing views are held between two or more Assistant Secretaries, each Assistant Secretary will review the case report(s) and forward them with their separate findings and recommendations to the Assistant Secretary—PBA.

F. The Assistant Secretary—PBA will decide any disputed issue forwarded, or refer it to the Secretary in those few instances where the Secretary's personal decision may be necessary.

[FR Doc. 79-19093 Filed 6-19-79; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-53]

Certain Swivel Hooks and Mounting Brackets; Termination of Investigation

In the matter of Certain Swivel Hooks and Mounting Brackets.

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission is ordering the termination of investigation No. 337-TA-53, *Certain Swivel Hooks and Mounting Brackets*, by granting a joint motion by all parties to terminate this investigation (Motion Docket No. 53-4), as supported by a Settlement Agreement, signed by complainant and all respondents. In voting to terminate this investigation, Commissioner Moore determines that there is no present violation of section 337 of the Tariff Act of 1930, as amended (*See* footnote 1, page 2, of the Commission's Order and Commissioners' Opinion in this case).

Any parties wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Order and Commissioners' Opinion. Such petitions must be in accord with section 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission action may appeal such action to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Order and Commissioners' Opinion (USITC Publication No. 983, June 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the Federal Register of June 14, 1978 (43 FR 25743). The text of the pertinent settlement agreement and the Commission's request for public comments thereon were published in the Federal Register of January 18, 1979 (44 FR 3769).

Issued: June 4, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-19095 Filed 6-19-79; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Marihuana and Synthetic THC; Scheduling of Controlled Substances

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Denial of petitions to reschedule marihuana and synthetic THC (tetrahydrocannabinols).

SUMMARY: This is a denial of petitions filed on behalf of the National Organization for the Reform of Marijuana Laws (NORML) to reschedule harihuana and synthetic THC. After careful review of the petitions, the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare (Secretary), and the analysis of the criteria of sections 201 and 202(b) of the Controlled Substances Act, 21 U.S.C. 811, 812(b), the Administrator of the Drug Enforcement Administration (Administrator) finds that marihuana and synthetic THC should remain in Schedule I of the Controlled Substances Act, 21 U.S.C. 812, and declines to initiate proceedings to transfer or remove these substances from Schedule I.

SUPPLEMENTARY INFORMATION: Pursuant to the remand of the United States Court of Appeals for the District of Columbia Circuit in "The National Organization for the Reform of Marijuana Laws (NORML), Petitioner, v. Drug Enforcement Administration, U.S. Department of Justice, Respondent", 559 F.2d 735 (D.C. Cir. 1977), the Drug Enforcement Administration by letter, dated June 27, 1977, referred petitions to reschedule marihuana [1] and synthetic THC,[2] filed on behalf of NORML, to the Secretary for his scientific and medical evaluation and recommendation in accordance with the court's instructions set forth below:

Specifically, the Acting Administrator is directed, pursuant to Section 201(a)(c), (of the Controlled Substances Act, 21 U.S.C. 801 et seq.) to refer the NORML petition to the Secretary of HEW for medical and scientific findings and recommendations for rescheduling, consistent with the requirements of the Single Convention, as interpreted by this court. The Secretary of HEW is directed to make separate evaluations and recommendations for each of the following cannabis materials, within the limits authorized by treaty:

1. "Cannabis" and "cannabis resin" [3] (minimum control regime of CSA Schedule II).
2. Cannabis leaves (minimum control regime of Schedule V).
3. Cannabis seeds capable of germination (minimum control regime of Schedule V).
4. Synthetic THC (no minimum control regime)

By letter with attached memorandum, dated June 4, 1979, to Peter B. Bensinger, Administrator, the Secretary furnished his scientific and medical evaluation, and his recommendation that marihuana and synthetic THC remain in Schedule I of the Controlled Substances Act (copy of the full text of the Secretary's scientific and medical evaluation and recommendation is provided in Appendix A).

Administrator's Findings

The Administrator has reviewed the petitions filed on behalf of NORML, the scientific and medical evaluation and recommendation of the Secretary and all other relevant data. As directed by the court's remand and sections 201 and 202(b) of the Controlled Substances Act, 21 U.S.C. 811 and 812(b), the Administrator finds,

1. Marihuana, as defined by section 102(15) of the Controlled Substances Act, 21 U.S.C. 802(15), consists of cannabis, cannabis resin, cannabis leaves and cannabis seeds, as defined by the "Single Convention". The Administrator, under the authority of section 201(d) of the Controlled Substances Act, 21 U.S.C. 811(d), is required to establish the following minimum control regime for these components of marihuana in order to fulfill U.S. international treaty obligations under the "Single Convention":

a. "Cannabis" and "cannabis resin" (minimum control regime of CSA Schedule II).
b. Cannabis leaves (minimum control regime of Schedule V).
c. Cannabis seeds capable of germination (minimum control regime of Schedule V).

2. Marihuana abuse, its history and current pattern, scope, duration, and significance of abuse.

The latest national survey on drug abuse reported that by early 1977, 43 million or one in four Americans, 12 years of age or older, had used marihuana and/or hashish (a substance which is included under the definition of marihuana) at least once.[4] Since marihuana has no currently accepted medical use in treatment in the United States (See Administrator's finding #5), it is evident that substantial numbers of individuals have used marihuana and/or hashish on their own initiative rather than on the basis of medical advice, a criteria evidencing "potential for abuse" as defined in the legislative history of the Controlled Substances Act, 21 U.S.C. 801 et seq.[5]

The quantity of marihuana in the illicit trade is another indicator of "potential for abuse". While the amount consumed is not known, the amount reported seized through federal law enforcement efforts during 1978 was 6,436,000 pounds of marihuana and 26,000 pounds of hashish.[6]

The history, current pattern of abuse, scope, duration and significance of abuse can be best illustrated by the

[1] This petition was filed on September 14, 1972 with the Bureau of Narcotic and Dangerous Drugs, predecessor to the Drug Enforcement Administration. The history of this petition can be found in 40 Federal Register 44104-68 and the courts review of that order in NORML v. DEA, *Supra.*

[2] A petition to reschedule synthetic THC was filed on behalf of NORML on May 6, 1977 with the Drug Enforcement Administration, in accordance with the court's remand in NORML v. DEA, *Supra.*

[3] Note the definitions of "cannabis" and "cannabis resin" are found in Article 1, "Single Convention on Narcotic Drugs, 1961." (Single Convention), 18 UST 1407 (1967).

[4] Marihuana and Health, Seventh Annual Report to the U.S. Congress from the Secretary of Health, Education, and Welfare 1977. Government Printing Office 1978.

[5] House of Representatives Committee on Interstate and Foreign Commerce Report on the Comprehensive Drug Abuse Prevention and Control Act of 1970. Rept. 91-1444 (Part 1) pages 34-35.

[6] Drug Enforcement Administration, Performance Measures System—Statistics compiled through December 1978, pg. 56.

comparison of surveys conducted in 1971 and 1977. The National Commission on Marihuana and Drug Abuse indicated that by the Fall of 1971, some 24 million Americans 12 years of age or older had tried marihuana at least once and at least 8.3 million were current users.[7] The latest comparable survey indicated that by early 1977, 43 million Americans had used marihuana and/or hashish and that 16 million were current users.[8]

The 1971 survey indicated that 14% of the 12 to 17 year olds had tried marihuana at least once, and that 39% of the 18 to 25 year olds and 9% of those 26 years old or older had had a similar experience.[9] In 1977, 28% of the 12 to 17 year olds had tried marihuana and/or hashish, 60% of the 18 to 25 year olds and 15% of those 26 years old or older.[10]

The prevalence of current users also increased between 1971 and 1977. In 1971, 6% of the 12 to 17 year olds reported being current users of marihuana, 17% of the 18 to 25 year olds and 1% of those 26 and older reported being current users. In 1977 16% of the 12 to 17 year olds reported being current users, 28% of the 18 to 25 year olds and 3% of those 26 year olds and older.[11] While one out of four, 18 to 25 year olds reported being current users of marihuana and/hashish in 1977, the most significant change in the prevalence of use occurred in 12 to 17 age group. The surveys indicated that in 1971 approximately 1.4 million 12 to 17 year olds were current users of marihuana, in 1977 approximately 4 million or one in six were current users. Moreover, coincident with the increase in prevalence of marihuana use, the potency of the material consumed substantially increased.[12]

In terms of frequency of use, marihuana and/or hashish in 1977 was by far the illicit drug most used by high school seniors with 56% reporting some use in their lifetime, 48% reporting some use in the past year, and 35% use in the past month.[13] Surveys of high school seniors in 1975, 1976 and 1977, indicated little change in the daily use of illicit drugs, with the exception of marked increase in the proportion of students using marihuana and/or hashish on a daily basis. One in seventeen seniors reported daily use in 1975, one in twelve in 1976 and one in eleven in 1977.

3. Synthetic THC abuse, its history and current pattern, scope, duration, and significance of abuse.

4. Pure synthesized delta-9-tetrahydrocannabinol (THC) is available in limited quantities for research purposes only. There is no record of abuse of this preparation.

While THC is only one of the more than 300 chemicals which are found in marihuana, it is responsible for most of the biological activity of the plant material [14] and is generally conceded to be the principal psychoactive ingredient of marihuana in man.[15] Therefore it can be assumed that synthetic THC, like marihuana, has a high abuse potential and that if the availability of THC were less restricted, the prevalence of its abuse would be substantial.

4. Scientific evidence of marihuana, extracted and synthetic THC; pharmacological effects, state of current scientific knowledge regarding marihuana, extracted and synthetic THC; risk to public health of marihuana, extracted and synthetic THC; psychic or physiological dependence liability of marihuana, extracted and synthetic THC; whether marihuana is an immediate precursor of a substance already controlled under the Controlled Substances Act are adopted as found in the Secretary's medical and scientific evaluation. (See Appendix A)

5. Marihuana, extracted and synthetic THC have no currently accepted medical use in treatment in the United States. (See Appendix A)

6. There is a lack of accepted safety for use of marihuana, extracted and synthetic THC under medical supervision. (See Appendix A)

Discussion

The petitions filed on behalf of NORML, request the Administrator to initiate proceedings to remove marihuana and synthetic THC from Schedule I of the Controlled Substances Act. The authority to initiate proceedings to remove these substances from Schedule I rests in the Administrator, as delegatee of the Attorney General, pursuant to section 201 of the Controlled Substances Act which states, in part:

> * * * Proceedings for the issuance, amendment, or repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

However, the Administrator is not obliged to initiate proceedings and propose to issue, amend or repeal a rule in every instance. In the event of a request to subject a controlled substance to lesser control or to remove it entirely, the Administrator pursuant to § 1308.44(e) of Title 21, Code of Federal Regulations, shall initiate proceedings for the transfer or removal of a controlled substance, only if he determines that the scientific and medical evaluation and recommendations of the Secretary and all relevant data constitute substantial evidence to warrant the proposed change.

After careful review of the petitions filed on behalf of NORML to remove marihuana and synthetic THC from Schedule I of the Controlled Substances Act, the scientific and medical evaluation and recommendations of the Secretary of HEW and all other relevant data, the Administrator is unable to determine that there exists substantial evidence to warrant the proposed change. To the contrary, the evidence supports and mandates, the control of marihuana and synthetic THC in Schedule I of the Controlled Substances Act and conflicts with representations made in NORML's petition to reschedule marihuana as indicated below:

1. Administrator's finding #1 rejects the assertion in NORML's petition that the federal control of marihuana is not obligatory under the "Single Convention" (See "NORMAL v. DEA." Supra, at 750).

2. Administrator's finding #2 rejects the assertion in NORML's petition that marihuana has neither an actual nor relative high potential for abuse to justify retention in Schedule I.

3. Administrator's finding #4, which is a summary of a finding from the Secretary and is statutorily binding on the Administrator, rejects the assertion in NORML's petition that marihuana has a de minimus risk to the public health.

4. Administrator's finding #5, which is a finding from the Secretary and is statutorily binding on the Administrator, rejects the assertion in NORML's petition that marihuana has accepted medical uses in the United States.

5. Administrator's finding #6, which is a finding from the Secretary and is statutorily binding on the Administrator, rejects the assertion in NORML's

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[7] Marihuana: A Signal of Misunderstanding, First Report of the National Commission on Marihuana and Drug Abuse, March 1972, Government Printing Office, 1972.

[8] See note 4.

[9] Abelson, H. I., Fishburne, P. M., and Cisin, I. National Survey on Drug Abuse: 1977—A Nationwide Study-Youth, Young Adults, and Older People. Volume 1—Main Findings. Government Printing Office, 1977.

[10] Id.

[11] Id.

[12] March 31, 1979 Status report on potency analyses NIDA Contract HSM-42-70-109.

[13] Johnston, L. D., Bachman, J. G. and Mailey, P. M. Highlights from Drug Use Among American High School Students 1975-1977. Government Printing Office 1978.

[14] Mechoulam, R., Shani, A., Edery, H. and Grunfield, Y. Chemical basis of hashish activity. *Science* 169: 611-612, 1970.

[15] See note 4.

petition that marihuana may be safely used for medical purposes.

Conclusion

The Administrator has concluded the petition filed on behalf of NORML has failed to provide substantial evidence that marihuana should be subjected to lesser control than Schedule I under the Controlled Substances Act. Moreover, the Administrator concludes that the control of marihuana under Schedule I satisfies our obligation under the "Single Convention" and is in compliance with the statutory criteria of section 202(b)(1) of the Controlled Substances Act, 21 U.S.C. 812(b)(1).

Additionally, the Administrator has concluded the petition filed on behalf of NORML has failed to provide substantial evidence that synthetic THC should be subjected to lesser control than Schedule I under the Controlled Substances Act. Moreover, the Administrator concludes that the control of synthetic THC is in compliance with the statutory criteria of section 202(b)(1) of the Controlled Substances Act, 21 U.S.C. 812 (b)(1).

Therefore, pursuant to the authority vested in the Attorney General by section 201 of the Controlled Substances Act, 21 U.S.C. 811, and redelegated to the Administrator by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby denies the pending petitions filed on behalf of NORML to reschedule marihuana and synthetic THC from Schedule I of the Controlled Substances Act.

Dated: June 14, 1979.

Peter B. Bensinger,

Administrator.

Appendix "A"

The Secretary of Health, Education, and Welfare,
Washington, D.C. 20201,
June 4, 1979.

Mr. Peter B. Bensinger,
Administrator, Drug Enforcement Administration, Washington, D.C.

Dear Mr. Bensinger: On June 22, 1977 the Drug Enforcement Administration referred to the Department a petition to reschedue marijuana under the Controlled Substances Act. The petition was originally filed with the Bureau of Narcotics and Dangerous Drugs by the National Organization for the Reform of Marijuana Laws. The referral to HEW followed the decision of the United States Court of Appeals for the District of Columbia Circuit on April 25, 1977 in *NORML v. Drug Enforcement Administration.* In that decision, the Court held that the Secretary of HEW is charged with responsibility for making scientific and medical findings and recommendations concerning possible rescheduling of controlled substances by DEA.

The Court specifically directed separate evaluations and recommendations for each of the following cannabis materials: (1) "Cannabis" and "cannabis resin"; (2) cannabis leaves; (3) cannabis seeds capable of germination; and (4) synthetic THC.

The Food and Drug Administration and the Alcohol, Drug Abuse and Mental Health Administration have evaluated the medical and scientific issues, and those agencies, with the agreement of the Assistant Secretary for Health, recommend that each of the listed cannabis materials should remain in Schedule I. I agree with these recommendations. A memorandum setting forth the basis for the recommendations is enclosed.

Please let us know if we may answer any questions concerning these recommendations.

Sincerely,
Joseph A. Califano, Jr.
Enclosure.

Basis for Recommendations for Control of "Marihuana"

I. Introduction

In 1970, Congress enacted the Controlled Substances Act 21 U.S.C. 801 *et seq.* (CSA) and placed marihuana and tetrahydrocannabinols in Schedule I, the classification that provides for the most stringent controls and penalties. On May 18, 1972, the National Organization for the Reform of Marihuana Laws (NORML) petitioned the Bureau of Narcotics and Dangerous Drugs (now the Drug Enforcement Administration or DEA) to reschedule marihuana to a less restrictive category. DEA denied the NORML petition, but on April 28, 1977 the United States Court of Appeals for the District of Columbia directed DEA to refer the NORML petition to the Secretary of Health, Education, and Welfare (HEW) for a medical and scientific evaluation and scheduling recommendation. Minimum scheduling levels dictated by United States obligations under international treaty (Single Convention on Narcotic Drugs) were specified by the court. The Secretary of HEW was directed to make separate evaluations and recommendations for each of the following materials within the limits authorized by the single convention.

