1-10-84
Vol. 49 No. 6
Pages 1171-1320

federal register

Tuesday
January 10, 1984

Selected Subjects

Administrative Practice and Procedure
Drug Enforcement Administration

Agricultural Commodities
Agricultural Marketing Service

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Bridges
Federal Highway Administration

Communications Common Carriers
Federal Communications Commission

Grant Programs—Transportation
Federal Highway Administration

Imports
Animal and Plant Health Inspection Service

Income Taxes
Internal Revenue Service

Medical Devices
Food and Drug Administration

Public Lands
Forest Service

Quarantine
Animal and Plant Health Inspection Service

CONTINUED INSIDE

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

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Radiation Protection
Nuclear Regulatory Commission

Radio Broadcasting
Federal Communications Commission

Television Broadcasting
Federal Communications Commission

Traffic Regulations
Federal Highway Administration

Contents

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

Agricultural Marketing Service
RULES
Federal Seed Act:
1171 Lawn and turf mixtures, germination test dates, etc.

Agricultural Stabilization and Conservation Service
RULES
1174 Conservation and environmental programs; cost-share assistance recovery; interim rule affirmed

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
1288 Schizophrenia, treatment strategies

Animal and Plant Health Inspection Service
RULES
Overtime services relating to imports and exports:
1173 Commuted traveltime allowances
1175 Work at laboratories, border ports, ocean ports, and airports

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
1259 North Carolina

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
1260 Industrial Competitiveness, President's Commission
1260 President's Private Sector Survey on Cost Control, final reports; availability

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
1256 Wheat

Defense Department
See Navy Department.

Drug Enforcement Administration
RULES
Practice and procedure:
1178 Drug enforcement activities; property forfeiture

Education Department
NOTICES
1275 Accrediting agencies and associations, nationally recognized; list
Grants; availability, etc.:
1268 Discretionary grant programs
1271 Institutional aid programs; technical assistance workshops
1272 Special needs program
1273 Strengthening program

Employment and Training Administration
NOTICES
Adjustment assistance:
1297 Autoquip Corp. et al.
1297 Coberknit Corp. et al.

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
1277 Japan
1278 Sweden

Environmental Protection Agency
RULES
Air programs:
1188 Noncompliance penalties, assessment and collection; interpretation
Air quality implementation plans; approval and promulgation; various States:
1187 Massachusetts
Water pollution; effluent guidelines for point source categories:
1190 Pharmaceutical manufacturing; correction

Federal Aviation Administration
RULES
1176 VOR Federal airways
PROPOSED RULES
1211 Control areas
NOTICES
Meetings:
1318 National Airspace Review Advisory Committee

Federal Communications Commission
RULES
Common carrier services:
1190 Customer premises equipment, enhanced services and cellular communications services by Bell Operating Companies
Radio stations; table of assignments:
1204 Oklahoma
PROPOSED RULES
Common carrier services:
1245 Account for Access revenues and expenses; conforming amendments to Annual Report Form M and FCC Report 901
1248 AT&T; provision of basic services via resale by separate subsidiary

Radio and Television Broadcasting:
1252 Changes in facilities of television and FM stations
1204 Television stations; table of assignments
1254 North Carolina, extension of time
NOTICES
1283 Agency information collection activities under OMB review

Federal Deposit Insurance Corporation
RULES
Practice and procedure rules:
1176 Reports and public disclosure of indebtedness of executive officers and shareholders; correction

Federal Election Commission
NOTICES
Special elections; filing dates:
1284 Wisconsin

Federal Energy Regulatory Commission
RULES
1177 Bonneville Power Administration; sale of electric power, methodology and filing requirements; effective date and reporting and recordkeeping requirements established
NOTICES
Hearings, etc.:
1278 Commonwealth Edison Co.
1278 Detroit Edison Co.
1278 Dow Pipeline Co.
1279 Duke Power Co.
1279 Kentucky Utilities Co.
1280 Missouri Public Service Co.
1280 Pacific Power & Light Co.
1280 Public Service Co. of Colorado et al.
1281 Public Service Co. of Colorado (2 documents)
1283 Public Service Co. of New Mexico
1282 Texas Eastern Transmission Corp. et al.
1282 Texas Gas Transmission Corp. et al.
1283 Western Massachusetts Electric Co.
Natural Gas Policy Act:
1281 Jurisdictional agency determinations; well category withdrawals, etc.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
1283 Ultrapower 3

Federal Highway Administration
RULES
Engineering and traffic operations:
1178 Bridges, structures, and hydraulics; concrete bridge decks
PROPOSED RULES
Engineering and traffic operations:
1219 Utility facilities accommodation on rights-of-way
1213 Uniform Traffic Control Devices Manual; amendments

Federal Reserve System
NOTICES
Applications, etc.:
1286 Avenue Financial Corp. et al.
1286 Elkton Bancorp, Inc., et al.
1287 Mitsubishi Bank, Ltd.
1287 Southern Bancorp., Inc.
1286 The One Bancorp, et al.
Bank holding companies; proposed de novo nonbank activities:
1284 Citicorp, et al.

Federal Trade Commission
NOTICES
1287 Agency information collection activities under OMB review
1319 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
1190 Coastal Barrier Resources Act; advisory guidelines; correction
NOTICES
1294 Endangered and threatened species permit applications

Food and Drug Administration
RULES
Medical devices:
1177 Prosthetic hair fibers, ban; effective date affirmed
NOTICES
Human drugs:
1288 Opthalmic combination drugs containing prednisone acetate and sodium sulfacetamide; drug efficacy study implementation; termination of postponement of requirement for revised labeling

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
1260, 1261 New York (2 documents)

Forest Service
RULES
1184 Landownership; conveyance of small tracts
NOTICES
Organization, functions, and authority delegations:
1259 Regional Foresters; documents execution for acquisition and disposition of lands and interest in lands under Small Tracts Act, etc.

General Services Administration
NOTICES
1288 Federal Hotel/Motel Discount Directory; availability

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service; Social Security Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
1290 Area health education center programs; cooperative agreements and proposed funding preference
Indian health service:
1291 Contract health service delivery areas, geographic composition

Indian Affairs Bureau
NOTICES
1294 Agency information collection activities under OMB review

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; National Park Service.

Internal Revenue Service
RULES
Income taxes:
1182 Retirement plans; early termination of qualified plans
PROPOSED RULES
Income taxes:
1244 Electric cooperatives; computation of income
1227 Investment credit for cooperatives; correction
1243 Possessions tax credit; product definition, significant business presence test, and cost sharing and profit split elections
1227 Possessions tax credit; product definition, significant business presence test, and cost sharing and profit split elections; hearing
1225 Simultaneous liquidation of parent and subsidiary corporations

International Trade Administration
NOTICES
Antidumping:
1261 Pig Iron from Romania, U.S.S.R., and East Germany
1262 Printed vinyl film from Argentina
1263 Replacement parts for self-propelled bituminous paving equipment from Canada
1264 Stainless steel wire rods from France

International Trade Commission
NOTICES
Import investigations:
1295 Amorphous metal alloys and articles
1295 Stainless steel table flatware

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
1296 Providence & Worcester Railroad Co.; securities exemption

Justice Department
See also Drug Enforcement Administration; Parole Commission.
NOTICES
1296 Agency information collection activities under OMB review

Labor Department
See Employment and Training Administration.

National Aeronautics and Space Administration
NOTICES
Senior Executive Service:
1299 Performance Review Board; membership

National Bureau of Standards
NOTICES
Meetings:
1265 International Organization for Standardization, Transport Class 4 Protocol; workshops
Procurement:
1265 Cost comparison study of Government operation of mail preparation and distribution

National Institutes of Health
NOTICES
Meetings:
1290 Child Health and Human Development National Advisory Council
1290 Sickle Cell Disease Advisory Committee

National Oceanic And Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
1255 Northern anchovy; correction
NOTICES
Marine mammal permit applications, etc.:
1265 California Department of Fish and Game
1265 Marine Animal Productions, Inc.
1266 Minnesota Zoological Garden
1266 Morello, Steven R.

National Park Service
NOTICES
Historic Places National Register; pending nominations:
1294 Connecticut et al.

National Science Foundation
NOTICES
Meetings:
1299 Biological, Behavioral, and Social Sciences Advisory Committee

National Transportation Safety Board
NOTICES
1299 Accident reports, safety recommendations, and responses, etc.; availability

Navy Department
NOTICES
Meetings:
1268 Chief of Naval Operations Executive Panel Advisory Committee

Nuclear Regulatory Commission
PROPOSED RULES
Radiation protection standards:
1205 Personnel dosimetry processing
NOTICES
Applications, etc.:
1301 Consumers Power Co.
1301 Dairyland Power Cooperative
1302 Duquesne Light Co. et al.
1302 Sacramento Municipal Utility District
1303 Texas Utilities Electric Co. et al.
1303 Wisconsin Electric Power Co.
1304 Yankee Atomic Electric Co.

Panama Canal Commission
RULES
Shipping and navigation:
1184 Collision prevention rules; correction

Parole Commission
NOTICES
1319 Meetings; Sunshine Act (2 documents)

Public Health Service
NOTICES
Medical technology scientific evaluations:
1293 Apheresis for treatment of chronic relapsing polyneuropathy

Securities and Exchange Commission
NOTICES
1319 Meetings; Sunshine Act
Hearings, etc.:
1305 Cincinnati Stock Exchange
1305, 1306 Midwest Stock Exchange, Inc. (2 documents)

Small Business Administration
NOTICES
1306 Agency information collection activities under OMB review
Disaster loan areas:
1306 Alabama
1307 Delaware
1307 Louisiana
1307 Michigan
1308 Montana
1308 New Jersey
1309 New York
1309 North Dakota
1309 Oklahoma

Social Security Administration
RULES
Supplemental security income:
1177 Burial spaces and funds set aside for burial expenses; correction

Tennessee Valley Authority
NOTICES
Public Utility Regulatory Policies Act:
1310 Dispersed power production program and guidelines; proposed modifications

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
1266 Egypt
1267 India
1267 Thailand
1268 Turkey

Transportation Department
See Federal Aviation Administration; Federal Highway Administration.

Treasury Department
See Internal Revenue Service.

United States Information Agency
NOTICES
Exchange-visitor program:
1318 University affiliation program application; correction

Reader Aids
Additional information including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
201 1171
354 1173
701 1174

9 CFR
97 1175

10 CFR
Proposed Rules:
20 1205

12 CFR
349 1176

14 CFR
71 1176
Proposed Rules:
71 1211

18 CFR
35 1177
301 1177

20 CFR
416 1177

21 CFR
895 1177
1316 1178

23 CFR
650 1178
Proposed Rules:
625 1213
645 1219
655 1213

26 CFR
1 1182
Proposed Rules:
1 (5 documents) 1225–1244

35 CFR
111 1184

36 CFR
254 1184

40 CFR
52 1187
66 1188
67 1188
439 1190

43 CFR
Subtitle A 1190

47 CFR
Ch. I 1190
73 1204
Proposed Rules:
31 1245
64 1248
73 (2 documents) 1252–1254

50 CFR
Proposed Rules:
662 1255

Rules and Regulations

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

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 201

Federal Seed Act Regulations; Lawn and Turf Seed Mixtures, Germination Test Dates, and Certain Labeling Requirements

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Final rule

SUMMARY: These amendments to Part 201—Federal Seed Act (FSA) Regulations (7 CFR Part 201) implement the interstate provisions of the FSA Amendments of 1982 (Pub. L. 97–439, 96 Stat. 2287). Specifically, this rule will require agricultural seed mixtures intended for lawn and turf purposes to be designated as a "Mixture" on the label, the mixture components to be listed in the order of predominance, and the oldest calendar month and year germination test date among the component germination test dates to be shown on the label of all agricultural seed mixtures. Also, the rule will require bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass seeds to be tested within 15 months prior to interstate shipment rather than within 5 months as previously required. A proposed rule was published in the August 4, 1983, Federal Register (48 FR 35417). A hearing on the proposed rule was held in Washington, D.C., August 30, 1983, at which time interested persons and organizations were given an opportunity to participate in the rulemaking through presentation of data and/or views concerning the proposal. Interested parties also submitted written comments by mail.

EFFECTIVE DATE: February 9, 1984.

ADDRESS: Copies of the final rule may be obtained from the Seed Branch, Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2603–S, 1400 Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Donald W. Ator, Chief, Seed Branch, Warehouse Division, AMS, USDA, Washington, D.C. 20250, (202) 447–9340.

SUPPLEMENTARY INFORMATION: This action has been determined not to be a "major" rule as defined in the Executive Order 12291 and Secretary's Memorandum 1512–1 in that it does not meet the criteria for a major rule.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR 1320, Controlling Paperwork Burdens on the Public, under the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirements contained in 7 CFR Part 201, including the labeling requirements contained in this rule, were submitted to OMB for review as prescribed in § 1320.13 (48 FR 13666), Clearance of Collection of Information Requirements in Proposed Rules, under section 3504(h) of the Paperwork Reduction Act. OMB approved the information collection requirements for use through August 31, 1986, identifying such action with OMB No. 0581–0026. This number and expiration date must appear in the upper right-hand corner of the first page of the regulation, manual, or other document incorporating the information collection.

William T. Manley, Deputy Administrator, AMS, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because there are no increase in recordkeeping or paperwork requirements, no increase of direct or indirect cost of compliance with the rule, no effect on the competitive position of small entities in relation to larger entities, no effect on small entity's cash flow and liquidity, no effect on the ability of a small entity to remain in the market, and imposes no need for and therefore no cost of obtaining professional assistance for compliance. Further, the changes to the regulations are made to implement the interstate provisions of the FSA Amendments of 1982. A letter and certification to this effect have been sent to the Small Business Administration.