1. "Cannabis" and cannabis resin" (minimum control regime of CSA Schedule II).
2. Cannabis leaves (minimum control regime of Schedule V).
3. Cannabis seeds capable of germination (minimum control regime of Schedule V).
4. Extracted and synthetic THC be retained in Schedule I of the CSA.

II. Delineation of Relevant Criteria

The Controlled Substances Act requires that several findings be made prior to classification of a substance in any of the Schedules I through V of the Act. These finds are presented in Attachment I. The Act also specifies (See Attachment II) that the scientific and medical evaluation of a substance conducted by the Secretary as part of a scheduling recommendation should consider five factors (21 U.S.C. 811(c) (2), (3), (6), (7), and (8)) and any scientific or medical considerations related to three additional factors (21 U.S.C. 811(c) (1), (4), and (5)). Information pertinent to these eight factors as they apply to the substances under consideration forms the basis of this report.

Section III presents data on cannabis plant, resin, leaves and seeds, and Section IV presents data on both extracted and synthetic delta-9-tetrahydrocannabinol ("THC").

III. Cannabis plant, resin, leaves and seeds

The plant cannabis sativa L., commonly known as marihuana, consists of approximately 250 known chemical compounds. A summary of the various classes of chemical compounds known to be contained in the plant cannabis sativa is presented in Attachment III.

The major active ingredient contained in the cannabis sativa plant is delta-9-tetrahydrocannabinol. THC content in cannabis plants is quite variable. THC content varies not only (a) in different parts of a single plant (flowers, leaves, stems, seeds, etc.), but also (b) at different stages of development of the same part of a single plant, (c) with the geographic location in which the plant is grown and (d) with the time of day at which the plant is harvested. An analysis of the amount of THC found in various cannabis plants and plant parts is outlined in Attachment IV. Although it is not intended to serve as a comprehensive reference on the composition of cannabis sativa, Attachment IV does document the variability on THC contents among substances identified collectively as cannabis sativa or "marihuana."

The variability of THC content in natural plant material renders marihuana plant, resin, leaves and seeds inappropriate substances for precise scientific investigation of the actions of "marihuana." Consequently, scientific and medical evaluations of marihuana have focused on delta-9-tetrahydrocannabinol itself, and its immediate synthetic precursor, Cannabidiol, rather than on natural marihuana plant parts. Despite this relative lack of scientific analysis of Cannabis plant resin, leaves and seeds, the following statements can be made:

1. Its actual or relative potential for abuse; its history and current pattern of abuse; the scope, duration, and significance of abuse.

Marihuana plant materials have a well-substantiated "potential for abuse", as the phrase is defined in the Report on the Drug Abuse Prevention and Control Act of 1970 of the Committee on Interstate and Foreign Commerce of the House of Representatives. About 38 million Americans have tried marihuana. Marihuana use is largely confined to individuals under 25; in 1977, one in eleven high school seniors nationwide reported using marihuana daily. furthermore, about one in ten males, aged 20–24, use marihuana on a daily basis. Marihuana use becomes less common after age 25 and is rare in individuals over age 35. These patterns of use may change however, as more young adults with histories of marihuana use enter these age groups. (Ref. 1 and 15).

2. Scientific evidence of its pharmacological effect, if known; the state of current scientific knowledge regarding the drug or other substance.

The pharmacological and physiological effects associated with marihuana use are attributed to marihuana's active ingredient, THC. There are over eight thousand references to studies and reports on the effects of marihuana and derivatives of THC. The Committee on Drugs for the American Academy of Pediatrics reported in 1975 on the effects of Marihuana on man. It was reported that motor performance deteriorates with dose of marihuana administered by smoking. Testing of mental performance has shown dose related impairment of verbal output, counting, and color discrimination. Short term memory seems to be the mental facility most significantly affected by marihuana. Moderate amounts of marihuana seem not to interfere with the information retrieval component of this mental faculty but more likely with initial learning, thus, affecting the acquisition process involved in the storage of information. When alcohol and marihuana were consumed together an additive decrement on mental and motor performance was noted. With respect to the effect of marihuana on driving performance, a significant dose related increase in braking time was found after ingestion of marihuana. An increased amount of time was required for recovery from glare when driving at night. It was stated that sedation and effects of marihuana which increase complex visual reaction time and variability in performance because of occasional lapses of attention would be expected to impair driving performance. In the American Journal of Psychiatry, Vol. 135, 1978, Dr. Treffert reported on the Use of Marihuana in Schizophrenia. The study reports on four schizophrenic patients whose illness was other wise will controlled with antipsychotic medication. Each patient served as his own control and the sole substance abused was marihuana and the antipsychotic medication intake remained constant. Each time marihuana was used at moderate levels there was exacerbation of a pyschotic process and deterioration of the schizophrenic patient. In normal individuals marihuana has been found to cause a transient wild paranoia which is more likely to occur if the user is initially anxious about the experience or the circumstances of use. In a college population it was reported that those who are more hypochrondriacal and who feel less in control of their own lives and more at the mercy of external events are more likely to have have adverse reactions to marihuana and other psychoactive drugs (Reference 1, page 21). Perhaps one of the most consistent findings on the effect of marihuana is its capacity to induce aggressive behavior in experimental animals and in man. When given to monkeys at oral doses equivalent to heavy human cannabis use the monkeys responded like humans. While aggression was intially reduced, after receiving THC for months during the year long study the monkeys became irritable and aggressive. (Ref. 1, page 14). There is no currently accepted medical use in treatment in the United States for the cannabis plant resin, leaves, or seeds. None of these substances has ever received FDA approval of a new drug application for any condition of use.

3. What, if any, risk there is to the public health.

As mentioned above, the variability of THC content in natural plant materials renders cannabis plant, resin, leaves and seeds inappropriate substrates for precise scientific investigation. Consequently, there is a "lack of *accepted* safety" associated with use of cannabis plant, resin, leaves and seed "under medical supervision."

4. Its psychic or physiological dependence liability.

No convincing evidence exists to suggest that abuse of natural marihuana plant materials leads to severe pyschological or physical dependence. Three studies supported by the National Institute of Drug Abuse of chronic cannabis users in Jamaica, Greece and Costa Rica detected no evidence of development of a cannabis psychosis (See Ref. 2). Moreover, it has been suggested that changes in values and behavior previously attributed to cannabis use may have preceded rather than resulted from usage (Refs. 2 & 3). The question, for example, of whether there exists a causal relationship between cannabis use and "an amotivational syndrome", or whether there is simply a correlation between cannabis users and individuals with these traits, is as yet unanswered. Further research is needed before the dependence liability of marihuana can be more clearly defined.

5. Whether the substance is an immediate precursor of a substance already controlled under this title.

Marihuana is a natural substance from which THC and other cannoinoids are derived.

IV. *Extracted and Synthetic THC*

More precise scientific data are available on the effects of THC than are available on the effects of natural cannabis plant materials. In light of that data, the following statements can be made.

1. Its actual or relative potential for abuse; the scope, duration, and significance of abuse.

As previously mentioned, the public abuse of natural cannabis plant materials is well documented. Because the potency and "street value" of marihuana preparations increase with higher THC content, i.e. plant material, sinsemilla, hashish, hash oil, we must surmise that were pure THC generally available, it would undoubtedly have a high potential for abuse.

2. Scientific evidence of its pharmacological effect, is known

Although cannabis has been used for thousands of years, it is only recently that extensive studies of the pharmacology of its active constituent, THC, have been undertaken. the pharmacological effects of THC are numerous and are now well-documented (Refs. 1, 3, 4, 5, and 6). Most data on THC have been derived from animal studies, although THC has also been studied in human volunteers.

THC is both an hallucinogen and euphoriant. it acts on the autonomic, as well as the central nervous system. On addition, it has direct effects on certain individual organs, such as the eye.

3. The state of current scientific knowledge regarding the drug or other substance.

THC is a compound of unique structure among the hallucinogens and euphoriants.

Its poor aqueous solubility make formation of useful pharmaceutical preparations difficult.

Although THC currrently has no currently accepted medical use in treatment in the United States, it is being investigated under a number of Investigational New Drug Applications (INDs) for several potential therapeutic uses. Two therapeutic uses for which marihuana is currently being investigated are: (1) The reduction of intraocular pressure in patients with open angle glaucoma; and (2) the control of nausea and vomiting accociated with cancer chemotherapy. (Ref. 2).

4. Its history and current pattern of abuse.

Pure THC has never been generally available to the public. Its use is restricted to reasearch activities controlled by IND regulations. According to DEA, there has only been an isolated instance of an unaccounted disappearance of pure THC from controlled research activity That incident involved only two or three small vials of pure THC. We are unaware of any instance in which pure THC has been the subject of actual abuse.

5. What, if any, risk there is to the public health.

The risk to the public health from the use of THC is currently being defined by scientific studies. the effects of THC are dependent on dose and duration of administration of this substance. At high doses, there is a clear detrimental affect to the individual and to society from the psychological effects of delta-9-THC. There are also reports of physiological effects from low doses of delta-9-THC and from marihuana cigarettes. There has been scientific evidence and clinical observations reported which would indicate delta-9-THC decreases the testosterone levels in humans and in experimental animals. (Refs. 10 and 11).

Reports contained in Reference Nos. 5, 6 and 9 reinforce the conclusion that responses to delta-9-THC on the cardiovascular system, the hemotopoietic system, the endocrine system, the immunological system, the autonomic nervous system, and the central nervous system are variable with dose and duration of delta-9-THC administration. Whether or not the effects ultimately are determined to present a *toxic manifestation* of the substance's activity and, therefore, present a substantial risk to the public health remains to be determined. Scientific data currently available lead to the conclusion that pure delta-9-THC can have a significant risk to the public health. The effects of delta-9-THC are complex and not throrougly understood. Because of such actual and potential physiological, pharmacological and behavioral effects we cannot conclude at the present time that there is sufficient accepted safety for the use of THC under medical supervision.

6. Its psychic or physiological dependence liability.

Physical dependence, such as types seen with opiate barbiturate or alcohol use, has not been observed with THC use in man. Mild abstinence symptoms, such as irritability and sleeplessness, have been noted after use of high doses of THC. This type of "withdrawal syndrome" is uncommon and has only rarely been recorded clinically. (Refs. 1 through 6).

The question regarding the psychological dependence liability of THC is not clear. Pure THC has not been given in controlled experimental studies to individuals at sufficiently long times to produce a psychological dependence. This type of study is contrary to the general principles of the ethical investigations in man. Therefore, the determination of a psychological dependence to pure THC must depend upon extrapolation of information obtained from substances with lower concentrations of delta-9-THC content. Such an extrapolation was reported by Dr. Kaymakcalan (Ref. 9). This report points out that there is evidence for the development of tolerance to THC or cannabis, both in animals and in man. The relationship of the development of tolerance to the dose and frequency of use is pointed out in this article. The smoking of two or three cigarettes which contain from 1 to 2% THC on a weekly basis is not likely to demonstrate any measurable tolerance, nor dependence. As the dose of THC increases either through an increased smoking of THC cigarettes, or with the smoking of more potent hashish, the effects from the larger doses begin to be exhibited. A number of references are cited by Dr. Kaymakcalan which would lead to the conclusion that hashish can and does cause a very strong psychological dependence syndrome. We would, therefore, presume that 100% THC would have effects similar to the lower concentrations but of greater magnitude.

7. Whether the Substance is an immediate precursor of a substance already controlled under this title.

This factor is not applicable to THC.

V. *Discussion*

In evaluating the appropriate schedule for the control of cannabis, cannabis resin, cannabis leaves, cannabis seed and extracted and synthetic THC, it should be emphasized that our recommendations are responsive to the scheduling criteria established by Congress in the Controlled Substances Act. That statute does not leave us at liberty to recommend scheduling on the basis of our own judgments as to what is in the public interest. Rather, section 202(b) of the Act establishes specific criteria for scheduling, and section 201(c) lists the factors we are to consider in making recommendationns to the Attorney General.

On the basis of the scientific and medical information available to us with respect to the factors listed in section 201(c), and in light of the scheduling criteria set forth in section 202(b), we have concluded that the substances we have reviewed could be placed in either Schedule I or Schedule II. We recommend that the substances to continued in Schedule I, however, for three reasons.

The first reason relates to the second criterion for placement in Schedule I or Schedule II. for Schedule I, the criterion is:

(B) the drug or other substance has no currently accepted medical use in treatment in the United States.

For schedule II, the criterion is:

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

The substances in question clearly fit the second criterion for Schedule I: they have no currently accepted medical use in treatment in the United States. Conceivably, the current *investigational* use of some of the substances could be classified as "a currently accepted medical use with severe restrictions" within the meaning of the second criterion for Schedule II. That is a plausible interpretation of that criterion, but its appropriateness is not free from doubt. Consequently, the substances fit more readily into Schedule I.

The second reason for preferring Schedule I relates to the third scheduling criterion. For Schedule I it is:

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

For Schedule II, the third criterion is:

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

It is far from clear what criterion (C) for Schedule I adds to criterion (B) for Schedule I. The legislative history is unilluminating on this point. Nevertheless, due to the substantial unanswered questions about the efficacy and safety of medical use of these substances, it is clear that there is a lack of accepted safety for use of these substances under medical supervision. Thus, the substances do fit within the third criterion for Schedule I. They also, arguably, fall within the third criterion of Schedule II, but the fit is not nearly as good. These substances may "lead to severe psychological or physical dependence," but the evidence that they in fact do so is not strong. Thus, however anomalous it may seem, the lack of strong evidence of "severe psychological or physical dependence" militates in favor of placement in Schedule I rather than in Schedule II. Indeed, if it should be established that these substances do not lead to severe dependence, then placement in Schedule II would be ruled out altogether. No placement in Schedule III, IV, or V is possible unless the substances have a currently accepted medical use in treatment in the United States.

The advisory committee's rationale for placing delta-9-tetrahydrocannabinol and cannabidiol in Schedule II—i.e. facilitation of research—is not relevant to any of the scheduling criteria established by the statute and probably is not within any of the factors listed in section 201(c) for consideration by the Secretary. Therefore, it is not an appropriate basis for a rescheduling recommendation.

Moreover, there is no evidence that rescheduling would accomplish the committee's intended purpose. FDA and other units of the Department have already acted to facilitate research with these substances by other means. We shall continue to seek other ways to facilitate such research.

Finally, the third for preferring Schedule I is that Congress itself placed marihuana in Schedule I. Therefore, in our view the arguments for placement in Schedule II must be stronger than those for placement in Schedule I to justify placement in Schedule II. As I have explained, in our view if either Schedule is more appropriate it is Schedule I.

We conclude that marihuana and synthetic THC are properly controlled in Schedule I of the Controlled Substances Act, and we recommend that these substances remain in Schedule I.

In preparing this recommendation, we have carefully considered the discussion of scheduling decisions in *National Organization for the Reform of Marijuana Law* v. *DEA*, 559 F. 2d 735 (D.C. Cir. 1977). We have noted in particular the court's admonition that "placement in Schedule I does not appear to flow inevitably from lack of a currently accepted medical use. Like that of Section 201(c) [of the Controlled Substances Act], the structure of Section 202(b) contemplates balancing of medical usefulness along with several other considerations, including potential for abuse and danger of dependence. To treat medical use as the controlling factor in classification decisions is to render irrelevant the other 'findings' required by section 202(b). The legislative history of the CSA indicates that medical use is but one factor to be considered, and by no means the most important one." 559 F. 2d at 748. In reaching our recommendation, we have weighted each of the three criteria for each Schedule. We have rejected Schedule III, IV, and V because, from the medical and scientific perspectives considered under § 201(c), the substances in question do not satisfy any of the criteria for those Schedules. As explained above, our consideration of the choice between Schedule I and Schedule II has turned not only on the criterion of medical use but also on the criteria of "accepted safety" (criterion C in Schedule I) and "dependence" (criterion C in Schedule II). For the reason set forth above, it is our judgment that, when these criteria are weighted one with another, the preferable recommendation is for retention of the current classification of these substances in Schedule I.

Our recommendation does not take into account, and we express no views on, the scheduling requirements needed to satisfy the single Convention on Narcotic Drugs. As the court noted, establishment of a minimum schedule to satisfy the Convention "is based on a legal judgment as to the controls mandated by the Single Convention, and need not be justified by medical and scientific findings." 559 F.2d at 752. That legal judgment is to be made by the Attorney General, not by the Secretary of Health, Education, and Welfare.

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Note.—Attachments are available in the Drug Enforcement Administration Library at 1405 I Street NW., Washington, D.C. 20537.

[FR Doc. 79-19103 Filed 6-19-79; 8:45 am]
BILLING CODE 4410-09-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Public Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given that the National Commission for Employment Policy will hold its first formal meeting on July 12, 1979, in the Shenandoah Room of the Ramada Inn, located at 1900 N. Fort Myer Drive, Arlington, Virginia. The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.

The National Commission for Employment Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973, as amended, (Pub. L. 93–203 and Pub. L. 95–524). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The agenda will focus on the following: a review of the Commission's organization and operation; a discussion of the Commission's longer term objectives; and an initial consideration of the issues to be addressed in the Commission's Annual report to the President and the Congress.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission three days before the meeting. this application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individuals' qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street, NW, Room 300, Washington, D.C.

Signed at Washington, D.C. this twelfth day of June 1979.

Isabel V. Sawhill,
Director, National Commission for Employment Policy.

[FR Doc. 79-19233 Filed 6-19-79; 8:45 am]
BILLING CODE 4510-30-M

POSTAL RATE COMMISSION

Visit to R.R. Donnelly Printing Co., Chicago, Ill.

June 12, 1979.

Notice is hereby given that members of the Commission and advisory staff personnel visited the R.R. Donnelly Printing Company in Chicago, Illinois on June 4, 1979, for the purpose of acquiring a general knowledge of preparation of periodicals by a mailer. A report of the visit is on file in the Commission docket room.

David F. Harris,
Secretary.

[FR Doc. 79-19092 Filed 6-19-79; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15925; File No. SR-Amex-79-9]

Self-Regulatory Organization; Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975),

notice is hereby given that on July 11, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. (the "Amex") proposes to amend Rule 114 regarding Registered Equity Market Makers as set forth below.

Note.—Brackets [ ] indicate words to be deleted, italics indicate words to be added.

Rule 114

* * * *Commentary*

[.07 Rule 114 shall expire as of the close of business on July 31, 1979, unless extended by an amendment thereto adopted by the Exchange and approved by the Securities and Exchange Commission.]

[.08] *.07* The provisions of Rule 114 shall not apply to the issuance of commitments or obligations to trade from the Floor of the Exchange.

Statement of Basis and Purpose

The basis and purpose of the foregoing rule change is as follows:

Amex Rule 114 establishes a category of floor traders known as Registered Equity Market Makers ("REMMs"). The rule is intended to create a supplemental market-making function for which Amex floor traders may qualify in order that their proprietary on-floor transactions may be eligible for the exemption for market-maker transactions contained in Section 11(a)(1)(A) of the Act.

A REMM is deemed to be a market maker by virtue of his holding himself out as being willing to buy and sell each security in which he is registered, for his own account, on a regular and continuous basis. Rule 114 requiries, in particular, that a REMM spend a substantial amount of his time on the Floor and be generally available during that time to discharge his obligations under the rule. Those obligations include, among other things, the requirement that "[w]henever a [REMM] acting in his capacity as such enters a quote or effects a transaction in a registered security, or is called upon with respect to any such security by a Floor Official or a Floor Broker holding a customer's unexecuted order, he shall engage in dealings in such security which, under the exisiting circumstances, are reasonably calculated to contribute to price continuity or depth or to minimizing the effects of a temporary disparity between supply and demand for such security".

Rule 114 further requires that whenever a REMM is called upon, with respect to a security in which he is registered, either by a Floor Official or a floor broker holding an unexecuted customer's order, he is obligated either to better the bid or offer quoted by the specialist for his own account in that security or to improve the depth of the specialist's bid or offer.

Rule 114 was approved by the Commission on an interim basis, with a "sunset" provision contained in Commentary .07 under which the rule would expire, unless amended, on July 31, 1979. In the four months that the REMM program has been in active operation, 17 persons have registered as REMMs on the Exchange, with market-making responsibilities in an aggregate of 103 stocks. During this interim period, the Exchange has monitored the implementation of Rule 114 to determine whether REMMs are acting in a manner which qualifies them as market makers.

On the basis of its review, the Exchange strongly believes that REMMs are properly functioning in their intended market-making capacity. The Exchange further believes that these REMMs have substantially improved the markets for securities traded on the Exchange. Under Rule 114, a REMM has special responsibilities, greater than those which apply to registered traders generally under Rule 111. In addition, as described above, a REMM is subject to being called into the crowd by a floor broker or Floor Official and is then required to make a suitable bid or offer for at least one unit of trading. The registration of a REMM in a particular security thus improves the potential depth and liquidity of trading in that security.

As a result of its findings, the Exchange is proposing to adopt Rule 114 on a permanent basis. This will be accomplished by deleting the "sunset" provision contained in Commentary .07.

The proposed amendment to Rule 114, by allowing continuation of the REMM program after July 31, 1979, is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b) (5) and (8) of the Act in particular to perfect the mechanism of a free and open market and a national market system, and to avoid unnecessary burdens on competition.

Comments Received From Members, Participants or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

The Amex has determined that no burden on competition will be imposed by the proposed rule change. To the contrary, by allowing continuation of the REMM program under Rule 114, the proposed rule change will enhance competition among market makers at the Exchange.

Within thirty-five 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 periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned 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.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L 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 referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-19254 Filed 6-19-79; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 2-12324 (22-1829), 2-53085 (22-8337)]

Pennwalt Corp.; Application Opportunity for Hearing

June 14, 1979.

Notice is hereby given that Pennwalt Corporation, ("Applicant"), has filed an application pursuant to Clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Girard Bank (the "Bank") under certain existing

indentures qualified under the Act and another proposed indenture which is not to be qualified is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interests, either eliminate such conflicting interests or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant, as of March 15, 1979, had outstanding $3,762,000 principal amount 3.45% Sinking Fund Debentures, due April 1, 1981 (the "Debenture") issued under an Indenture dated as of April 1, 1956 (the "1956 Indenture") between the Applicant and the predecessor of Girard Bank as Trustee, and $50,000,000 principal amount of 9% Notes due 1985 (the "Notes") issued under an Indenture dated as of April 15, 1975 (the "1975 Indenture") between the Applicant and the Bank. Both the Debentures and the Notes were registered on registration statements filed with the Commission under the Securities Act of 1933. The 1956 Indenture and the 1975 Indenture were both qualified under the Trust Indenture Act of 1939.

2. The Applicant is not in default with respect to either the Debentures of the Notes.

3. The Company proposes to enter into a Lease Agreement with the County of Westchester Industrial Development Agency (the "Agency") whereby the Company will lease from the Agency an industrial facility consisting of real estate, improvements and equipment. The project will be acquired and constructed with the proceeds from the sale of approximately $4,800,000 principal amount of Industrial Development Bonds (the "Bonds") to be issued under an Indenture of Mortgage and Trust dated as of March 1, 1979 between the Agency and a commercial bank as Trustee. The Bonds will not be registered under the Securities Act of 1933 pursuant to an exemption contained in Section 3(a)(2) thereof. Similarly, the Bond Indenture will not be qualified under the Trust Indenture Act of 1939 pursuant to the exemption contained in Section 304(a)(4) thereof.

4. In addition, the Company also proposes to enter into a Guarantee Agreement dated March 1, 1979 with the Trustee under the Bond Indenture under which the Company will unconditionally guarantee payment of principal, interest and premium, if any, on the Bonds.

5. The Company and the Agency desire to have Girard Bank act as Trustee under the Bond Indenture.

6. The Applicant is not the issuer of the Bonds. However, the Bonds may be deemed to be "securities" of the Applicant because the Applicant is guaranteeing payment of the Bonds and because the rentals payable by the Applicant under the Lease are pledged under the Bond Indenture to pay the Bonds. Thus, the Bond Indenture may be "another indenture under which any other securities * * * of an obligor upon the indenture securities are outstanding" under Section 310(b) of the Act. Thus, there could be a conflict of interest if Girard Bank were to serve as Trustee under the Bond Indenture as well as under the 1956 and 1975 Indentures.

7. The Debentures, Notes, Guarantee and lease are all of equal rank as to one another and without priority or preference of any over the other. In the opinion of the Applicant, the provisions of the aforementioned Indentures are not likely to involve a material conflict of interest so as to make it necessary in the public interest for the protection of any holder of the Notes, Debentures or the Bonds to disqualify Girard Bank from acting as Trustee under the 1956 Indenture, and 1975 Indenture or the Bond Indenture.

The Applicant has waived notice of hearing, on the issues raised by the application, and all rights to specify procedures under the rules of practice of the Securities and Exchange Commission with respect to this application.

For a more detailed account of the matters of fact law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than July 5, 1979, submit to the Commission his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the persons submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-19167 Filed 6-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Administrative Proceeding File No. 3-5763; File No. 22-9901]

Eaton Corp.; Application and Opportunity for Hearing

June 18, 1979.

In the matter of Eaton Corporation, Trust Indenture Act of 1939, as amended Section 310(b)(ii).

Notice is hereby given that Eaton Corporation (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding by the Commission that the trusteeship by Chase Manhattan Bank, National Association (the "Bank") under an indenture of the Applicant (the "Eaton Indenture") which was qualified under the Act, and the trusteeship by the Bank under an indenture of Cutler-Hammer, Inc., and the obligations of Cutler-Hammer which are to be assumed by the Applicant upon the merger into the Applicant of Cutler-Hammer, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for

the protection of investors to disqualify the Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in that section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest, or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that: (1) It has outstanding on the date hereof $85,000,000 of its 7⅞% Debentures due December 1, 2003 (the "Eaton Debentures") issued under the Eaton Indenture executed by the Company and Chase, as Trustee. The Eaton Debentures were registered under the Securities Act of 1933, and the Eaton Indenture was qualified under the Trust Indenture Act of 1939, as amended. Chase is currently acting as trustee under the Eaton Indenture;

(2) Cutler-Hammer has outstanding on the date hereof $11,927,000 of its 5¾% Sinking Fund Debentures due 1992 (the "Cutler-Hammer Debentures"), issued under the Cutler-Hammer Indenture executed by Cutler-Hammer and Chase, as Trustee. The Cutler-Hammer Debentures were registered under the Securities Act of 1933, as amended (File No. 2-26397), and the Cutler-Hammer Indenture was qualified under the Trust Indenture Act of 1939, as amended. Chase currently is serving as trustee under the Cutler-Hammer Indenture.

(3) It merged with Cutler-Hammer on March 30, 1979 (the "Merger"). As of the effective date of the Merger, the Company expressly assumed the due and punctual payment of the principal of and premium, and interest on all of the Cutler-Hammer Debentures, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of the Cutler-Hammer Indenture to be performed by Cutler-Hammer.

(4) The Eaton Indenture and the Cutler-Hammer Indenture are wholly unsecured and neither the Cutler-Hammer Debentures nor the Eaton Debentures are subordinate to each other, ranking *pari passu inter se*. The only material differences between the Cutler-Hammer Indenture and the Eaton Indenture and between the rights of the holders of the Eaton Debentures and the holders of the Cutler-Hammer Debentures relate to aggregate principal amounts, dates of issue, certain financial covenants of Eaton and Cutler-Hammer, Events of Default as defined in the Cutler-Hammer Indenture and the Eaton Indenture, maturity and interest payment dates, interest rates, redemption prices and procedures, sinking fund provisions, and other provisions of a similar nature.

(5) The Applicant is not in default under the Eaton Indenture, and upon the Merger will not be in default under the Cutler-Hammer Indenture;

(6) Such differences as exist between the Eaton Indenture and the Cutler-Hammer Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under either the Eaton Indenture or the Cutler-Hammer Indenture.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after July 6, 1979, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than ??? 1979 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-19424 Filed 6-19-79; 10:38 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

[General Counsel Order No. 4 (Revised)]

Delegation of Authority to the Assistant General Counsel and Chief Counsel, Internal Revenue Service

Under the authority of 26 U.S.C. 7801 and Treasury Department Order No. 190 (Revised), and the authority vested in me as General Counsel of the Treasury, I hereby redelegate to the Chief Counsel for the Internal Revenue Service, subject to my review as occasion may require, the authority set out below:

1. To be the legal advisor to the Commissioner of Internal Revenue and his officers and employees. In performing his assigned functions, the Chief Counsel shall consult with and assist the Commissioner of Internal Revenue with a view to furthering the policies and programs of the Treasury Department and the Internal Revenue Service. Also, where appropriate, the Chief Counsel will furnish assistance to the Office of the Secretary. It is understood that any legal matter involving Treasury policy about which the Commissioner disagrees with the advice given him by the Chief Counsel will be submitted by the Commissioner to the Secretary or the Deputy Secretary for resolution.

2. To furnish legal opinions, and to assist the Commissioner in the preparation and review of rulings, closing agreements, memorandums of technical advice, and revenue rulings and procedures and other proposed publications or releases, with respect to laws affecting the Internal Revenue Service.

3. To prepare, review, or assist in the preparation of proposed legislation, treaties, regulations, and Executive Orders relating to laws affecting the Internal Revenue Service.

4. To represent the Commissioner of Internal Revenue in cases pending in the Tax Court of the United States as prescribed in section 7452 of the Internal Revenue Code of 1954, and in such cases to exercise the function of decision whether and in what manner to defend, or to prosecute a claim, or to settle, or to abandon a claim or defense therein, subject to Chief Counsel Order 1958-5

(Commissioner Delegation Order No. 60); to acknowledge in the name of the Commissioner the receipt of Tax court subpoenas served upon the Commissioner of Internal Revenue; to determine whether, and the extent to which, officers and employees of the Internal Revenue Service shall be permitted to disclose Internal Revenue records and information in response to a subpoena or other order of the Tax Court; to determine whether to acquiesce in the decisions of said Court; to file petitions for review of Tax Court decisions; and to enter into written stipulations of venue for review of Tax Court decisions by a United States Court of Appeals.

5. To determine what civil actions should be brought in the courts under the laws affecting the Internal Revenue Service and to prepare recommendations to the Department of Justice for the commencement of such actions and to authorize or sanction commencement of such actions.

6. To determine whether referred income and wagering tax cases should be prosecuted in the criminal courts, to make appropriate recommendations to the Department of Justice in the prosecution of such cases and to make a like determination and recommendation on any other case referred to the Chief Counsel by the Commissioner of Internal Revenue.

7. To determine how actions brought in the courts against the United States or officers or employees thereof should be conducted and to make recommendations to the Department of Justice with respect thereto.

8. To determine which court decisions should be appealed or further reviewed and to make recommendations to the Department of Justice with respect thereto.

9. To cooperate with and, at the request of the Department of Justice or of United States Attorneys, to assist in conducting litigation in the courts, both civil and criminal, and in preparing briefs and arguments with respect thereto.

10. To accept or reject, in my name, railroad reorganization plans, corporate reorganization plans, and real property arrangements (sections 77(e), 199, and 455 of the Bankruptcy Act), in cases wherein the claims of the United States consist solely of Internal Revenue taxes.

11. To review cases within the provisions of section 6405 of the Internal Revenue Code of 1954 and to prepare and sign the reports required by that section to be submitted to the Joint Committee on Internal Revenue Taxation.

12. To perform the functions prescribed for the General Counsel by section 7122 of the Internal Revenue Code of 1954 and by section 3469 of the Revised Statutes (31 U.S.C. 194), with respect to compromise matters arising in the administration of the Internal Revenue laws.

13. To supervise and evaluate the work of all officers and employees in the Office of the Chief Counsel, and to take the necessary action in all personnel matters pertaining thereto, including those for the appointment, classification, promotion, demotion, reassignment, transfer or separation of such officers and employees, with the exceptions of appointments of attorneys above GS-11, and of promotions, demotions or separations of attorneys above GS-14.

14. To be responsible to me for the establishment and maintenance of appropriate standards of practice and for the professional competence, recruitment and evaluation of the work of the employees of his office.

15. Subject to my approval, to establish in the Office of the Chief Counsel such divisions and subdivisions as he may deem advisable and to designate the titles and duties of officers and employees in the Office, except that my approval shall not be required to designate the titles and duties of such officers and employees below the grade-16 level.