Background

The Federal Seed Act of 1939 (7 U.S.C. 1551 *et seq.*) (hereinafter "the Act") and the regulations promulgated thereunder (7 CFR Part 201) contained prior to January 1983 certain requirements relating to lawn and turf seed mixtures and germination test dates. Congress enacted the "Federal Seed Act Amendments of 1982" (Pub. L. 97–439, hereinafter "the 1982 Amendments"). Based upon the 1982 Amendments, changes are being made to the regulations to make necessary conforming amendments.

Sections 2 (a) and (c) of the 1982 Amendments repealed section 201(j) of the Act (7 U.S.C. 1571(j), provided that lawn and turf seed dealers are no longer required to distinguish between "Fine-Textured Grasses" and "Coarse Kinds" on lawn seed labels, and deleted other specific labeling requirements in section 201(j). Because of the development of improved varieties of grass seed, it has become virtually impossible to distinguish between these categories. The Association of American Seed Control Officials had previously adopted a change in the Recommended Uniform State Seed Law to eliminate the labeling requirement for these categories, and a number of States have enacted that recommendation. In the 1982 Amendments, Congress also eliminated this labeling requirement.

Further section 2(b) of the 1982 Amendments amends section 201(a) of the Act (7 U.S.C. 1571(a)) to require lawn and turf seed mixtures to be labeled as such, with each component of the mixture listed in the order of predominance. This labeling standard provides seed regulatory officials and consumers adequate information and avoids the risk that producers will misclassify a seed by attempting to distinguish between fine textured and coarse. Also, the labeling requirements of section 201 were made applicable to lawn and turf seeds. Accordingly, USDA proposed to delete 7 CFR 201.12a, which defined coarse and fine kinds of lawn and turf seeds. This rule substitutes for the current language of 7 CFR 201.12a a simple mixture lableling standard which provides that seed mixtures be designated as a mixture on the label and

that each seed component be listed on the label in the order of predominance.

Section 3 of the 1982 Amendments inserts a new clause in section 201(a)(8) of the Act (7 U.S.C. 1571(a)(8)) which simplifies the listing of germination dates. A germination test required by section 201(a)(8) of the Act is now required by § 201.22 of the regulations for each kind or variety of seed contained in a seed mixture, but the 1982 Amendments require the label to list only the earliest test date for a given mixture. This rule revises 7 CFR 201.22 to reflect this change.

Section 4 of the 1982 Amendments changes section 201(c) of the Act (7 U.S.C. 1571(c)) to permit the Secretary to extend for agricultural seeds the 5-month period between the germination test and introduction of such seeds into interstate commerce when it is found that such seeds will maintain a percentage of germination within the limits established by the Act under ordinary conditions of handling. Therefore, 7 CFR 201.22 is amended accordingly.

Finally, the Secretary has determined, based upon test and data available to the Department of Agriculture, that certain categories of agricultural seeds will maintain the required germination percentage beyond 5 months and specifically has found that certain categories of lawn and turf seeds or mixtures thereof will maintain the required germination percentage for at least 15 months or longer. Therefore, the 5-month period is extended to 15 months for these certain categories of seeds and mixtures thereof. Such seeds are bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass. Also, information was invited with respect to the maintenance of germination under ordinary conditions of handling for other categories of seed.

Comments on the Proposed Rule

Section 201.12a. All comments supported the proposed revision to require seed mixtures intended for lawn and turf purposes be designated as a mixture with each seed component listed on the label in the order of predominance.

Section 201.22(b). All comments supported the proposed revision to require in the case of seed mixtures the calendar month and year of the test (germination) for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

Section 201.22(c). All comments except one supported the proposed revision to require the kinds of agricultural seed named in the proposal be tested within 15 months instead of the previous requirement to test within 5 months of interstate shipment. The kinds considered for this change are bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass. The opposing comment referred to some individual State seed law requirements for a date of test within 6 to 12 months (varying according to individual State preference) of offering or exposure for sale. The writer offered as an example Kentucky bluegrass under the 15-month test requirement could be correctly labeled for interstate shipment but subject to a "Stop Sale Order" if the date of test was not in compliance with the State's requirements to show a date of test within 12 months of offer for sale. (State requirements vary from State to State with a range from 5 to 18 months.) The FSA regulations require the shipper to have a test completed within the specified time prior to shipment in interstate commerce, whereas State seed laws and regulations generally require the test within a specified time prior to offering for sale. Both Federal and State seed laws and regulations require truthful labeling of the germination percentage and the calendar month and year such germination test was completed. The opposing comment stated that the adverse effect for intrastate seed dealers or retailers would be an additional expense of retesting and relabeling the seed lot plus withholding the seed from sale until the test is completed. However, no significant difference should exist between intrastate and interstate seed dealers with respect to testing costs or testing time.

The opposing comment further stated that chewings fescue and red fescue should be deleted entirely from the list of kinds required to be tested within 15 months. The writer referred to experience with these two kinds and claimed that seed of these kinds which is not sold in the same year in which it is harvested is notorious for losing viability at a very rapid and increasing rate. However, no data was submitted to support the claim. Also, carryover seed from the previous year's harvest is often superior in germinability and ability to maintain its germination level over seed produced in a year with unfavorable weather during seed crop maturation and harvesting.

One comment recommended centipedegrass for consideration as a kind which testing within 15 months prior to interstate shipment should be fully adequate. However, centipedegrass is not listed in the regulations as a kind subject to the FSA, therefore, it is not eligible for consideration in this rulemaking.

List of Subjects in 7 CFR Part 201

Agricultural commodities, Labeling.

PART 201—FEDERAL SEED ACT REGULATIONS

Authority: Sec. 402, 53 Stat. 1285 (7 U.S.C. 1592).

For the reasons set out herein, Part 201, Subchapter K, Chapter I of Title 7, Code of Federal Regulations, is amended as follows:

1. Section 201.12a is revised to read:

§ 201.12a Lawn and turf seed mixtures.

Seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

2. Section 201.22 is amended by designating the existing paragraph as (a) and by adding paragraphs (b) and (c) to read as follows:

§ 201.22 Date of test.

(a) * * *

(b) In the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the test conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

(c) The following kinds shall be tested within the indicated time before interstate shipment:

Agricultural seeds and mixtures thereof	Months from test date to shipment
Bentgrass: Agrostis tenuis and palustris	15
Bluegrass, Kentucky: Poa pratensis	15
Fescue, Chewings: Festuca rubra var. commutata	15
Fescue Hard: Festuca longifolia Thuill	15
Fescue, Red: Festuca rubra	15
Fescue, Tall: Festuca arundinacea	15
Ryegrass, Annual: Lolium multiflorum	15
Ryegrass, Perennial: Lolium perenne	15

Done at Washington, D.C., on January 3 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-642 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 83-355]

Overtime Work at Border Ports, Seaports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled, "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12456 dated December 30, 1983.

EFFECTIVE DATE: January 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Reynolds, Coordinator, National Administrative Planning Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This amendment has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Further, based on information compiled by the Department, it has been determined that this amendment will have an effect on the economy of less than $100,000,000; will not cause a major increase in costs or prices for consumers; individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the availability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. Specifically, this amendment affects only those entities that require the services of an inspector on a Sunday, holiday, or during certain other hours of a day. Services of an inspector during a regular tour of duty are still provided free of any charge to those requesting the service. Further, this amendment increases the costs of obtaining the services of an inspector by only $2.08 per hour for services on a Sunday and by only $2.44 per hour for services on a holiday or any other period outside the regular tour of duty. Further, based on information available to the Department, it is estimated that PPQ provided an average of 5,140 hours per week of services for which charges were assessed during 1983, and these services were requested by thousands of entities. The number of hours of service for which charges will be imposed are not expected to increase significantly in 1984.

The hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternatives to raising the overtime rate. By law, importers/exporters are required to reimburse the Agency for its costs associated with services rendered. Unless the rate is raised, it will not cover the pay raise which commences January 8, 1984.

Accordingly, pursuant to the administrative provisions in 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these amendments are impracticable, unnecessary, and contrary to the public interest and good cause is found for making these amendments effective less than 30 days after publication in the Federal Register.

List of Subjects in 7 CFR Part 354

Agricultural commodities. Exports. Government employees. Imports. Plants (Agriculture). Quarantine. Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airport and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, is revised as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a)(1) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of Plant Protection and Quarantine on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $28.92 per work-hour per employee on a Sunday and at the rate of $21.84 per work-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provide service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the

regularly established hours of service on a Sunday will be $23.68 and for work performed outside of the regularly established hours of service for holiday or any other period will be $16.64 per hour, which charges exclude administrative overhead costs.

(2) A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for such employee or which is performed by an employee on a regular workday beginning either at least 1 hour before his/her scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies which requires the emplolyee involved to perform additional travel may include a commuted traveltime period the amount of which shall be prescribed in administrative instructions to be issued by the Deputy Administrator, Plant Protection and Quarantine, for the areas in which the Sunday or holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such Sunday or holiday or overtime duty if such travel is performed solely on account of such Sunday or holiday or overtime service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, certification, or quarantine services are performed at locations outside the metropolitan area in which the empoloyee's headquarters is located, one-half of the commuted travel period aplicable to the point at which the services are performed shall be charged when duties involve overtime that begins less than 1 hour before the beginning of the regular tour and/or is the continuation of the regular tour of duty. It will be administratively determined from time to time which days constitute holidays.

(b) The Plant Protection and Quarantine inspector in charge of honoring a request to furnish inspection, laboratory testing, quarantine or certification service, shall assign employees to such Sunday or holiday or overtime duty, with due regard to the work program and availability of employees for duty.

(c) As used in this section—

(1) The term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) The term "private vessel" means any civilian vessel not being used (i) to transport persons or property for compensation or hire, or (ii) in fishing operations or in processing of fish or fish products.

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94–353, 90 Stat. 882) (49 U.S.C. 1741))

Done at Washington, D.C., this 6th day of January 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-740, Filed 1-9-84; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) Agriculture, (USDA).

ACTION: Final rule.

SUMMARY: The interim rule governing the Conservation and Environmental Programs, which was published in the Federal Register on July 26, 1983 (48 FR 33846), is adopted as a final rule. The interim rule authorized the recovery of cost-share assistance under various conservation programs when a practice had been terminated before its designated lifespan, as the result of the voluntary loss or control of the land on which the practice had been installed. In addition, the interim rule provided for the recordable encumbrances to be filed under certain circumstances with respect to land on which conservation practices are installed in designated Salinity Control Project Areas.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202–447–6221. The Final Regulatory Impact Analysis describing the options considered in developing this rule will be available from Gordell A. Brown.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulations (7 CFR Part 701) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560-112.

This final rule has been reviewed for compliance with Executive Order 12291 and Secretary's Memorandum No. 1211-1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-base enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program; Number—10.063; Title—Emergency Conservation Program, Number—10.054; Title—Forestry Incentives Program, Number—10.064; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Agricultural Conservation Program (ACP) is authorized generally by sections 7–17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590g *et seq.*). The program provides financial incentives and technical assistance to encourage agricultural producers to voluntarily perform enduring soil and water conservation and pollution abatement measures, including practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production. The purpose of the program is to assure a continuous supply of food and fiber necessary for the maintenance of strong and healthy people.

The Emergency Conservation Program (ECP) is authorized by the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*). This program is designed to provide cost-share assistance for emergency work to meet only the critical needs of agricultural producers due to severe drought or other natural disaster.

The Forestry Incentives Program (FIP) is authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) and is designed to increase the Nation's supply of timber products from private nonindustrial forest lands. The purpose of FIP is to encourage private landowners to apply forestry practices that will provide for afforestation of suitable open lands and reforestation of cut-over or other nonstocked forest lands, and to encourage intensive multipurpose forest resource management and protection so as to provide for cost-effective timber production and other related forest resources needs.

On July 26, 1983, an interim rule was published in the Federal Register (48 FR 33846) amending the regulations set forth at 7 CFR Part 701 which govern the Conservation and Environmental Programs administered by ASCS. The interim rule authorized ASCS to recover, under certain conditions, amounts of cost-share assistance which have been paid to participants to carry out practices under the Agricultural Conservation Program (ACP), Emergency Conservation Program (ECP) and the Forestry Incentives Program (FIP). A paricipant in any of the programs would be liable for a refund of all cost-share assistance received under such program when a practice is terminated prior to the expiration of the lifespan of the practice as the result of a voluntary loss of title or possession of the land on which the practice has been installed. In addition, a producer would be required to agree, as a condition of eligibility for receiving cost-share assistance, that a recordable encumbrance may be fined by the county ASC committee with respect to land on which the practices were installed in designated Salinity Control Project Areas. This requirement, however, could be waived by the county ASC committee under certain circumstances. A comment period was provided through September 26, 1983.

ASCS received a total of three comments with respect to the interim rule. One comment was received from the Nevada State ASC Committee. Another was received from the Churchill-Storey-Washoe, County ASC Committee in Nevada. A third comment was received from the Vernon County ASC Committee in Wisconsin.

While not objecting to the substance of the interim rule, all three respondents felt that implementing the interim rule would increase the personnel and administrative costs and burdens of county ASCS offices. However, the provisions of this rule will not require county ASCS offices to perform any additional work in counties outside of the Colorado River Salinity Control Project Areas. Even though there may be minor increases in the workloads of county ASCS offices which lie within the Colorado River Salinity Control Project Areas, it has been determined that the benefits to the effectiveness of the program far outweigh any increased administrative burden.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forests and forest products, Grant programs, Agriculture grant programs, Natural resanding rural areas, Soil conservation, Water resources, Wildlife.

Final rule.

PART 701—[AMENDED]

Accordingly, it has been determined that the interim rule published at (48 FR 33846) amending 7 CFR Part 701 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on January 5, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-559 Filed 1-6-84; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 83-143]

Overtime Work at Laboratories, Border Ports, Ocean Ports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at laboratories, border ports, ocean ports, and airports. Veterinary Services inspectors of the United States Department of Agriculture are charged with performing inspection duties relating to imports and exports at laboratories, border ports, ocean ports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendments increase the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12456 dated December 30, 1983.