16. To redelegate any of the authority delegated in this Order to any officer or employee in the Office of the Chief Counsel, and to authorize further redelegation of such authority.

17. To receive service of any subpoena, summons, or other judicial process directed to an officer or employee of the Treasury Department in his official capacity in any litigation.

18. To originally classify national security information or material as CONFIDENTIAL and to downgrade and declassify such information or material and to classify official information under the legends LIMITED OFFICIAL USE or OFFICIAL USE ONLY or under existing legends recognized by that Order and to declassify such information.

19. To administer the oath of office required by 5 U.S.C. 3331 or any other oath required by law in connection with employment in the Federal service, and to redelegate this authority to any officer or employee in the Office of Chief Counsel, Internal Revenue Service.

20. To approve carry-over of annual leave in accordance with the requirements of Pub. L. 93-181, 5 U.S.C. 6304(d), and to redelegate this authority to his next subordinate management official at headquarters and to the Regional Counsel.

21. To approve requests by attorneys under his jurisdiction to engage in outside employment, the performance of legal or related services, teaching on a part-time basis or similar activity covered by, and not prohibited by, Legal Division Directive No. 6.

22. To make determinations relating to the applicability of section 6103 of the Internal Revenue Code of 1954, including the determination that disclosure would seriously impair Federal tax administration, and to disclose and authorize disclosure of tax returns, tax return information and taxpayer return information pursuant to the provisions of section 6103.

Effective Date: June 14, 1979.

Robert H. Mundheim,

General Counsel.

[FR Doc. 79-19205 Filed 6-19-79; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 120
Wednesday, June 20, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-227, Amdt. 1; June 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the June 20, 1979 meeting agenda.

TIME AND DATE: 10 a.m., June 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 16a. Docket 34556: Interim essential air transportation at London-Corbin, Ky, (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Piedmont's current certificate obligations at the point are scheduled to expire June 21, if not extended. This order includes the required extension. Accordingly, the following Members have voted that agency business requires the addition of Item 16a to the June 20, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin, S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1224-79 Filed 6-18-79; 3:14 pm]

BILLING CODE 6320-01-M

2

[M-228; June 15, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., June 21, 1979; 9:30 a.m., June 22, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C.

SUBJECT: Dockets 33112 and 33283; TXI-National acquisition case and Pan Am-National acquisition case (oral argument).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1225-79 Filed 6-18-79; 3:14 pm]

BILLING CODE 6320-01-M

3

[M-229; June 15, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 25, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 33465: Continental-Western merger case (oral argument).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1226-79 Filed 6-18-79; 3:14 pm]

BILLING CODE 6320-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., June 19, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter/pending offer of settlement.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1220-79 Filed 6-18-79; 2:35 pm]

BILLING CODE 6351-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 10 a.m., Wednesday, May 30, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Briefing on Emerging Priorities: Staff from the Emerging Priorities/Special Projects Team will present a six-month review of the team's activities.

2. Briefing on Statutory Rule Review: Recent amendments to the Consumer Product Safety Act require CPSC to undertake a review of its regulations and report to the Congress with recommended changes. At this meeting, the staff will present a proposed plan for this review.

3. Coal- and Wood-Burning Stoves, Petition AP 77-2: The Commission will consider a petition in which Adam Paul Banner of Midland, Michigan, asks CPSC to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The staff briefed the Commission on this petition on March 14.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Assistant Secretary, Suite 300, 1111-18th Street NW., Washington, DC 20207, telephone: (202)634-7700.

[S-1215-79 Filed 6-18-79; 10:09 am]

BILLING CODE 6355-01-M

[1] Agenda revised May 29 to delete former item 3 on Public Playground Equipment, which has been rescheduled to June 7.

6

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Thursday, June 7, 1979.

LOCATION: Third Floor Hearing Room, 1111-18th Street NW., Washington, D.C.

STATUS: Part open, part closed to the public.

A. Open to the Public.

1. Possible Substantial Product Hazard: General Electric Non-hand-held hair dryers, ID 79-109: The staff has recommended that the Commission accept the corrective action plan which General Electric has implemented to deal with possible hazards associated with asbestos in salon and bonnet hair dryers.

2. Briefing on Cellulose Home Insulation: The staff will present a briefing on the status of its work on the Safety Standard for Cellulose Insulation (515(D)), the Certification Rule for Cellulose Insulation, a labeling rule under section 27(e) of the Consumer Product Safety Act, and other activities concerning cellulose insulation.

3. Public Playground Equipment: The Commission will consider options for action to address risks of injury associated with public playground equipment. In May, 1977, the Commission considered a recommended mandatory safety standard prepared by the

[1] Agenda amended June 1.

National Recreation and Parks Association under the Commission's "offeror" process. The staff briefed the Commission on this matter May 23.

4. Small Parts in Children's Products: The Commission will consider a draft final regulation classifying certain children's products as banned hazardous substances because they present unreasonable risks of injury due to the presence of accessible small parts. The Commission previously considered this matter May 24.

5. Coal- and Wood-burning Stoves, Petition AP 77-2: The Commission will consider a petition in which Adam Paul Banner of Midland, Michigan asks CPSC to issue a labeling rule for coal- and wood-burning appliance, stoves and free-standing fireplaces. The Commission previously considered this petition on May 30.

6. Potassium Supplements in Effervescent Tablet Form: PPPA Exemptions: The Comission will consider two draft Federal Register documents concerning exemption of effervescent potassium supplements from special packaging requirements of the Poison Prevention Packaging Act. The first document would provide final exemption for packages containing no more than 25 mEq of potassium; the Commission proposed such an exemption in February, 1974. The second document would grant a petition from Mead Johnson (PP 78-1), and would propose to exempt packages containing no more than 50 mEq of potassium.

7. Statutory Rule Review: The Commission will consider a staff-proposed plan for reviewing its regulation. Recent amendments to the Consumer Product safety act require CPSC to undertake a review of its regulations and report to the Congress with recommended changes. The staff briefed the Commission on this matter May 30.

B. Closed to the public.

8. Briefing on Aluminum Wiring: The staff will brief the Commission on jurisdiction over aluminum wiring in accordance with the decision of the U.S. Court of Appeals in *CPSC* v. *Anaconda*. (Closed under exemption 10: litigation).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111-18th St., NW, Washington, D.C. 20207, Telephone: (202) 634-7700.

[S-1216-79 Filed 6-18-79; 10:09 am]

BILLING CODE 6355-01-M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1201-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, June 19, 1979.

CHANGE IN THE MEETING: The time of the meeting was changed to: 10 a.m. (eastern time), Tuesday, June 19, 1979.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat at (202) 634-6748.

This notice issued June 15, 1979.

[S-1218-79 Filed 6-18-79; 11:05 am]

BILLING CODE 6570-06-M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, June 21, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Appeal of denial of a motion to quash a subpoena and to issue a protective order in the Virginia Beach, Virginia, new FM proceeding (Docket No. 19095 and 19096).

Hearing—2—Motion to disqualify counsel, motion for stay, and appeal from a ruling by the presiding judge in the Columbus, Ohio, comparative television proceeding (BC Docket Nos. 78-395 and 396).

Hearing—3—Request for extension of previously ordered deadline for terminating KORK-TV operations and a petition for expeditious action in the Western Communications, Inc., Las Vegas, Nevada, comparative renewal television proceeding (Docket Nos. 19519 and 19581).

General—1—General waiver of § 18.142(c) which requires recertification of an induction cooking range every three years.

General—2—Amendment of the environmental rules, 1.1301-1.1319.

General—3—Application for Review of ruling entered by General Counsel and Chief Engineer granting and denying in part the Freedom of Information Act request by Don Alt & Associates, Inc. for inspection of trade data and related agency records (FOIA Control No. 9-7).

General—4—Appeal from partial denial of Freedom of Information Act request of Charles M. Carron for documents concerning the authority and jurisdiction of the Commission under the All-Channel Receiver Act.

General—5—Freedom of Information Act request by James Reston, Jr. for records and tapes pertaining to the People's Temple.

Assignment and transfer—1—Options concerning the processing of applications pending as of June 7, 1979 which involve the continuation or creation of AM/FM combinations in the same market.

Aural—1—Application of Union College (KUCV), Lincoln, Nebraska, for changes in educational FM facilities and petitions to deny filed by Chronicle Broadcasting Co.

Television—1—Applications filed by the Monroe County, Florida Board of County Commissioners for authority to construct 25 new television translators stations to serve Monroe County, Florida. Petitions to deny the applications filed by Tele-Media Company of Key West (Tele-Media) and Tele-Media Corporation.

Broadcast—1—Revisions to clarify § 73.1202, Public notice of licensee obligations.

Broadcast—2—Notice of Inquiry concerning loud commercials.

Complaints and compliance—1—Application for Review of Broadcast Bureau ruling on equal opportunities and Fairness Doctrine complaint of William A. Barnstead against Station WGBH-TV, Boston, Massachusetts; and Original consideration of reasonable access portion of complaint against same licensee.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: June 15, 1979.

[S-1221-79 Filed 6-18-79; 2:37 pm]

BILLING CODE 6712-01-M

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, June 21, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motion for issuance of construction permit and motion to vacate Review Board's Decision in the Media, Pennsylvania, FM comparative broadcast proceeding (Docket Nos. 20567-20569).

Hearing—2—Post-decision petitions for leave to amend an application for a construction permit in the Alexander S. Klein, Jr. comparative FM proceeding, Media, Pennsylvania. (Docket Nos. 20567-9).

Hearing—3—Two applications for review of a final Review Board Decision in the Alexander S. Klein, Jr., Media, Pennsylvania, FM radio proceeding, involving a comparative hearing (Docket Nos. 20567-20569).

Hearing—4—Petition to Reopen the Record, Enlarge the Issues and Remand for Further Hearing; Joint Petition for Approval of Agreement; and related pleadings in the RKO General Inc. (WNAC-TV), Boston, Massachusetts, comparative renewal proceeding (Docket Nos. 18759-18761).

Hearing—5—Petition for extraordinary relief and supplement thereto in the Miami, Florida, FM license renewal proceeding (Docket No. 20826).

Broadcast—1—Preparation for a Region 2 Administrative Radio Conference for AM Broadcasting.

This meeting may be continued the following work day to allow the

Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: June 15, 1979.

[S-1222-79 Filed 6-18-79; 2:37 pm]

BILLING CODE 6712-01-M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 18, 1979; 44 FR 35104.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 21, 1979.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

3. Internal procedures of the Commission.

[S-1219-79 Filed 6-18-79; 1:53 pm]

BILLING CODE 6730-01-M

11

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on June 27, 1979.

A. The meeting will be held on Wednesday, June 27, 1979 in the Embassy Suite of the Collonade Hotel, 120 Huntington Avenue, Boston, Massachusetts, beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—June 27, 1979

Closed session (9:30).

1. Internal personnel matters.
2. Litigation matters.

Open session (10:30).

3. Approval of minutes of regular meeting of May 30, 1979.
4. Commitment approval requests:

79–78. Conversion and Modification of 36 Hi-level Transition Coaches.

79–87 Purchase of Twenty-three Police and Security Patrol Vehicles.

5. Board committee reports: Equipment; Northeast corridor improvement project; organization and compensation; and ad hoc bylaws revision.
6. President's Report.
7. New Business.
8. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383–3973.

Dated: June 15, 1979.

Elyse G. Wander,

Corporate Secretary.

[S-1217-79 Filed 6-18-79; 10:10 am]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 25, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, June 26, 1979, at 10:00 a.m. A closed meeting will be held on Tuesday, June 26, 1979, immediately following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Commissioners Loomis, Evans and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, June 26, 1979, at 10:00 a.m., will be:

1. Consideration of an application by Murray Iskoe to lift the bar imposed by Commission Order of March 15, 1971, suspending him from association with any broker-dealer in a proprietary or supervisory capacity. For further information, please contact Michael F. Perlis at (202) 755–1498
2. Consideration of whether to issue a release soliciting comments from the public on the desirability of rescinding Rule 45a–1 promulgated by the Commission under the Investment Company Act of 1940, which provides for confidential treatment of certain information relating to mutual fund dealers. If Rule 45a–1 were rescinded, the information contained in Item 66 of Form N–1R, the annual report form for management investment companies, requiring identification of the ten dealers selling the largest dollar amounts of the shares of a registrant would be available for public inspection. For further information, please contact Glen Payne at (202) 755–1739 or Melville Cox at (202) 755–0237.
3. Consideration of whether to withdraw the proposed amendment to form S–5 under the Securities Act of 1933 which would require open-end investment companies investing primarily in short-term debt securities to supplement their prospectuses at the end of each calendar quarter by adding a sticker containing an unaudited listing of their investments and a table containing specified unaudited historical information. For further information, please contact Anthony A. Vertuno at (202) 755–1192 or Larry L. Greene at (202) 755–1232.
4. Consideration of whether to amend its instructions to the reporting requirements under the institutional investment disclosure program to set forth procedures for submitting a request for confidential treatment and to establish substantive issues to be addressed in any request for confidential treatment. In addition, the Commission will consider whether to grant or deny certain requests for confidential treatment which were filed for reports as of December 31, 1978. For further information, please contact W. Scott Cooper at (202) 755–1792.
5. Consideration of a request to depose a Commission staff member with respect to Commission filing procedures. For further information, please contact William Dietch at (202) 755–1342.
6. Consideration of proposed amendments to Rule 402(a) under the Securities Act of 1933 and Rule 12b–11(a) under the Securities Exchange Act of 1934 which would increase the number of complete copies of registration statements under the Securities Act and other reports and filings under the Securities Exchange Act, including exhibits, from three to four. For further information, please contact Mary A. Binno at (202) 376–8090.

The subject matter of the closed meeting scheduled for Tuesday, June 26,1979, immediately following the 10:00 a.m. open meeting, will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Other litigation matters.

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive action.

Administrative proceeding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 755–1100.

June 18, 1979.

[S-1223-79 Filed 6-18-79; 3:08 pm]

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federal register

Wednesday
June 20, 1979

Part II

Securities and Exchange Commission

Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate

Revision of Rule and Amendment of Form

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC-10736]

Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate; Revision of Rule and Amendment of Form

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission is revising a rule which permits an investment company to purchase securities from an underwriting syndicate in which certain affiliated persons of the investment company participate as syndicate members. The revision generally expands the rule to apply also to certain underwritings of municipal securities; requires directors to establish procedures reasonably designed to ensure compliance with the rule and to review transactions pursuant to the rule at least quarterly; modifies the substantive provision of the rule relating to underwriters' spreads; and establishes certain recordkeeping requirements. The Commission is also amending the form for quarterly reports of management investment companies to require that any acquisition pursuant to the rule be indicated therein.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mark B. Goldfus, Special Counsel, Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-0230.

SUPPLEMENTARY INFORMATION: The Commission today amended rule 10f-3 [17 CFR 270.10f-3] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 et seq.], which permits the purchase of certain securities by a registered investment company from an underwriting syndicate in which any specified affiliated person of such investment company participates as a syndicate member.[1] It also amended form N-1Q [17 CFR 274.106], the quarterly report of management investment companies, to require that any acquisition pursuant to rule 10f-3 be indicated therein.

In response to its request for comments regarding the rulemaking set forth in Investment Company Act Release No. 10592, (Feb. 13, 1979), 44 FR 10580 (Feb. 21, 1979), the Commission received and considered 9 letters. As a result of considering the comments, the Commission has determined to adopt the rulemaking as proposed, except for three modifications. These modifications are:

(1) The limitation in existing paragraph (d) of the rule—allowing a purchase by an investment company (or by two or more investment companies with a common investment adviser) to 3% of the offering of a class of securities—is increased to the greater of (a) 4% of such offering or (b) $500,000 to a maximum limit of 10% of the offering.

(2) The limitation in existing paragraph (e) of the rule—allowing such purchases by an investment company to 3% of its total assets or, if such consideration exceeds $1,000,000, to 1% of such assets—is increased to 3% of its total assets for all purchases.

(3) As a technical change to proposed paragraph (h) of the rule, the Commission has deleted as superfluous a requirement that directors of an investment company—in addition to finding that purchases made under the rule comply with certain procedures that have been established—find that the transactions were consistent with the purposes of the rule. The Commission has determined that directors' finding compliance with properly designed procedures under rule 10f-3 inherently would constitute their finding compliance with the purposes of the rule. Nonetheless, the Commission expects that investment company directors, in establishing procedures under the rule and determining compliance with such procedures, will address the concerns embodied in section 10(f) of the Act against overreaching and the placing of otherwise unmarketable securities with an investment company.