EFFECTIVE DATE: January 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Officer, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 857, Hyattsville, MD 20782, 301-436-8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This amendment has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Further, based on information compiled by the Department, it has been determined that this amendment will have an effect on the economy of less than $100,000,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the availability of Unted States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. Specifically, this amendment affects only those entities that require the services of an inspector on a Sunday, holiday, or during certain other hours of a day. Services of an inspector during a regular tour of duty are still provided free of any charge to those requesting the service. Further, this amendment increases the costs of obtaining the services of an inspector by only $2.03 per hour for services on a Sunday and by only $2.44 per hour for services on a holiday or any other period outside the regular tour of duty. Further, based on information available to the Department, it is estimated that VS provides an average of 654 hours per week of services for which charges were assessed during 1983 and these services were requested by thousands of entities. The number of hours of service for which charges will be imposed are not

expected to increase significantly in 1984.

The hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternatives to raising the overtime rate. By law, importers/exporters are required to reimburse the Agency for its costs associated with services rendered. Unless the rate is raised, it will not cover the pay raise which commences January 8, 1984.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on these amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making these amendments effective less than 30 days after publication in the Federal Register.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airports and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), the first sentence of § 97.1(a) and the last sentence of § 97.1(b) are amended to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

(a) Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period, except as provided in paragraph (b) of this section, shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $28.92 per man hour per employee on a Sunday and at a rate of $21.84 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, except as provided in paragraph (b) of this section for inspection or quarantine services requested by an owner or operator of an aircraft at an airport on a Sunday or holiday which are performed within regularly established hours of service, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. * * *

(b) * * * When services are performed outside of the regularly established hours of service on a Sunday or holiday or any other day, the rate to be charged owners or operators of aircraft shall be $23.68 per hour on a Sunday and $16.64 per hour on a holiday or any other day, which charges exclude administrative overhead costs.

(64 Stat. 561 (7 U.S.C. 2260))

Done at Washington, D.C., this 6th day of January, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-739 Filed 1-6-84; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 349

Forms, Instructions, and Reports; Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and Its Correspondent Banks

Correction

In FR Doc. 83-34372 beginning on page 57110 in the issue of Wednesday, December 28, 1983, make the following correction:

On page 57115, first column, in § 349.4, paragraph (a) should have been set forth as follows:

(a) Upon receipt of a written request, an insured State nonmember bank shall disclose to the requester the name of each executive officer or principal shareholder of the bank whose aggregate indebtedness, including the indebtedness of related interests of such person.

(1) At the bank itself as of the end of the latest calendar quarter; or

(2) At the correspondent banks of the disclosing bank at any time during the previous calendar year equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or $500,000, but in no event shall an insured State nonmember bank be required to make such disclosure where the aggregate indebtedness of an executive officer or principal shareholder is less than $25,000.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASO-29]

Alteration of VOR Federal Airways V-53 and V-311; South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airways V-53 and V-311 located in the vicinity of Columbia, SC. The realignment of these airways improves traffic flow between Charleston, SC, and Columbia, SC. This action increases safety and improves traffic.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On October 18, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-53, in part, between Columbia, SC, and Charleston, SC, and realign V-311, in part, between Columbia, SC, and Charleston, SC (48 FR 48244). The realignment permits increased use of tower en route air traffic control procedures, thereby reducing controller workload, expedite traffic and reduce en route and terminal delays. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-53, in part, between Columbia, SC, and Charleston, SC, and realigns V-311, in part, between Columbia, SC, and Charleston, SC. The realignment enhances air traffic control procedures by reducing controller workload and expediting traffic in that area.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me, § 71,123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, March 15, 1984, as follows:

V-53 [Amended]

By deleting the words "From Charleston, SC, INT Charleston 296° and Columbia, SC, 153° radials; Columbia;" and substituting the words "From Charleston, SC, via Columbia, SC;"

V-311 [Amended]

By deleting the words "Columbia, SC." and substituting the words "Columbia, SC; INT Columbia 153° and Charleston, SC, 296° radials; Charleston."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69.)

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

Issued in Washington, D.C., on January 3, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-541 Filed 1-9-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 301

[Docket No. RM81-41-000]

Sales of Electric Power to Bonneville Power Administration, Methodology and Filing Requirements; Effective Date and OMB Control Numbers

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of effective date and OMB control number for final rule.

SUMMARY: On October 6, 1983, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM81-41-000, relating to methodology and filing requirements for sales of electric power to the Bonneville Power Administration (Order No. 337, 48 FR 46970, October 17, 1983). This document gives notice of the effective date and OMB control number for the information collection provisions in that final rule.

EFFECTIVE DATE: The rule in this docket is effective January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (Supp. IV 1980) and the Office of Management and Budget's (OMB) regulations implementing that statute, 5 CFR Part 1320, require that OMB approve certain information collection requirements imposed by agency rule. On December 19, 1983, OMB approved the information collection requirements of this rule and issued control number 1902-0096 for the rule. Therefore, the rule is now in effect.

The following technical change is made in FR Doc. 83-28163, appearing on page 46977 of the issue of October 17, 1983:

PART 35—[AMENDED]

1. On page 46977, column 1, "(OMB Control Number 1902-0096)" is added at the end of the text of § 35.31.

PART 301—[AMENDED]

2. On page 46977, column 3, "(OMB Control Number 1902-0096)" is added at the end of the appendix following § 301.1.

Dated: January 5, 1984.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-629 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income; Burial Spaces and Certain Funds Set Aside for Burial Expenses

Correction

In FR Doc. 83-34360 beginning on page 57125 in the issue of Wednesday, December 28, 1983, the effective date on that page which read "December 28, 1984" should read "December 28, 1983".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 895

[Docket No. 80N-0301]

Banned Devices; Final Rule To Make Prosthetic Hair Fibers a Banned Device

AGENCY: Food and Drug Administration.

ACTION: Final rule; affirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is affirming the effective date of June 3, 1983, for a rule that made prosthetic hair fibers a banned device.

DATE: Effective date affirmed: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In an immediately effective proposed rule published in the Federal Register of June 3, 1983 (48 FR 25126), FDA made prosthetic hair fibers intended for implantation into the human scalp to simulate natural hair or conceal

baldness a banned device. FDA determined that such prosthetic hair fibers present substantial deception and an unreasonable and substantial risk of illness or injury, that the deception or risk could not be corrected or eliminated by labeling or a change in labeling, and that the deception or risk associated with use of the device presents an unreasonable, direct, and substantial danger to the health of individuals. Therefore, FDA proposed that prosthetic hair fibers be made a banned device and, in accordance with section 516(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360f(b)) and § 895.30 (21 CFR 895.30) of the regulations on banned devices, declared the proposed rule to be effective June 3, 1983, pending final action on the rule. The immediately effective proposed rule amended 21 CFR Part 895 by adding new Subpart B consisting of § 895.101 to list prosthetic hair fibers as a banned device.

FDA gave interested persons until August 2, 1983, to submit written comments and any additional available data and information regarding the proposed rule. By notice published in the Federal Register of June 3, 1983 (48 FR 25137), FDA also gave interested persons an opportunity to request, by July 5, 1983, an informal regulatory hearing on the proposed rule. The agency did not receive any comments or requests for a hearing on the proposed rule, nor did the agency receive any additional information or data to show that the proposed rule should be modified or revoked. Thus, under § 895.30(d), FDA has concluded that the immediately effective proposed rule published in the Federal Register of June 3, 1983, making prosthetic hair fibers a banned device, should be affirmed.

List of Subjects in 21 CFR Part 895

Administrative practice and procedure, Banned devices, Labeling, Medical devices.

PART 895—BANNED DEVICES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(r), 516, 518, 519, 701(a) 52 Stat. 1055, 90 Stat. 560, 562–565, 577–578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no comments were submitted in response to the proposed rule of June 3, 1983, and no requests for a hearing were submitted in response to the notice of opportunity for a hearing of June 3, 1983.

Accordingly, the proposed rule adding new Subpart B consisting of § 895.101 *Prosthetic hair fibers* to make prosthetic hair fibers a banned device became effective June 3, 1983.

Dated: December 29, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-530 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

Delegation of Authority to DEA Officials

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: As a result of the Drug Enforcement Administration establishing an Asset Forfeiture Unit in the Office of Chief Counsel in DEA Headquarters, this final rule delegates to that Unit the authority in Administrative and Judicial forfeitures to process advertisements, claims and bonds, Declarations of Forfeiture, referrals to U.S. Attorneys, and petitions.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Associate Chief Counsel, Drug Enforcement Administration, Department of Justice 20537, (202–633–1404).

SUPPLEMENTARY INFORMATION: On December 16, 1983, I approved the establishment of an Asset Forfeiture Unit in the Office of Chief Counsel in DEA Headquarters. The establishment of such a unit to centralize, expedite, and monitor asset forefeiture activities in DEA was recommended by recent studies of the General Accounting Office, the Justice Management Division of the Department of Justice and the Planning and Inspection Division of DEA. The Asset Forfeiture Unit has assumed the responsibility for the processing of assets in two DEA Field Divisions (the Washington and Miami Divisions) and it is anticipated that such processing for all DEA Field Divisions will be assumed by the Unit before October of 1984. This final rule amends the regulations applicable to such forfeitures to facilitate the Unit processing advertisements, claims and bonds, Declarations of Forfeiture, referrals to U.S. Attorneys, and petitions for remission or mitigation of forfeiture.

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget under E.O. 12291, Moreover, I hereby certify that this matter will have no impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

By virtue of the authority vested in me as Administrator of DEA by 28 CFR 0.100 and § 0.104 and 21 U.S.C. 871(b), the following amendments are made to Title 21, §§ 1316.75, 1316.76(a), 1316.77, 1316.78(a), 1316.79, and 1316.81, of the Code of Federal Regulations:

List of Subjects in 21 CFR Part 1316

Administrative practice and procedures, Drug traffic control and research.

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

* * * * *

Subpart E—Seizure, Forfeiture, and Disposition of Property

§§ 1316.75, 1316.76, 1316.78, 1316.81 [Amended]

1. Section 1316.75, paragraph 1316.76(a), § 1316.78, and § 1316.81 are amended by inserting the words "or DEA Asset Forfeiture Unit" after the word "custodian" each time it appears.

§ 1316.77 [Amended]

2. Paragraph 1316.77(a) is amended by inserting the words "or DEA Asset Forfeiture Unit" after the word "Charge" each time it appears.

§ 1316.79 [Amended]

3. Paragraph 1316.79(a) is amended by inserting the words "DEA Asset Forfeiture Unit or" between the words "the" and "Special" in the second sentence of the paragraph.

Dated: January 3, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-537 Filed 1-9-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Bridges, Structures, and Hydraulics; Concrete Bridge Decks

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation which prescribes policies and

procedures for the construction, rehabilitation, and reconstruction of concrete bridge decks. The final rule will allow the States the flexibility to select a protective system and reconstruction method based on local conditions and experience. The existing provision, which provides for the inclusion of a protective system as an eligible item for interstate construction funds, is deleted to conform with recently enacted statutory requirements. In addition, procedural requirements which are no longer considered necessary are eliminated.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David S. Gendell, Director, Office of Highway Operations, (202) 426-0340, or Mr. Michael Laska, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: A significant factor contributing to the deterioration of the Nation's highway bridges is the corrosion of the reinforcing steel induced by deicing chemicals and saltwater. In order to address this problem and to protect the Federal investment in highway bridges, the Federal Highway Administration issued in 1976 the current regulations which are set forth in 23 CFR Part 650 Subpart F, and are the subject of this final rule.

Although the current regulations and policies do not exclude any particular protective system or reconstruction procedure from use on a Federal-aid project, they do provide preferential treatment to certain protective systems and reconstruction procedures because of the extensive evaluation and documentation required for experimental installations. Acceptable protective systems specified in current regulations include epoxy-coated rebars, dense concrete (Iowa System), latex modified concrete, membranes, and cathodic protection.

The restrictive policies and procedures were reviewed because an increasing amount of research and performance data on protective systems has become available from many sources. The current regulations were also reviewed with the purpose of eliminating unnecessary requirements whenever applicable. Particular attention was given to decisionmaking areas which could be delegated to the States if warranted. Consequently, the FHWA published a notice of proposed rulemaking (NPRM) (48 FR 6552) on February 14, 1983, and requested comments to FHWA Docket No. 83-1. The comments have been reviewed and analyzed as a representation of interested parties, particulary by State highway agencies who are charged with program compliance.

Discussion of Comments

Thirty-two comments were received in response to the NPRM issued on February 14, 1983. Comments were submitted by representatives from the following interest groups: 15 State highway agencies, 4 local highway agencies, 4 trade associations, 5 private organizations, and 4 other interested parties. The responses varied, with the majority of the commenters (19) expressing agreement with the rule, and 5 commenters expressing complete opposition to the rule by requesting it be reconsidered or deferred. The following is a summary of the comments received.

The primary issue addressed by those submitting comments dealt with the concept of deregulation at the Federal Government level which reinforces the authority of the State highway agencies who are charged with program compliance. Nineteen respondents indicated their support to allow States the flexibility to select a protective system and reconstruction method based on local conditions and experience. This group included 17 governmental agencies and two trade associations. A total of five commenters expressed opposition to allowing the States the flexibility to select a protective system and reconstruction method. This group included four private organizations and one other interested party.

Those opposing the proposal stated that the revised regulation could open the door to political manipulation, "favorite son" treatment and a "buddy" system which would result in an uncoordinated use of "experimental" products and a move away from assuring cost-effective construction of concrete bridge decks. Four of the five commenters who opposed the final rule further emphasized the need for a national body to develop and disseminate performance criteria upon which cost-effectiveness is evaluated and urged the Federal Highway Administration to assume that role.