Description of Amended Rule

The amended rule exempts from the prohibition of section 10(f) of the Act [15 U.S.C. 80a-10(f)] any purchase of securities by a registered investment company when specified conditions are satisfied. The background of section 10(f) and unamended rule 10f-3, and the reasons for proposing to amend rule 10f-3 are discussed throughly in Investment Company Act Release No. 10592. Persons interested in more detailed discussions of the various conditions of the proposed amendments to rule 10f-3 should refer to that release. These conditions may be substantially summarized as:

(a) The securities to be purchased are (i) either (A) part of an issue registered under the Securities Act of 1933 [15 U.S.C. 77a et seq.] or (B) municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(29)],[2] (ii) purchased at not more than the public offering price prior to the end of the first full business date on which the issue is offered to the public,[3] and (iii) offered pursuant to a firm commitment underwriting;

(b) The commission, spread or profit to the underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time;[4]

(c) In respect (i) to any issue of securities other than municipal securities, the issuer of the securities to be purchased has been in continuous operation for not less than three years, or (ii) to any issue of municipal securities, the issuer has received an investment grade rating from a nationally recognized statistical rating organization, unless the issuer or the entity supplying revenues to pay the issue has been in operation for less than three years, in which case the issue must receive one of the three highest ratings from such a rating organization.

(d) The amount of securities to be purchased by the investment company (or by investment companies with a common investment adviser) of any class does not exceed the greater of (i) 4% of such offering or (ii) $500,000 to a maximum limit of 10% of the offering;

(e) The consideration paid by the investment company for the securities so purchased must not exceed 3% of such company's total assets;

(f) The securities must not be purchased directly or indirectly from

[1] The term "affiliated person" is defined in section 2(a)(3) of the Act [15 U.S.C. 80a-2(a)(3)].

[2] Same commentators suggested that the scope of permissible securities be substantially expanded. The Commission has determined that, on the basis of the information now before it, it is not yet prepared to effect such changes. However, the Commission can consider upon application, on a case-by-case basis, the propriety of exempting from the prohibitions of section 10(f) of the Act certain other securities, such as specified government securities, which are exempt from the registration requirements of the Securities Act of 1933 but which are not municipal securities.

[3] The release proposing the rule inadvertently inserted the word "registered" into this reference to the date on which the issue is offered to the public.

[4] In determining comparable securities, an investment company's directors may consider, in addition to characteristics such as yield, rating, and degree of subordination which are inherent to any securities evaluation, any other factor which they reasonably believe may affect underwriting spreads, such as anticipated market acceptability. Where the offering consists of a package of securities of differing classes—such as municipal securities of varying maturities—this standard must be applied to each class individually.

certain affiliated persons, including the company's investment adviser;

(g) The purchase must be reported in form N-1Q, the quarterly report of registered management investment companies;

(h) The board of directors of the investment company, including a majority of the directors who are not interested persons of that company,[5]

(i) Have adopted procedures for such purchases which are reasonably designed to provide compliance with all the conditions of the rule,[6] (ii) review such procedures at least annually for their continuing appropriateness, and (iii) at least quarterly determine that all purchases made during the preceding quarter were effected in compliance with such procedures;

(i) Certain recordkeeping requirements including maintaining and preserving for six years a written record of each such transaction must be satisfied.[7]

The Commission has also amended paragraph 7 of Item 1 of form N-1Q to require that any acquisitions of a security pursuant to rule 10f-3 must be indicated by footnote to certain figures therein.

Authority, Effective Date

The Commission amends rule 10f-3 under the Act pursuant to the provisions of section 10(f), section 31(a) [15 U.S.C. 30(a)], and section 38 [15 U.S.C. 80a-37] of the Act. This revision of form N-1Q is adopted pursuant to section 30(b) [15 U.S.C. 80a-29(b)] and section 38 of the Act.

Because the rulemaking is exemptive in nature, the foregoing adoptions become effective immediately.[8] However, to permit any investment company which may now be effecting transactions in reliance upon and in conformity with unamended rule 10f-3 to have a reasonable period of time to take those steps necessary for compliance with the amended rule without disrupting its operations, investment companies may continue to rely on the unamended text of rule 10f-3 (as in effect on June 1, 1979) for an exemption from the prohibitions of section 10(f) of the Act until December 31, 1979.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1974

Text of Amended Rule and Form

I. Part 270 of Chapter II of title 17 of the code of Federal Regulations is amended by revising § 270.10f-3 as follows:

§ 270.10f-3 Exemption of acquisition of securities during the existence of underwriting syndicate.

Any purchase of securities by a registered investment company prohibited by section 10(f) of the act shall be exempt from the provisions of such section if the following conditions are met:

(a) The securities to be purchased are (1) either (i) part of an issue registered under the Securities Act of 1933 [15 U.S.C. 77a et seq.] which is being offered to the public or (ii) municipal securities as defined in section 3(a)(29) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(29)], (2) purchased at not more than the public offering price prior to the end of the first full business day after the first date on which the issue is offered to the public, if not offered for subscription upon exercise of rights or, if so offered, purchased on or before the fourth day preceding the day on which the rights offering terminates, and (3) offered pursuant to an underwriting agreement under which the underwriters are committed to purchase all of the securities being offered, except those purchased by others pursuant to a rights offering, if the underwriters purchase any thereof;

(b) The commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time;

(c) In respect to (1) any issue of securities other than municipal securities, the issuer of such securities to be purchased shall have been in continuous operation for not less than three years, including the operations of any predecessors, or (2) any issue of municipal securities, (i) such issue shall have received an investment grade rating from at least one of the nationally recognized statistical rating organizations, or (ii) if the issuer of the municipal securities to be purchased, or the entity supplying the revenues from which the issue is to be paid, shall have been in continuous operation for less than three years, including the operation of any predecessors, the issue shall have received one of the three highest ratings from one such rating organization;

(d) The amount of securities of any class of such issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, shall not exceed 4 percent of the principal amount of the offering of such class or $500,000 in principal amount, whichever is greater, but in no event greater than 10 percent of the principal amount of the offering;

(e) The consideration to be paid by the investment company in purchasing the securities being offered shall not exceed 3 percent of the total assets of such registered investment company;

(f) Such investment company does not purchase the securities being offered directly or indirectly from an officer, director, member of an advisory board, investment adviser or employee of such investment company or from a person of which any such officer, director, member of an advisory board, investment adviser or employee is an affiliated person; *Provided*, That a purchase from a syndicate manager shall not be deemed to be a purchase from a specific underwriter (1) so long as that underwriter does not benefit directly or indirectly from the transaction, or (2) in respect to the purchase of municipal securities so long as such purchases are not designated as group sales or otherwise allocated to the account of persons from whom this paragraph prohibits the purchases;

(g) All transactions effected pursuant to this rule shall be reported on the form N-1Q [17 CFR 274.106] of the investment company;

(h) The board of directors, including a majority of the directors of the

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[5] The term "interested person" is defined in section 2(a)(19) of the Act [15 U.S.C. 80a-2(a)(19)].

[6] The board of directors may delegate to a directorial committee or other persons associated with the investment company the drafting task of preparing recommended procedures to be considered by the board as a whole. Of course, the board is responsible for any procedures that it ultimately chooses. See Lasker v. Burks, 47 U.S.L.W. 4494, 4496 n.10 (May 15, 1979) [minimum standards applying to decisions which investment company directors may be called upon to make]. Moreover, in considering whether to adopt a particular set of procedures, the board may wish to request from the initial draftsmen all information as may reasonably be necessary to determine if the proposed procedures would comply with the requirements of paragraph (h)(1) of the rule. Compare section 15(c) of the Act [15 U.S.C. 80a-15(c)] [procedures for directors' approving an investment advisory contract].

[7] To the extent that certain of the necessary information such as the identity of the underwriting syndicate's members and the terms of the transaction, may be contained in and offering prospectus, that prospectus may be included as part of the written record required by the amended rule.

[8] Previous exemptions from the prohibitions of section 10(f) which have been granted by the Commission upon application are not affected by this rulemaking. However, if an investment company which has not been granted such an exemptive order wishes to purchase securities pursuant to any condition of the amended rule which may be more liberal in its limitations than the limitations stated by its exemptive order, the investment company must comply with all conditions of the rule in order for the purchases to be exempted from the prohibitions of section 10(f).

investment company who are not interested persons with respect thereto, (1) have adopted procedures, pursuant to which such purchases may be effected for the company, which are reasonably designed to provide that all the conditions of this rule in paragraphs (a) through (g) of this section have been complied with, (2) review no less frequently than annually such procedures for their continuing appropriateness, and (3) determine no less frequently than quarterly that all purchases made during the preceding quarter were effected in compliance with such procedures; and

(i) The investment company (1) shall maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in paragraph (h)(1) of this section, and (2) shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the transaction, and the information or materials upon which the determination described in paragraph (h)(3) of this section was made.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

II. Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended by revising Item 1, paragraph 7, of § 274.106 as follows:

§ 274.106 Form N-1Q, for quarterly report of registered management investment company.

* * * * *

Item 1. Changes in Portfolio Securities

* * * * *

7. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any acquisitions of a security pursuant to rule 10f-3 [17 CFR 270.10f-3] shall be indicated by footnote to the figures in column (3). Any security held in margin accounts or subject to option at the end of the calendar quarter shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

June 14, 1979.

[FR Doc. 79-19199 Filed 6-19-79; 8:45 am]

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federal register

Wednesday
June 20, 1979

Part III

Securities and Exchange Commission

Scope of Services by Independent Accountants

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6078, 34-15920, 35-21100, IC-10737, AS-264; File No. S7-785]

Interpretative Release Relating to Accounting Matters; Scope of Services by Independent Accountants

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Federal securities laws impose upon the Commission responsibilities regarding the independence of those accountants who issue reports on financial statements which are required to be filed with the Commission. Accordingly, in this interpretative release the Commission states its views concerning certain factors which accountants should consider in assessing the possible effects upon their independence of the performance of nonaudit services for publicly-held audit clients. In addition, because of the impact which any impairment of the auditor's independence, either in fact or in appearance, could have on the credibility and usefulness of the audit report, the Commission also sets forth certain factors which audit committees, boards of directors, and managements should consider in determining whether to engage their independent accountants to perform nonaudit services.

DATE: June 14, 1979.

ADDRESSES: The Commission invites written submissions concerning the interpretation set forth in this release and the practical experience of accountants and registrants with its application. All comments should be filed, in triplicate, with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Submissions should refer to File No. S7-785 and, unless confidential treatment is authorized, will be available for public inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Clarence M. Staubs (202-755-0222) or Edmund Coulson (202-472-3782), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Scope of Services by Independent Accountants

I. Background

Since its inception, the Commission has considered the independence of the auditors who examine financial statements filed with the Commission as central to the effective implementation of the federal securities laws.[1] More recently, in response to the rise, primarily in the last decade, of the performance of nonaudit or "management advisory services" ("MAS") by accounting firms, the Commission has been concerned particularly with the effect of the performance of MAS on the independence of public auditors and on the resulting reliability of documents filed with the Commission.

These issues have been the subject of much discussion. The problem has been addressed in various fora by the accounting profession,[2] scholars,[3] the Commission,[4] the Congress[5] and most recently the Public Oversight Board of the SEC Practice Section of the Division for CPA Firms of the American Institute of Certified Public Accountants.[6]

While there has been no firm consensus resulting from this dialogue, the growing array of nonaudit services offered by some independent public accounts—and the growing importance of management advisory services to the revenues, profits, and competitive position of accounting firms—are a cause for legitimate concern as to the impact of these activities on auditor independence, objectivity, and professionalism. The issue is both one of appearance and of fact; if public confidence in the integrity of financial reporting is to be maintained, it is of the utmost importance that public confidence in the objectivity of independent auditors be similarly maintained. That goal demands continuing awareness and sensitivity to concerns about the independence of accounts. Auditors of publicly-held companies have a duty to investors and other users of financial information—and to the accounting profession—to assure that their audit engagements have been conducted, in fact and in appearance, with the highest degree of integrity and objectivity.

In light of these concerns, in September 1977, the Commission issued for comment proposed amendments to Schedule 14A of the Securities Exchange Act of 1934.[7] The proposed amendments would have required disclosure of all nonaudit services performed by an independent auditor for audit clients, as well as of the specific fees charged for each nonaudit service. As is indicated in Release No. 5869, the Commission sought this disclosure to "provide objective evidence of the types and amounts of services being provided by auditors," and to permit shareholders to compare fees paid by similar companies for similar services. At the same time, the Commission solicited comments and information on the scope of services accountants actually provide to their audit clients.

In June 1978, after considering the public comments regarding this proposal, the Commission, in Accounting Series Release No. 250,[8] adopted a rule requiring disclosure in proxy statements of services provided

[1] Rule 2-01 of Regulation S-X, 17 CFR 210.2-01, provides in part:

(b) The Commission will not recognize any certified public accountant or public accountant as independent who is not in fact independent. * * *

(c) In determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

In various Accounting Series Releases, beginning with ASR No. 47 (January 25, 1944), the Commission has provided guidance concerning the circumstances which it would consider indicative of a lack of independence on the part of a public auditor.

[2] E.g., "Reports, Conclusions and Recommendations," The Commission on Auditors' Responsibilities (1978) at Section 9.

[3] E.g., R. K. Mautz and Hussein A. Sharaft, "The Philosophy of Auditing," American Accounting Association (1961): 228; Abraham J. Briloff, "Old Myths and New Realities in Accounting," The Accounting Review 41 (July 1966): 484-95; Ronald V. Hartley and Timothy L. Ross, "MAS and Audit Independence: An Image Problem," The Journal of Accountancy (November 1972): 42-51; David Lavin, "Perceptions of the Independence of the Auditor," The Accounting Review 51 (January 1976): 41-51; Arthur A. Schulte, Jr., "Compatibility of Management Consulting and Auditing," The Accounting Review 40 (July 1965): 587-93; Pierre L. Titard, "Independence and MAS: Opinions of Financial Statement Users," The Journal of Accountancy (July 1971): 47-52.

[4] E.g., Securities Act Release Nos. 5869 [42 FR 53635] (September 26, 1977), and 5940 [43 FR 29110] (June 29, 1978).

[5] E.g., "Improving the Accountability of Publicly Owned Corporations and their Auditors," Report of the Subcommittee on Reports, Accounting and Management of the Committee on Governmental Affairs, 95th Cong., 1st Sess. (Committee Print 1977) at 16-17.

[6] Public Oversight Board Report, "Scope of Services by CPA Firms," published for the Public Oversight Board of the SEC Practice Section of the Division for CPA Firms of the American Institute of Certified Public Accountants (AICPA 1979). [Hereinafter referred to as the "POB Report"] Copies are available from the AICPA, 1620 Eye Street, N.W., Washington, D.C. 20006.

[7] Securities Act Release No. 5869 [42 FR 53635] (September 26, 1977).

[8] Securities Act Release No. 5940 [43 FR 29110] (June 29, 1978).

by the registrant's principal independent accountant and disclosure of whether the board of directors or its audit or similar committee had approved each service and considered its possible effect on independence. In ASR No. 250, the Commission also indicated that it had not yet determined whether it should propose rules to prohibit public accountants from rendering certain types of services to their publicly-held audit clients. The Commission noted that the SEC Practice Section had asked the Public Oversight Board to consider the matter and stated that the Board should be given an opportunity to present its conclusions before the Commission acted. This view was reaffirmed in the July 1978 Commission "Report to Congress on the Accounting Profession and the Commission's Oversight Role."[9]

On March 9, 1979, the Board submitted its report to the Executive Committee of the SEC Practice Section.[10] The Board indicates that it generally rejects any limitations on MAS practice on the theory that available "empirical evidence" does not reveal any actual instances where the furnishing of MAS has impaired independence. However, as the Board concedes, the absence of evidence does not necessarily mean that such abuses do not exist or have not occurred,[11] not does it allay the concerns which arise because certain relationships between the auditor and his client may reasonably appear to compromise the objectivity of the independent auditor. The Board, nonetheless, concluded that proscriptive solutions to the scope of services issue are not necessary at this time.[12]

II. Commission's Position

The Commission has reviewed the report of the POB and believes that it does not adequately sensitize the profession and its clients to the potential effects on the independence of accountants of performance of nonaudit services for audit clients. While the Commission is not proposing proscriptive rules at this time, it believes that continued surveillance of the potential effects of such services on independence is essential. Therefore, the Commission is urging those responsible for decisions with respect to nonaudit services—including accounting firms, audit committees, boards of directors, and managements—to give careful attention to the performance of nonaudit services for audit clients. While each of these participants has somewhat different perspectives, all should be concerned about the effect that a possible impairment of the objectivity and professional image of independent accountants may have on the credibility and integrity of auditors' reports and on corporate financial reporting in general.

For these reaons, the Commission has determined to set forth its views concerning certain factors which accountants should consider in assessing the possible effects upon their independence of the performance of nonaudit services for publicly-held audit clients. In addition, because of the impact which any impairment of the auditor's independence, either in fact or in appearance, could have on the credibility and usefulness of the audit report and thus the client's financial reporting, the Commission is setting forth certain factors which audit committees, boards of directors, and managements should consider in determining whether to engage their independent accountants to perform nonaudit services.

A. *Independent Accountants.* Accounting firms and individual accountants who act as independent auditors for public corporations have a statutory responsibility to safeguard their independence, both in fact and in appearance. As the POB Report indicated:

> While it is, of course, essential that an auditor preserve his objectivity and integrity from his own viewpoint, commonly called "independence in fact," it is also important that the auditor appear independent to all users of the financial information he provides. This latter concept is a key ingredient to the value of the audit function, since users of audit reports must be able to rely on the independent auditor. If they perceive that there is a lack of independence, whether or not such a deficiency exists, much of that value is lost.[13]

In a fundamental sense, independence is not an attitude which can be mandated by rule,[14] but rather is a goal which must be addressed by individual accountants in their day-to-day activities. However, public confidence is influenced not only by fact, but also by appearances, impressions, and perceptions. The Commission believes that public confidence is significantly lessened if auditors engage in activities and services that the public perceives as foreign to the expected role of the auditor.[15] Accountants—as individuals, firms, and as a profession—must consider the appropriateness of the nonaudit services provided to audit clients.[16] Public trust and confidence in the integrity of the financial reporting system and the auditor's report should be of prime importance to every accountant.

Accountants who audit publicly-held companies should exercise self-restraint and judgment in determining which nonaudit services are appropriate in specific cases. In discharging this obligation, there are several key factors which the Commission believes that accountants should bear in mind.

1. *Dependence on MAS.* Accountants should consider the aggregate revenues generated from MAS and the relationship of those revenues to total firm revenues.[17] Similarly, in considering a particular MAS engagement for a publicly-held audit client, the accountant should examine the

[9] Securities and Exchange Commission, 95th Cong., 2nd Sess. (Committee Print 1978), p. 16.

[10] The Board's conclusions and recommendations are set forth on pp. 4–6 of the POB Report.

[11] POB Report, p. 35. The Commission encourages additional empirical study of this issue.

[12] The Board has recommended that the SEC Practice Section's peer review program should be expanded to review MAS engagements to determine whether such engagements impaired the auditor's independence in rendering an opinion on the fairness of the client's financial statements. [POB Report, p. 45]. The Commission also believes this expansion of the peer review program is necessary, recognizing that the peer reviewers should consider all the pertinent facts of particular cases in evaluating any MAS impact on independence.

[13] POB Report, p. 27.

[14] Certain situations exist where the potential for an appearance of a conflict of interest is so great that the Commission or the profession has prohibited them—e.g., financial interest in an audit client. [Rule 2-01 of Regulation S-X (17 CFR 210.2-01)].

[15] *See* text which accompanies note 25 *infra*. As the Commission on Auditors' Responsibilities stated: "Firms should not expand their offerings of other services without careful consideration of the trade-offs involved." The Commission on Auditors' Responsibilities: "Report, Conclusions and Recommendations," (1978), p. 103. As to the risk that dependence on MAS fees will jeopardize auditor independence, see text following note 17, *infra*.

[16] As indicated by the Board: ". . . there is enough concern about the scope of services in responsible quarters so that the question cannot be dismissed as a nonproblem. The Board believes that there is potential danger to the public interest and to the profession in the unlimited expansion of MAS to audit clients, and some moderating principles and procedures are needed." POB Report, p. 56.

[17] In this respect, the Board indicates that the reporting requirements for membership in the SEC Practice Section include a statement of gross fees for accounting and auditing, tax, and MAS expressed as a percentage of total gross fees. The Board further indicates: "With these figures, shareholders and the general investing public can review the relative amount of nonaudit work individual auditing firms perform and assess whether their primary service of auditing financial statements is being diluted. If the public or boards of directors are concerned with any such trend, they can respond by engaging audit firms that have not chosen that course." In addition, the Board recommends adding a requirement that the members' annual disclosure statement reveal the relative importance of MAS to accounting and auditing as furnished only to audit clients. The Board believes that such data could be helpful to observers concerned with this question and to the Board in any further examination of this question" [POB Report, pp. 43–44].

relationship between the audit fee and the proposed MAS fee. While hard and fast lines cannot be drawn, any firm which finds that a substantial portion of its aggregate revenue arises from nonaudit engagements should seriously evaluate the resulting impact on its image as a professional accounting firm and from the standpoint of the potential for impairment of its independence. Similarly, where the firm's revenues from a given audit client are heavily weighted toward MAS revenue, the impact on both the fact and appearance of independence merits thoughtful review. Although the Commission does not advocate that accountants forego MAS engagements solely on the basis of the magnitude of the related fee, the Commission does believe that this is an issue which requires the profession's scrutiny.

2. *Avoidance of Supplanting Management's Role.* Accountants must exercise care to ensure that they serve only in an advisory capacity. They cannot make management decisions and they must avoid situations which will give that appearance. In Accounting Series Release No. 126, the Commission described this relationship as follows:

> A part of the rationale which underlies any rule on independence is that managerial and decision-making functions are the responsibility of the client and not of the independent accountant. It is felt that if the independent accountant were to perform functions of this nature, he would develop, or appear to develop, a mutuality of interest with his client which would differ only in degree, but not in kind, from that of an employee. And where this relationship appears to exist, it may be logically inferred that the accountant's professional judgment toward the particular client might be prejudiced in that he would, in effect, be auditing the results of his own work, thereby destroying the objectivity sought by shareholders. Consequently, the performance of such functions is fundamentally inconsistent with an impartial examination. However, it is the role of the accountant to advise management and to offer professional advise on their problems. Therefore, the problem posed by this dilemma is to ascertain the point where advice ends and managerial responsibility begins.[18]

Where a registrant's managerial expertise in a particular area is weak, there is an increased possibility that outside individuals providing MAS will find themselves called upon to assume a *de facto* managerial role, rather than merely to provide advice. Accordingly, accountants engaged to perform nonaudit services for their audit clients must be particularly careful not to accept engagements where management does not have the expertise[19] or the inclination to utilize their advice as a basis, rather than a substitute, for management decision making.

3. *Avoidance of Self-Review.* A related problem which MAS engagements may raise is that, as the auditor—through an MAS practice—becomes enmeshed, for example, in structuring the client's internal acccounting controls or designing its accounting system, the client loses the benefits which normally result from the outside auditor's dispassionate review of these systems.[20] Stated simply, the auditor, as the architect of the system, can no longer provide management with the "second look" normally expected from an independent, professional accountant. Accountants must recognize that, particularly in areas where management expertise is weak, there is a great potential for the inadvertent creation of auditor self-review. In such situations, auditors take on special obligations if they elect to proceed with the MAS work. For example, when an accounting firm has assisted in the design of an internal accounting control system for an audit client, the auditor must recognize the need to exercise extreme care and a heightened sensitivity to assure an objective evaluation of the implementation of that system at a later date.[21]

4. *Impact on Audit Quality.* Consideration should also be given to the possibility of enhanced audit quality which might result from the performance of certain nonaudit services. An in-depth understanding of a client's business is important to an effective audit. The broader base of knowledge about, and greater understanding of, the business which often results from the performance of nonaudit services may improve the efficiency and thoroughness of the audit. This broader perspective on the audit is healthy and desirable, and the Commission recognizes it as a potential positive benefit of MAS.[22] Of course, if MAS is performed by a separate department or official of the accounting firm, with little or no interaction, this transference value would not appear to exist.[23] And, in this connection, auditors must recognize that the acceptance of an MAS engagement may well carry with it the corresponding obligation to bring the knowledge gained in the course of the MAS work to bear on the audit. Auditors who failed to act upon information known to their MAS colleagues would, in the Commission's judgment, run a substantial risk.

5. *Relation of Engagement to Audit Skills.* In 1977, the Senate Subcommittee on Reports, Accounting and Management—while rejecting the more sweeping position of its staff[24]—stated that the best policy with respect to management advisory services:

> is to require that the independent auditor of a publicly owned corporation perform only services directly related to accounting. Non-accounting management services such as executive recruitment, marketing analysis, plant-layout, product analysis and actuarial services * * * should be discontined.[25]

Subsequently, the Executive Committee of the SEC Practice Section proposed, on May 8, 1978, to amend the Section's

[18] Securities Act Release No. 5270 [37 FR 14294] (July 5, 1972).

[19] Such expertise could, however, be provided by consultants or experts (other than the auditor) outside the company.

[20] For example, the Board, in discussing actuarial services, concludes that an independent auditor who serves as enrolled actuary of an employee benefit plan and who also audits that plan or the plan's sponsor is simply performing an independent professional service outside of management's traditional area of operation and expertise. The auditor is not making management decisions and should not be viewed as being part of management's team. However, when furnishing actuarial services to insurance company audit clients (where actuarial considerations are integrally related to the role and responsibility of management), care must be taken to limit those services to advice and technical assistance. To avoid the appearance of exceeding such an advisory role, accounting firms should not furnish such services unless they are supplemental to primary actuarial advice furnished by another actuary not associated with the accounting firm. POB Report, pp. 52–53.

The Commission agrees that accounting firms should restrict their actuarial services for insurance company clients to supplementing the work of unaffiliated actuaries. In other situations, such as the provision of actuarial services to employee benefit plans of audit clients, the Commission believes that the factors identified in this release must be considered.

[21] *See* Securities Exchange Act of 1934 Release No. 15772 [44 FR 26702], (April 30, 1979).

[22] The auditor's review of internal accounting control systems, for example, would appear to have high potential benefits of this nature.

[23] To foster continued improvements in audit quality, the Board has suggested that accounting firms should apply their MAS expertise to the audit function to the fullest extent possible [POB Report, pp. 18–19].

[24] "The Accounting Establishment," A Staff Study, prepared by the Subcommittee on Reports, Accounting, and Management of the Committee on Government Operations of the United States Senate, 95th Cong., 1st Sess., March 31, 1977, at 22.

[25] Report of the Subcommittee on Reports, Accounting and Management of the Committee on Governmental Affairs of the United States Senate, "Improving the Accountability of Publicly Owned Corporations and Their Auditors," 95th Cong., 1st Sess., November, 1977, at 16.

organizational document to prohibit members from furnishisng services to publicly-held audit clients when those services would require skills "not related to accounting or auditing." [26] The POB, in its report, recommended against adoption of this limitation.[27]

The Commission recognizes that this is an area in which bright lines cannot easily be drawn and that the difficulties in identifying those advisory services which are rationally related to auditing are formidable.[28] For that reason, the Commission is not of the view that this factor be explicitly included among the considerations addressed in deciding whether to enter into a particular MAS engagement. However, the Commission does wish to emphasize the fact that it appears difficult to isolate any substantial benefits to either the public's trust and confidence in the integrity of the accounting profession or in the quality and thoroughness of the auditor's work which accrue when auditors engage in what becomes principally a management consulting business. There may, however, be negative consequences. To the extent, for example, that a substantial part of the staff of an accounting firm views itself as consultants, and its relation with the firm's clients as that of an advisor, the firm's commitment to independence and integrity may be eroded. Moreover, as a practical matter, accounting firms offer their audit services to potential clients on the basis—not solely of the audit services they can render—but on the basis of the entire range of client services available from the firm. For this reason, there may be an unfortunate tendency for firms to compete with one another as to the scope of nonaudit services available, and some firms may feel compelled to match the services offered by their competitors. This phenomenon tends to result in a constant expansion in the range of MAS which accounting firms offer; whether or not this is healthy for the professionalism and reputation of accountants is open to serious question.

* * * * *

The Commission believes that, in considering any nonaudit engagement with a public audit client, the accountant should test the services in question against each of these factors and proceed when satisfied that the total balance of considerations favors proceeding with the engagement and that none of the factors tilts strongly against performance of the nonaudit work involved. In each instance, an exercise of judgment is necessary, and auditors should bear in mind their responsibility—not only to the financial welfare of the accounting firm—but also to the integrity and reputation of the profession as a a whole.[29]

B. *Audit Committees, Boards of Directors, and Managements.* Audit committees, boards of directors, and managements have a responsibility to act in the best interest of their shareholders and must therefore be concerned about the credibility of their financial reporting. To the extent that the independence, in fact or in appearance, of the entity's auditor may be called into question, the credibility of the financial statements will be similarly questioned. Accordingly, the impact on auditor independence of potential MAS engagements should be of direct concern to the issuer and especially its independent audit committee.[30] Set forth below are certain factors which the Commission believes should be weighed in discharging this responsibility.[31]

1. *Economic Benefit.* Often there are economic and other benefits associated with having the independent auditor provide nonaudit services, and, since corporate management and directors owe primary allegiance to their shareholders, this is certainly a legitimate consideration in their decision-making. However, while there may be demonstrable benefits associated with such services as corporate tax return preparation and internal accounting control review, the benefits, in many other instances, such as the rendering of actuarial services, plant layout and market studies, may be more imaginary than real. Therefore, care must be exercised to assure that the benefits, weighed against the potential adverse effects, of engaging an auditor to perform nonaudit services represent a real advantage to the client. Potential benefits may include the savings in time and money which the auditor's specific knowledge of the accounting records and financial transactions of a company will yield in

[26] Proposed Amendment to Section IV, 3[i] of the Organizational Structure and Functions of the SEC Practice Section of the AICPA Division for CPA Firms, included as Addendum B to the POB Report. The effective performance of an audit requires some familiarity with virtually every phase of the client's business. Accordingly, the Executive Committee's constraint that MAS be limited to services "not related to * * * auditing" may be considerably narrower than that contemplated by the Senate Subcommittee. Because of the breadth and vagueness of the Executive Committee's proposal, the Commission's staff did not support it.

[27] Specifically, the Board recommended that:

"At this time no rules should be imposed to prohibit specific services on the grounds that they are or may be incompatible with the profession of public accounting, might impair the image of the profession, or do not involve accounting or auditing related skills." [POB Report, p. 5].

In the March 9, 1979 letter transmitting its Report to the Executive Committee of the SEC Practice Section, the Board stated that it: "has not viewed favorably the effort of the Executive Committee to engage in a series of determinations on hypothetical situations with respect to which management advisory service (MAS) engagements do, and which do not, involve skills related to accounting or auditing. The Board believes that this approach would involve the Executive Committee in an array of *ad hoc* judgments which would become, or appear to be, increasingly arbitrary, and that it lends itself to logical extensions beyond the policy purpose sought to be achieved. We believe that it is wiser for the Executive Committee to adhere to the concept of independence and the appearance thereof as sole the governing principle." [Transmittal letter, p. 1].

[28] *See* n. 26, *supra*

[29] Some MAS services for audit clients which have become increasingly common in recent years may, in many cases, prove difficult to justify on the basis of the tests set forth above. For example, actuarial services; psychological testing; consumer surveys and opinion polls; plant layout services; and employee compensation and benefit consulting are some of the more obvious services which seem to carry a potential for impairment of independence, jeopardization of the profession's reputation, creation of self-review situations, or other undesirable consequences; at the same time, such services may have little potential benefit to the profession's stature and effectiveness. In special cases, of course, justification may exist for the rendering of some of these services to audit clients.

Some services has been banned by the SEC Practice Section and thus the application of the factors set forth in this release to those services is irrelevant for Section members. For example, the Organization Document, as amended by the Executive Committee on May 20, 1978, of the SEC Practice Section of the AICPA Division for CPA Firms proscribes both acting, for a fee, as a finder for mergers and acquisitions and executive recruiting services. Similarly, the Commission believes that the application of the factors set forth in this release would normally preclude non-members from performing these services for their clients.