The revised regulation eliminates a list of approved protective systems and provides for the individual States to share in the decisionmaking process. However, it does not relieve FHWA of its responsibility to protect the Federal investment in the Nation's highway bridges. The FHWA will remain the focal point for the development and dissemination of performance data on the various protective systems and will continue to conduct an aggressive research program in the areas of bridge deck protective systems. Finally, FHWA field offices will continue to have final approval authority on the criteria submitted by the State highway agencies.

Two of the commenters stated that if the goal is to provide more flexibility to the State highway agencies, FHWA could accomplish this goal by updating and expanding Appendix A. They stated that this would also assure the cost-effective construction, reconstruction, and/or rehabilitation of concrete bridge decks. An analysis of the research performed to date indicates a lack of consensus regarding the effectiveness of certain protective systems. Factors such as varying applications of deicing salts from State to State will contribute to the difficulty of recommending, on a national level, protective systems. Also, the administrative cost to update and expand Appendix A would be prohibitive. New or improved protective systems are continuously entering the marketplace and to keep the list current, it would have to be updated monthly or even weekly. This additional administrative burden would also discourage industry from introducing new technology.

Another area requiring discussion is that of deck rehabilitation. Five commenters stated that the proposed regulation seems to disregard FHWA's own research findings which conclude that waterproof membranes, sealants, and concrete overlays do not stop corrosion of salt contaminated bridge decks. Under the revised regulation these systems may now be considered acceptable and permanent reconstruction techniques. They further stated that this regulation does not require implementation of cathodic protection, which is the only rehabilitation technique that has been proven to stop corrosion in salt contaminated bridge decks. FHWA is well aware of the advantages of cathodic protection and during the past nine years, through its Demonstration Projects Division, has promoted the use of this technology as a means of preserving existing unprotected reinforced concrete bridge decks. Technical training, as well as funding assistance, has been provided to approximately 25 highway agencies for the construction and evaluation of more than 40 cathodic protection installations. Our intention in issuing this regulation is to give the States greater flexibility in selecting a cost-effective protective system based on their own experiences,

while considering the various systems available. Also, under any given set of criteria or design condition, such as a substandard structure with a remaining life of 20 years or less, cathodic protection may not always prove to be the most cost-effective system.

Six commenters stated that these changes will severely delay the time frame in which cathodic protection will be recognized by all highway engineers because it will promote the use of other systems that while less expensive, have not been proven to stop corrosion on a salt contaminated structure. We do not believe this statement to be true. It is our opinion that this regulation should enhance the use of cathodic protection since it is the only system proven to stop corrosion in salt contaminated concrete. The service life of the deck structure can, therefore, be greatly extended in comparison to other systems.

Discussion of Final Rule

Based upon the aforementioned analysis and discussion of comments made to the docket, the allowance of the flexibility for the States to select a protective system and reconstruction method to protect a bridge deck from chemical corrosion based on local conditions and experience is retained in the regulation. Although a number of changes are being made to eliminate unnecessary or duplicative requirements, there are three which are considered significant with regard to bridge deck construction, reconstruction, and rehabilitation.

The first major change concerns the provisions which require the installation of a protective system for bridge decks that are likely to be subject to a salt environment. The revised regulation retains this requirement, but the list of suggested protective systems is deleted in its entirety. This action allows the States the flexibility to select a protective system based on local conditions and experience. The FHWA retains control over the installation of protective systems in order to protect the Federal investment by requiring durable concrete as well as a protective system that is cost effective. Approval of the protective system will be required as part of the approval of the plans, specifications, and estimate. Approval of protective systems for which the performance and cost effectiveness cannot be adequately demonstrated to the FHWA reviewing officials, can be subject to experimental conditions.

FHWA believes that the State interest in bridge decks is compatible with the Federal interest as far as sharing costs, finances, maintenance, and contending with traffic disruption caused by the deterioration of bridge decks. In fact, the States are capable and can make prudent engineering decisions concerning bridge deck protective systems.

Another major change concerns the provisions which require specific bridge deck reconstruction procedures. This regulation eliminates the strict provisions requiring removal of all contaminated bridge deck elements (concrete, rebars, etc.) for permanent reconstruction, as well as deletes the provisions detailing experimental reconstruction procedures. FHWA believes that the restrictive reconstruction procedures are no longer considered necessary. Several of the protective systems and the accompanying reconstruction and/or rehabilitation methods can be demonstrated to be effective without the removal of all contaminated concrete and rebars under certain environmental conditions. The States, with access to a vast quantity of reconstruction data and with experience gained from actual bridge reconstruction, are in a better position to select and justify an appropriate reconstruction method.

The last major change concerns the eligibility of installing a protective system using Interstate construction funds pursuant to section 108(b) of the Federal-Aid Highway Act of 1956. If the installation of a protective system is required and had not been contemplated during the initial construction phase, then the cost thereof was considered an additional stage of construction and thus eligible for Interstate construction funds. However, section 4(b) of the Federal-Aid Highway Act of 1981 (Pub. L. 97–134, 95 Stat. 1700) which redefined eligible items for Interstate construction funds states that the installation of a protective system not contemplated when the bridge was initially constructed is no longer eligible for Interstate construction funds. For this reason, the provisions relating to the eligibility of an additional stage of construction are deleted in their entirety. The installation costs will be eligible for Interstate 4R funds or from another appropriate funding category.

In addition to the major revisions, the FHWA is also making a number of other changes to Subpart F. The revised regulation would be reduced in length and detail by deleting unnecessary and duplicative requirements. The revised language is also clarified to reflect updated terminology so as to permit an easier understanding of compliance procedures.

The current provision in § 650.613, which requires existing protective systems that are proven effective based on field experience to be reported under the National Experimental and Evaluation Program conducted by FHWA is deleted. As a result of the experience gained and the research data reported, there is no longer a need for this requirement. However, projects which are currently under evaluation should continue to be reported. Those protective systems which cannot be demonstrated to be cost-effective will be approved only under the FHWA Experimental and Evaluation Program.

The current requirements for concrete which are included in § 650.605 are deleted to eliminate duplicative requirements. The concrete requirements included in this section are also specified in the design standards and specifications for Federal-aid highways and bridges as set forth in 23 CFR Part 625.

The final revision clarifies the terminology used in the existing regulation to reflect current statutory language. The terms "construction," "additional stage of construction," and "reconstruction" are replaced by the terms "construction," "reconstruction," and "rehabilitation." The new terms are defined to conform with current statutory definitions included in the Highway Bridge Replacement and Rehabilitation Program (23 U.S.C. 144), the Interstate Resurfacing, Restoration, Rehabilitation, and Reconstruction Program (23 U.S.C. 119), as well as the Interstate construction redefinition pursuant to section 4(b) of the Federal-Aid Highway Act of 1981.

The FHWA is also making the following change to the proposed rule published on February 14, 1983, based on comments received and a further review. The proposed rule required the adoption of AASHTO design standards for the reconstruction and rehabilitation of concrete bridge decks. FHWA recognizes that there are occasions in which it would not be cost effective to apply these standards to the reconstruction and rehabilitation of concrete bridge decks and has, therefore, rewritten this regulation to provide for an exception in accordance with 23 CFR 625.5.