[30] As the Commission on Auditors' Responsibilities stated: "An audit committee of the board of directors is ideally situated to evaluate the trade-offs involved in having audit and other services performed by the same public accounting firm. Knowledge of active participation by the board or audit committee may lessen the concern of some users about potential conflicts." "Reports, Conclusions and Recommendations," The Commission on Auditors' Responsibilities, (1978) at p. 103.

[31] Several of these factors correspond to those treated earlier in this release. In applying the criteria addressed to the client's audit committee, board, and management, careful attention should be devoted to the discussion of the accountant's obligations in each of the areas of common consideration.

connection with the MAS engagement. For example, tax advisory services frequently involve working with many of the same accounting records and financial transactions as were utilized in performing the audit. Thus, where someone other than the auditor performs this service very substantial additional costs—in terms of professional fees consumed while obtaining knowledge of the company, internal costs to the company, and the quality of the resultant advice—could result. Audit committees, boards of directors and managments should recognize the need to gather sufficient information in order to make this comparison in reaching judgments.

Conversely, certain services, such as executive recruiting and employee compensation and benefit consulting, can be rendered by persons without audit experience at a cost comparable to that charged by the auditor. In these situations, the possible adverse impact upon public confidence in auditor independence should weight more heavily in the analysis.

2. *Avoidance of Supplanting Management's Role.* As discussed above, in performing nonaudit services, independent accountants should serve in an advisory capacity only and must not make management decisions or participate in the conduct of a registrant's operations. Management should share the problems and concerns of its independent accountants in this regard, and it should ensure that it has sufficient competence in the area involved in the proposed nonaudit service to make appropriate management decisions.

3. *Avoidance of Self-Review.* Similarly, management, like the auditor, must be sensitive to the fact that registrants, in engaging their auditors to perform services such as design of accounting systems, lose the opportunity for the "outside look" normally obtained when the audit is performed. To some extent, this may be mitigated by the benefit to the registrant of using its independent accountants to perform those services heavily dependent on the auditor's knowledge of the company, and the registrant's audit committee or board of directors should weigh carefully the projected benefits against any potential adverse effect. Considerations of relative cost and alternate availability of services may take on a greater significance in the deliberations of smaller businesses than would be expected in other instances.

4. *Auditor's Dependence on MAS.* Finally, the audit committee, board and management should consider the relationship of the aggregate amount of nonaudit service fees to audit fees. The Commission recognizes that this relationship may vary from year-to-year depending on a registrant's need for particular services and does not believe it is desirable to establish a particular percentage relationship as a maximum in any given year. The relationship should be evaluated regularly, however, in terms of both relative magnitude and trend.[32]

III. Conclusion

The possible effect upon auditor independence of performing nonaudit services for audit clients is a complex issue. The Commission, in identifying the factors set forth above, is neither proposing to proscribe particular nonaudit services regardless of the surrounding circumstances nor is it seeking to deprecate the very real benefits which may accrue from certain auditor MAS engagements. Rather, the Commission's objective is to re-enforce the sensitivity of interested parties to the considerations involved in judging whether particular nonaudit services should be rendered by a particular registrant's auditor. In each case, the ultimate issue is one of informed professional judgment; no set of factors or criteria can substitute for the careful, case-by-case evaluation which the exercise of that judgment entails.

This release is not the end of the examination of the scope of services issue. The Commission has the responsibility and authority under the securities laws to assure that accountants who practice before it are independent and will continue its oversight of this area, principally through staff monitoring of the disclosures required under ASR No. 250 and of the profession's response to both the views expressed in this release and to the Public Oversight Board's recommendations. The Commission's staff will also continue to examine particular cases in which questions arise concerning the independence of accountants who practice before the Commission, and compilations of such inquiries will be published from time to time.[33]

The Commission recognizes that the question of independent auditor MAS activity is both difficult and controversial. If future events indicate that further action is necessary, the Commission stands ready to reconsider this issue in order to assure the confidence of investors in the financial reporting of publicly-held companies. In order to facilitate that process, the Commission invites public comment on the factors set forth in this interpretation and on the experience of the profession and the corporate community in applying them to concrete fact patterns. All comments should be filed, in triplicate, with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Submissions should refer to File No. S7-785 and, unless confidential treatment is authorized,[34] will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 14, 1979.

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[32] Information concerning the percentage relationship between fees for nonaudit services and audit fees is presently required to be included in a registrant's proxy statement in accordance with ASR No. 250.

[33] *E.g.*, Accounting Series Release No. 234 [42 FR 64304] (December 13, 1977).

[34] The Commission recognizes that comments reflecting specific experience with this interpretation may, in some cases, reflect confidential business information not appropriate for public dissemination. Those wishing to make application for confidential treatment of any part of their submission should state that fact prominently on the first page or cover sheet thereof. *See generally* Section 23(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a)(3).

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
DOT/UMTA*	MSPB/OPM		DOT/UMTA*	MSPB/OPM
DOT/FRA*	LABOR		DOT/FRA*	LABOR
CSA	HEW/FDA		CSA	HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of June 14, 1979, the Urban Mass Transportation Administration and Federal Railroad Administration, Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Farmers Home Administration—

24863 4-27-79 / Rural housing loans and grants; rural rental housing loan policies; comments by 6-26-79

24044 4-24-79 / Rural rental housing loan policies; amendment to procedures and authorizations; comments by 6-25-79

Food and Nutrition Service—

30351 5-25-79 / Free and reduced price meals and free milk in schools; eligibility criteria; comments by 6-25-79

CIVIL AERONAUTICS BOARD

30108 5-24-79 / Domestic passenger fare policies; statements of general policy; comments by 6-25-79

27435, 27438 5-10-79 / Evaluation of air transportation needs of small communities; comments by 6-25-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

30292 5-24-79 / Fishermen's Contingency Fund; comments by 6-27-79

24290 4-25-79 / Salmon fishery; commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California; comments by 6-24-79

[Comment period extended at 44 FR 32012]

ENERGY DEPARTMENT

25366 4-30-79 / Federal energy management and planning programs; methodology and procedures for life cycle cost analysis of Federal buildings; comments by 6-29-79

Energy Conservation and Solar Applications Office—

30978 5-29-79 / Furnace test procedures; comments by 6-28-79

Office of the Secretary—

24298 4-25-79 / Municipal waste reprocessing demonstration program, development of proposed guidelines; comments by 6-25-79

ENVIRONMENTAL PROTECTION AGENCY

30122 5-24-79 / Air quality implementation plans; Connecticut; comments by 6-25-79

24880 4-27-79 / Air quality implementation plans; Nevada; comments by 6-26-79

24884 4-27-79 / Air quality implementation plans; Nevada; comments by 6-26-79

30123 5-24-79 / Air quality implementation plans; Washington; comments by 6-25-79

30703 5-29-79 / Delayed compliance order, Kans.; comments by 6-28-79

30379, 30381 5-25-79 / Proposed approval of administrative orders issued by Ohio Environmental Protection Agency and Kansas Department of Health and Environment; (2 documents) comments by 6-25-79

30378 5-25-79 / Requirements for preparation, adoption and submittal of implementation plans for Minnesota; comments by 6-25-79

FEDERAL COMMUNICATIONS COMMISSION

29127 5-18-79 / Aviation and marine services, use of marine VHF frequencies by aircraft; reply comments by 6-28-79

30131 5-24-79 / Cable television relay service; adoption of short form renewal application; comments by 6-25-79

26955 5-8-79 / FM broadcast stations in Grove, Okla.; proposed changes in table of assignments; comments by 6-25-79

30134 5-24-79 / Marine vessel steering stations; availability of compulsory radiotelephone equipment; reply comments by 6-28-79

20465 4-5-79 / Rebroadcast of CB and Amateur transmissions of emergency information; reply comments by 6-29-79

22762 4-17-79 / Television broadcast station; proposed changes in table of assignments; Joplin, Mont.; reply comments by 6-27-79

25886 5-3-79 / Use of radio in Public Utility Distribution Automation Systems; comments by 6-30-79

FEDERAL MARITIME COMMISSION

29122 5-18-79 / Proposed procedures for environmental policy analysis; comments by 6-30-79

FEDERAL RESERVE SYSTEM

30690 5-29-79 / Electronic fund transfers; comments by 6-25-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

25148 4-27-79 / Basic skills and educational proficiency programs; comments by 6-26-79

Food and Drug Administration—

28335 5-15-79 / Cellulose derivatives; affirmation of GRAS status as direct and indirect human food ingredients; comments by 6-25-79

[Originally published at 44 FR 10751; 2-23-79]

29106 5-18-79 / Soft sugars, intent to establish standards; comment period extended to 6-25-79

[Originally published at 44 FR 10747 2-23-79]

29106 5-18-79 / White sugar, intent to establish standards; comment period extended to 6-25-79

[Originally published at 44 FR 10749, 2-23-79]

24106 4-24-79 / Protection of human subjects; proposed establishment of regulations on children involved in research; comments by 6-25-79

Public Health Service—

24889 4-27-79 / Grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry; comments by 6-26-79

24428, 24429 4-25-79 / Inclusion of computed tomographic scanning services; comments by 6-25-79 (2 documents)

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commission—

25142 4-27-79 / Public housing homeownership opportunities projects; comments by 6-26-79

Office of the Secretary—

18249 3-27-79 / Security deposit provisions; comments by 6-25-79

INTERIOR DEPARTMENT

Bureau of Indian Affairs—

31156 5-30-79 / Election of Interim Yurok Governing Committee; procedures for conduct of election and duties; comments by 6-29-79

INTERSTATE COMMERCE COMMISSION

24893 4-27-79 / Grains and grain products; seasonal and demand-sensitive rates; separate rates for distinct rail service; domestic and export rates; comments by 6-26-79

26131 5-4-79 / Motor carriers of property and motor carriers of passengers, disclosure of depreciation policies in annual report; comments by 6-30-79

33716 6-12-79 / Provisions for public inspection of piggyback traffic statistics reports; comments by 6-30-79

LABOR DEPARTMENT

Employment and Training Administration—

33376 6-8-79 / Comprehensive Employment and Training Act; procedures for waivers of time limitation and public service employment; comments by 6-25-79

Pension Welfare and Benefits Program—

24876 4-27-79 / Employee benefit plans; loans, leases, and dispositions of property; comments by 6-26-79

NATIONAL CREDIT UNION ADMINISTRATION

32230 6-5-79 / Debt collection practices; comments period extended to 6-30-79

[Originally published at 44 FR 20447; 4-5-79]

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

31024 5-30-79 / Commission operations and relocation procedures; proposed revision of resale of property regulations; comments by 6-29-79

NUCLEAR REGULATORY COMMISSION

24570 4-26-79 / In Vitro uses of byproduct material; comments by 6-25-79

POSTAL SERVICE

24844 4-27-79 / Express mail metro service; comments by 6-30-79

31231 5-31-79 / International postal rates and fees; proposed non-standard surcharge; comments by 6-30-79

PERSONNEL MANAGEMENT OFFICE

24080 4-24-79 / Noncompetitive conversion of Presidential Management Interns; comments by 6-25-79

30836 5-29-79 / Privacy Act of 1974; proposed revised systems; comments by 6-28-79

SECURITIES EXCHANGE COMMISSION

32616 6-6-79 / Available copies of reports of compliance examinations of municipal security brokers and municipal securities dealers; comments by 6-27-79

29678 5-22-79 / Pricing of investment company shares generally; comments by 6-29-79

29906 5-23-79 / Relief for certain wholly owned subsidiaries from portions of annual and quarterly reports required under Securities Exchange Act of 1934; comments by 6-30-79

TRANSPORTATION DEPARTMENT

Coast Guard—

32720 6-7-79 / Flammable and combustible cargoes; cargo information cards; comments by 6-29-79

[Originally published at 44 FR 18709, 3-29-79]

21974 4-12-79 / Tank Vessel operations, Puget Sound; comments by 6-30-79

[Corrected at: 44 FR 32004, 6-4-79; 44 FR 33710, 6-12-79; 44 FR 34167, 6-14-79]

Materials Transportation Bureau—

12827 3-8-79 / Cryogenic liquids; comments by 6-28-79

26772 5-7-79 / Shipping container specifications; withdrawal of certain Bureau of Explosives delegations of authority; comments by 6-30-79

National Highway Traffic Safety Administration—

28032 5-14-79 / Odometer disclosure requirements; comments by 6-29-79

Treasury Department Customs Service—

30375 5-25-79 / Revised fee schedule for vessel services; comments by 6-25-79

Fiscal Service—

24306 4-25-79 / Endorsement of checks and an extension of the Treasury's reclamation authority; comments by 6-26-79

Internal Revenue Service—

24876 4-27-79 / Employee benefit plans; loans, leases, and dispositions of property; comments by 6-29-79

VETERANS ADMINISTRATION

24307 4-25-79 / Medical benefits; Grants to States for construction of State home facilities; comments by 6-25-79

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

29938 5-23-79 / Gospel-Hump Advisory Committee, Grangeville, Idaho (open), 6-25-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

32486 6-6-79 / Architecture, Planning, and Design Panel, Washington, D.C. (open) 6-25, 6-26, 6-28 and 6-29-79

32053 6-4-79 / Artists-in-School Advisory Panel, Durham, N.C. (open), 6-25 and 6-26-79

1330 5-31-79 / Federal-State Partnership Advisory Panel, Washington, D.C. (open), 6-28 and 6-29-79

33500 6-11-79 / Humanities Panel, Washington, D.C., 6-28 and 6-29-79

32053 6-4-79 / Theatre Advisory Panel, Washington, D.C. (partially open), 6-24-79

CIVIL RIGHTS COMMISSION

31032 5-30-79 / Illinois Advisory Committee, Collinsville, Ill. (open), 6-25-79

31032 5-30-79 / Illinois Advsory Committee, E. St. Louis, Ill. (open), 6-24-79

32269 6-5-79 / Maryland Advisory Committee, Baltimore, Md. (open), 6-26-79

27705 5-11-79 / Ohio Advisory Committee, Cincinnati, Ohio (open), 6-28 and 6-29-79

32269 6-5-79 / Virginia Advisory Committee, Richmond, Va. (open), 6-28-79

30709 5-29-79 / West Virginia Advisory Committee, Beckley, W. Va. (open), 6-26 and 6-27-79

COMMERCE DEPARTMENT

Industry and Trade Administration—

33450 6-11-79 / Advisory Committee on East-West Trade, Washington, D.C. (partially closed), 6-27-79

31033 5-30-79 / Exporters Textile Advisory Committee, Washington, D.C. (open), 6-27-79

33451 6-11-79 / New England Fishery Management Council, Danvers, Mass. (open), 6-27 and 6-28-79

National Oceanic and Atmospheric Administration—

33140 6-8-79 / Advisory Panel, Homer, Alaska (open), 6-27-79

33140 6-8-79 / Mid-Atlantic Fishery Management Council's Bluefish Subpanel, Philadelphia, Pa. (open), 6-29-79

33140 6-8-79 / North Pacific Fishery Management Council, Homer, Alaska, (open), 6-28 and 6-29-79

33141 6-8-79 / Pacific Fishery Management Council's Pink Shrimp Subpanel, Portland, Oreg. (open), 6-25 and 6-26-79

33140 6-8-79 / Scientific and Statistical Committee, Homer, Alaska (open), 6-26 and 6-27-79

33140 6-8-79 / Scientific and Statistical Committee and Advisory Panel, Homer, Alaska (open), 6-28-79

30710 5-29-79 / South Atlantic Fishery Management Council, Greenville, N.C. (open), 6-26 through 6-28-79

29951 5-23-79 / Western Pacific Fishery Management Council, Pago Pago, Samoa (open), 6-25 and 6-26-79

DEFENSE DEPARTMENT

Air Force Department—

31279 5-31-79 / USAF Scientific Advisory Board, Washington, D.C. (closed), 6-27 and 6-28-79

Army Department—

32770 6-5-79 / Army Science Board, Washington, D.C. (closed), 6-25 and 6-26-79

Engineers Corps—

32727 6-7-79 / Environmental Advisory Board, Chicago, Ill. (open), 6-28-79

Navy Department—

32270 6-5-79 / Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (open), 6-28 and 6-29-79

Office of the Secretary—

22145 4-13-79 / Defense Intelligence Agency Advisory Committee, Wright-Patterson Air Force Base, Ohio (closed), 6-26 through 6-28-79

31033 5-30-79 / Defense Science Board Summer Study Panel on Reducing Unit Cost of Equipment, Arlington, Va. (closed), 6-27-79

31314 5-31-79 / Defense Science Board; Task Force on V/STOL Aircraft, Phase II; Advisory Committee, Woodshole, Mass. (closed), 6-25 through 6-29-79

25898 5-3-79 / DOD Advisory Group on Electron Devices; Advisory Committee Meeting, Boulder, Colorado (closed), 6-28-79

24335 4-25-79 / Department of Defense Wage Committee, Washington, D.C. (closed), 6-26-79

ENERGY DEPARTMENT

33457 6-11-79 / International Energy Agency Industry Working Party, London, England, 6-29-79

Energy Technology Office—

32731 6-7-79 / Fossil Energy Advisory Committee, Coraopolis, Pa. (open), 6-26-79

Federal Energy Regulatory Commission—

33145 6-8-79 / Environmental Advisory Committee, Washington, D.C. (open), 6-25-79

ENVIRONMENTAL PROTECTION AGENCY

30759 5-29-79 / Construction of treatment works, innovative and alternative technology assessment manual, Washington, D.C. (open), 6-25-79

33477 6-11-79 / Federal Insecticide, Fungicide and Rodenticide Act Scientific Advisory Panel, Arlington, Va. (open), 6-29-79

FEDERAL COMMUNICATIONS COMMISSION

33153 6-8-79 / National Industry Advisory Committee, Amateur Radio Services Subcommittee, Washington, D.C. (open), 6-25-79

FINE ARTS COMMISSION

32019 6-4-79 / Appearance of Washington, D.C., Washington, D.C. (open), 6-28-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

32044 6-4-79 / Community Alcoholism Services Reviews Committee, Bethesda, Md. (partially open), 6-20 through 6-29-79

32044 6-4-79 / Drug Abuse Biomedical Research Review Committee, Rockville, Md. (partially open), 6-25 through 6-29-79

32044 6-4-79 / Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee, Rockville, Md. (partially open), 6-25 through 6-29-79

32044 6-4-79 / Drug Abuse Resource Development Review Committee, Rockville, Md. (partially open), 6-25 through 6-29-79

27747 5-11-79 / Life Course Review Committee, Chevy Chase, Md. (partially open), 6-27 through 6-29-79

Education Office—

31321 5-31-79 / Advisory Council on financial Aid to Students—Subcommittee on Federal and State insured programs, Kingston, R.I. (open), 6-28 and 6-29-79

Food and Drug Administration—

28416 5-15-79 / Circulatory Systems Devices Panel, Washington, D.C. (open), 6-29-79

33154 6-8-79 / Consumer exchange, East Orange, N.J. (open), 6-27-79

33154 6-8-79 / Consumer exchange, Binghamton, N.Y. (open), 6-28-79

28413 5-15-79 / Device Good Manufacturing Practices Advisory Committee, Silver Spring, Md. (open), 6-29-79

Human Development Services Office—

32743 6-7-79 / White House Conference on Handicapped Individuals, National Implementation Advisory Committee, Washington, D.C. (open), 6-27 through 6-29-79

National Institute of Education—

31320 5-31-79 / Panel for the Review of Laboratory and Center Operations, Washington, D.C. (open), 6-24-79

National Institutes of Health—

27497 5-10-79 / Biochemical Endocrinology Study Section, Chevy Chase, Md. (open), 6-25 through 6-27-79

27497 5-10-79 / Biochemistry Study Section, Georgetown, D.C. (open), 6-27 through 6-30-79

27497 5-10-79 / Communicative Sciences Study Section, Bethesda, Md. (open), 6-27 through 6-30-79

28879 5-17-79 / Diagnostic Research Advisory Group, Bethesda, Md. (open), 6-27-79

27498 5-10-79 / General Medicine A Study Section, Bethesda, Md. (open), 6-25 through 6-27-79

27498 5-10-79 / General Medicine B Study Section, Bethesda, Md. (partially open), 6-28 through 6-30-79

[Dates changed at 44 FR 32046, 6-4-79]

32045 6-4-79 / General Research Support Review Committee, Bethesda, Md. (partially open), 6-28 through 6-29-79

28879 5-17-79 / Heart, Lung and Blood Research Review Committee A, Bethesda, Md. (open and closed), 6-29 through 6-30-79

28879 5-17-79 / Heart, Lung and Blood Research Review Committee B, Bethesda, Md. (open and closed), 6-29 through 6-30-79

27498 5-10-79 / Human Embryology and Development, Bethesda, Md. (open), 6-27 through 6-30-79

27269 5-9-79 / Vision Research Program Committee, Bethesda, Md. (partially open), 6-28-79

INTERIOR DEPARTMENT

Land Management Bureau—

31324 5-31-79 / Arizona-San Diego 500kV Interconnection Projects, Phoenix, Ariz. (open), 6-25-79

31324 5-31-79 / Arizona-San Diego 500kV Interconnection Projects, Yuma, Ariz. (open), 6-26-79

31324 5-31-79 / Arizona-San Diego 500kV Interconnection Projects, La Mesa, Calif. (open), 6-28-79

28885 5-17-79 / Cedar City District Grazing Advisory Board, Escalante, Utah (open), 6-27-79

30172 5-24-79 / Lewistown District Grazing Advisory Board, Lewistown, Mont. (open), 6-28 and 6-29-79

32748 6-7-79 / Scab Creek, Wyo., Wilderness Instant Study Area Environmental Impact Statement scoping meeting, Lander, Pinedale, and Rock Springs, Wyo., 6-26 through 6-28-79

32748 6-7-79 / Vale District Grazing Advisory Board, Vale, Oreg. (open), 6-28-79

National Park Service—

31325 5-31-79 / Chickamauga and Chattanooga National Military Park, Chattanooga, Tenn. (open), 6-27-79

32753 6-7-79 / Gateway National Recreation Area Advisory Commission, Brooklyn, N.Y. (open), 6-28-79

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—

33449 6-11-79 / Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Alexandria, Va., 6-28 through 6-29-79

LABOR DEPARTMENT

29173 5-18-79 / Federal Advisory Council on Unemployment Insurance, Washington, D.C. (open), 6-26 through 6-27-79

Office of the Secretary—

33169 6-8-79 / Steel Tripartite Committee, Washington, D.C. (open), 6-25-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

33753 6-12-79 / NASA Advisory Council (NAC) Aeronautics Advisory Committee, Greenbelt, Md. (open), 6-27 through 6-29-79

31754 6-1-79 / Space and Terrestrial Applications Steering Committee, Proposal Evaluation Advisory Subcommittee, Hampton, Va. (closed), 6-25 through 6-29-79

33500 6-11-79 / Wage Committee, Washington, D.C. (closed), 6-28 through 6-29-79

NATIONAL SCIENCE FOUNDATION

33190 6-8-79 / Subcommittee for Applied Social and Behavioral Sciences of the Advisory Committee for Applied Science and Research Applications, Washington, D.C. (closed), 6-25 and 6-26-79

33190 6-8-79 / Subcommittee for Applied Physical, Mathematical, and Biological Sciences and Engineering Sciences of the Advisory Committee for Applied Science and Research Applications, Washington, D.C. (closed), 6-28 and 6-29-79

NUCLEAR REGULATORY COMMISSION

33501 6-11-79 / Advisory Committee on Reactor Safeguards, Improved Safety Systems Subcommittee, Washington, D.C. (open), 6-26-79

33754 6-12-79 / Advisory Committee on Reactor Safeguards, Subcommittee on the Floating Nuclear Plant, Washington, D.C. (open), 6-27-79

33754 6-12-79 / Advisory Committee on Reactor Safeguards, Subcommittee on Radiological Effects and Site Evaluation, Washington, D.C. (open), 6-27-79

SCIENCE AND TECHNOLOGY POLICY OFFICE

33989 6-13-79 / Intergovernmental Science, Engineering, and Technological Advisory Panel; Research Triangle Park, N.C., 6-27 and 6-28-79

SMALL BUSINESS ADMINISTRATION

31340 5-31-79 / Region IV Advisory Council, St. Paul, Minn. (open), 6-24-79

STATE DEPARTMENT

International Development Agency—

30002 5-23-79 / Advisory Committee on Voluntary Foreign Aid, San Francisco, Calif. (open), 6-25 through 6-26-79

Office of the Secretary—

32779 6-7-79 / Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 6-27 and 6-28-79

30002 5-23-79 / Study Group 1 of the U.S. Organization for the International Radio Consultative Committee, Washington, D.C. (open), 6-26-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

33409 6-11-79 / Informal Airspace Meeting, Des Plaines, Ill, 6-28-79

33409 6-11-79 / Informal Airspace Meeting, Detroit, Mich., 6-26-79

33409 6-11-79 / Informal Airspace Meeting, Jamaica, N.Y., 6-26-79

28825 5-17-79 / Informal Airspace Meeting, Las Vegas, Nev., 6-27-79

33409 6-11-79 / Informal Airspace Meeting, Woodbridge, N.J., 6-28-79

32060 6-4-79 / Radio Technical Commission for Aeronautics, Special Committee 134, Washington, D.C. (open), 6-28 and 6-29-79

32187 6-4-79 / Special Aviation Fire and Explosion Reduction Advisory Committee, Altantic City, N.J. (open) 6-26 through 6-29-79

32001 6-4-79 / Terminal control area, Los Angeles, informal airspace meeting, Cypress, Calif., 6-26 and Riverside, Calif., 6-28-79 (both open)

National Highway Traffic Safety Administration—

15823 3-15-79 / Regional Safety Belt Usage Workshops, Baltimore, Md. (open), 6-26 and 6-27-79

15822 3-15-79 / Regional Child Restraint Workshops, Berkeley, Calif. (open), 6-25 and 6-26-79

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

26228 5-4-79 / National Commission on Unemployment Compensation, Washington, D.C. 6-28 through 6-30-79

VETERANS ADMINISTRATION

17251 3-21-79 / Wage Committee, Washington, D.C. 6-28-79

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

23858 4-23-79 / Beef research and information order, Reno, Nev. and Des Moines, Iowa, 6-26 and 6-28-79

CIVIL AERONAUTICS BOARD

33919 6-13-79 / Wild Card Route Case; Pre hearing Conference, Washington, D.C., 6-28-79

COMMERCE DEPARTMENT

Foreign-Trade Zones Board—

30709 5-29-79 / Examiners Committee, Ronkonkoma, N.Y., 6-27-79

National Oceanic and Atmospheric Administration—

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, San Francisco, Calif., 6-26-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Denver, Colo., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, New Orleans, La., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Twin Cities, Minn., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Arlington, Tex., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Washington, D.C., 6-28-79

EMPLOYMENT POLICY NATIONAL COMMISSION

19557 4-3-79 / Youth Employment Task Force, Philadelphia, Pa., 6-28 and 6-29-79

ENERGY DEPARTMENT

30982 5-29-79 / Electric and hybird vehicle program, small business planning grants, Washington, D.C., 6-28-79

30278 5-24-79 / Loans for small hydroelectric power project feasibility studies, Seattle, Wash., 6-25-79

30278 5-24-79 / Loans for small hydroelectric power project feasibility studies and related licensing, Washington, D.C., 6-28-79

Economic Regulatory Administration—

32622 6-6-79 / Unleaded gasoline production incentives, Washington, D.C., 6-26-79; Los Angeles, Calif., 6-28-79

Energy Conservation and Solar Applications Office—

27191 5-9-79 / Energy conservation program for consumer products; Test procedures for water heaters, Washington, D.C., 6-27-79

Federal Energy Regulatory Commission—

33099 6-8-79 / Proposed regulations implementing the incremental pricing provisions of the Natural Gas Act of 1978, Washington, D.C., 6-27-79

ENVIRONMENTAL PROTECTION AGENCY

30338 5-25-79 / Commonwealth of Pennsylvania, Section 107 designations, Philadelphia, Pa., 6-25 and 6-28-79

FEDERAL TRADE COMMISSION

17715 3-23-79 / Standards and certification, revised schedule, Washington, D.C., 6-25-79

[Originally published at 43 FR 57269, 12-7-78]

INTERIOR DEPARTMENT

Office of the Secretary—

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, San Francisco, Calif., 6-26-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Denver, Colo., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, New Orleans, La., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Twin Cities, Minn., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Arlington, Tex., 6-27-79

33127 6-8-79 / Fish and Wildlife Coordination Act, proposed rulemaking, Washington, D.C., 6-28-79

Indian Affairs Bureau—

30768 5-29-79 / Wildhorse Reservoir lease and conveyance, Boise, Idaho, 6-26-79

30768 5-29-79 / Wildhorse Reservoir lease and conveyance, Elko, Nev., 6-28-79

30768 5-29-79 / Wildhorse Reservoir lease and conveyance, Owyhee, Nev., 6-27-79

30768 5-29-79 / Wildhorse Reservoir lease and conveyance, Reno, Nev., 6-29-79

INTERNATIONAL TRADE COMMISSION

32465 6-6-79 / Recommendation on relief, bonding and public interest on certain thermometer sheath, Washington, D.C., 6-28-79

LABOR DEPARTMENT

Mine Safety and Health Administration—

29692 5-22-79 / Mine Rescue Teams; Public Hearings, 6-26 and 6-28-79

NUCLEAR REGULATION COMMISSION

27508 5-10-79 / Virginia Electric and Power Co.; amendment to operating license, Charlottesville, Va., 6-26-79

POSTAL RATE COMMISSION

12306 3-6-79 / Express mail metro service, 1978, Washington, D.C., 6-25-79

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

28946 5-17-79 / Highway beautification program reassessment hearing, New York, N.Y., 6-26-79

TREASURY DEPARTMENT

Internal Revenue Service—

27078 5-9-79 / Investment credit employee stock ownership plans (TRASOP's), Washington, D.C., 6-28-79

28830 5-17-79 / Investment credit; qualified progress expenditures, hearing, Washington, D.C., 6-27-79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing June 18, 1979

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

34167 6-14-79 / HEW/OE—Award of special grants to local educational agencies; comments by 8-13-79

34651 6-15-79 / Justice/LEAA—Youth Advocacy Initiative, draft guidelines; comments by 8-14-79

APPLICATIONS DEADLINES

33966 6-13-79 / HEW/HDSO—Geriatric Fellowship Program; apply by 8-13-79

33964 6-13-79 / HEW/HDSO—Gerontology Career Preparation Program; apply by 8-13-79

33968 6-13-79 / HEW/HDSO—Minority Research Associate Program; apply by 9-20-79

33969 6-13-79 / HEW/HDSO—Multidisciplinary Centers of Gerontology Program: Long Term Care Gerontology Centers; apply by 8-27-79

33971 6-13-79 / HEW/HDSO—Multidisciplinary Centers of Gerontology Program: Aging Policy Study Centers; apply by 9-4-79

33973 6-13-79 / HEW/HDSO—National Continuing Education Program; apply by 8-13-79

34619 6-15-79 / USDA/REA—Development of direct buried field splice closures for buried telephone cables; apply by 7-30-79

MEETINGS

34200 6-14-79 / HEW/NIH—Cause and Prevention Scientific Review Committee, Bethesda, Md. (partially open), 6-29-79

34200 6-14-79 / HEW/NIH—Laboratory use of chemical substances posing a potential occupational carcinogenic risk, Bethesda, Md. (open), 7-24-79

[Written comments will be considered if sent by 8-14-79]

34199 6-14-79 / HEW/NIH—National Cancer Institute advisory committees; review of contract proposals and grant applications; Bethesda, Md. and New Orleans, La. (partially open), 7-10, 7-19, 7-20, and 7-24-79

34648 6-15-79 / Interior/BLM—Worland District Grazing Advisory Board, Worland, Wyo. (open), 8-1-79

OTHER ITEMS OF INTEREST

34192 6-14-79 / DOE/Energy Research Office—Availability of program announcement for University-Coal Research Laboratories Program

34213 6-14-79 / Justice/LEAA—Arson Control Assistance Program; proposed change to *Guide for Discretionary Grant Programs*

34671 6-15-79 / LSC—Grants and contracts; Utah; comments or recommendations solicited

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

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

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

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: July 6 at 9:00 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235.

LOS ANGELES, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).
WHERE: Federal Building, Army Corps of Engineers Conference Room 7412, 300 N. Los Angeles Street
RESERVATIONS: Federal Information Center, 213-688-3800.

SAN FRANCISCO, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).
WHERE: Federal Building, Room 2007 450 Golden Gate Avenue
RESERVATIONS: Call Mike Modena or Judy Barbee, Federal Executive Board, 415-556-0250.