Regulatory Impact

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

It is anticipated that this regulation will have a positive economic impact by eliminating certain requirements, simplifying compliance language, and

providing increased flexibility to the States. Potential benefits include: savings in the cost of bridge deck protection due to a more competitive market; savings associated with States not having to install systems on an experimental basis which have been proven effective; and increased business for suppliers of products determined to be most cost-effective in a deregulated market. While such benefits are not expected to be large, they would outweight the costs of allowing greater flexibility which potentially include somewhat higher administrative costs associated with seeking approval for systems that have not been preapproved by regulation. It is also unlikely that States will make significant changes in their selection of protective systems and reconstruction techniques. Federal-aid eligibility requirements are being changed to the extent that statutory provisions mandate.

Based upon an assessment of the impacts of regulatory alternatives and an evaluation of comments submitted to the docket, FHWA certifies that this regulation will not result in a significant economic impact on a substantial number of small entities. Small firms are involved in producing protective systems and this rule affords those firms greater opportunity to compete for Federal-aid highway contracts to rehabilitate and protect bridge decks. A more detailed assessment of regulatory impacts are included in a regulatory evaluation/regulation flexibility analysis which has been prepared and is available for inspection in the public docket. A copy may be obtained by contacting Mr. David Gendell at the address provided above.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(a), 144, and 315; 49 CFR 1.48(b), the FHWA hereby amends Part 650, Subpart F, of Title 23, Code of Federal Regulations, to read as set forth below.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing E.O. 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Part 650, Subpart F is revised to read as follows:

PART 650—BRIDGES, STRUCTURES AND HYDRAULICS

* * * * *

Subpart F—Concrete Bridge Decks

Sec.
650.601 Purpose.
650.603 Definitions.
650.605 Construction, reconstruction, and rehabilitation.
650.607 Maintenance.
650.609 Protective system.

Authority: 23 U.S.C. 109(a), 144, 315; 49 CFR 1.48(b).

Subpart F—Concrete Bridge Decks

§ 650.601 Purpose.

The purpose of this subject is to prescribe policies and procedures for the construction, rehabilitation, and reconstruction of concrete bridge decks with special emphasis on protective systems within the existing controls on the expenditures of Federal-aid funds.

§ 650.603 Definitions.

(a) *Construction* means the initial construction of any specific bridge deck.

(b) *Maintenance* means routine or incidental work necessary to keep a bridge deck functioning in a safe and efficient manner.

(c) *Protective system* means a system used to protect bridge decks from deterioration induced by highway deicing chemicals, salt water, or other hostile environments.

(d) *Reconstruction* means the restoration of the structural integrity of a concrete bridge deck by complete removal and replacement of the existing deteriorated bridge deck.

(e) *Rehabilitation* means the work necessary to restore the structural integrity of portions of the original bridge deck as well as the installation of a deck protective system.

§ 650.605 Construction, reconstruction, and rehabilitation.

The following policies are established for all bridge decks to be constructed, rehabilitated, or reconstructed with Federal-aid funds.

(a) *Standard specifications.* States shall adopt design and construction specifications which are equal to or better than those specified in 23 CFR Part 625, Design Standards for Highways. Exceptions. Approval in accordance with 23 CFR 625.5 and within the delegated authority provided by FHWA may be given to designs on a project basis which do not conform to the minimum design criteria set forth in 23 CFR 625.3.

(b) *Protective system.* When a bridge deck is likely to be exposed to potentially damaging applications of deicing chemicals, salt water, or other hostile environment, a cost effective protective system is required.

(1) Approval of the type of protective system is made in accordance with the provisions of § 650.609.

(2) The installation of a protective system not contemplated when the bridge deck was initially constructed is not eligible for Interstate construction funds.

(3) The installation of a protective system is eligible for Interstate 4R funds or from another appropriate category.

(c) *Eligible work.* Reconstruction and rehabilitation procedures necessary to assure acceptable performance of existing structures are set forth below and are eligible for Federal-aid participation from the appropriate category. Reconstruction and rehabilitation shall include all work required to assure satisfactory performance of the concrete deck, as well as the supporting superstructure and substructure units.

(1) This may include items such as the removal of existing overlays, removal and replacement of all deteriorated components or the complete removal and replacement of the entire bridge deck if necessary.

(2) This work may also include repair or removal and replacement of deteriorated concrete curbs, sidewalks, parapets, as well as rail, deck joints, bearings, or similar incidental items which are associated with proper functional restoration of the structure.

(3) Consistent with 23 CFR Part 924, safety improvements should be undertaken with the above described work when such improvements eliminate an established hazardous condition. Such safety improvements may include widening, elimination of hazardous walks, and substandard safety hardware, removal of hazardous fixed objects or the installation of an energy absorbing barrier system, and any other features that are consistent with current safety standards.

§ 650.607 Maintenance.

The following policies are established for the use of Federal-aid funds as related to maintenance activities.

(a) Maintenance work is considered an obligation of the State and is not eligible for Federal-aid funding.

(b) Spot patching of a bridge deck is maintenance unless it is done as work incidental to the rehabilitation or reconstruction of the concrete bridge deck.

(c) The resurfacing of a bridge deck is considered maintenance when such

work only restores the general condition of the riding surface and will not significantly affect the structural integrity and durability characteristics of the original deck.

§ 650.609 Protective system.

In view of the recognized need for protective systems, the following policies have been established for Federal-aid participation.

(a) The contract plans, specifications, and estimate (PS&E) for the construction, rehabilitation, and/or reconstruction of all concrete bridge decks that are likely to be subjected to potentially damaging applications of deicing salts, saltwater, or other hostile environments shall provide for durable concrete as well as a protective system that is cost effective.

(b) *Federal-aid approval.* Approval of the protective system will be required as part of the approval of the PS&E.

(1) Protective systems which, based on local field experience, have not been demonstrated to be cost effective must be considered experimental. These systems are to be surveyed and evaluated on an experimental basis under the Federal Highway Administration (FHWA) Experimental Projects Program.

(2) Proprietary products, when used as bridge deck protective systems, must be used in accordance with Federal regulations on the use of proprietary products.

[FR Doc. 84-536 Filed 1-9-84; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7934; EE-11-78]

Income Tax; Taxable Years Beginning After December 31, 1953; Early Termination of Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the limitation on benefits in the event of the early termination of certain tax qualified retirement plans providing defined benefits for employees. Changes in the applicable law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with additional guidance needed to comply with that Act and would affect employers maintaining such plans and employees covered by such plans subject to Title IV of that Act.

DATES: The regulations are effective for plan terminations occurring on or after March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1982, the Federal Register published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 401 of the Internal Revenue Code of 1954 (47 FR 3562). The amendment reflects certain provisions of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 1003) related to plan termination insurance. No public hearing was requested or held. After consideration of all comments regarding the proposed amendment, that amendment is adopted as revised by this Treasury decision.

Statutory Provisions

Section 401(a)(4) of the Code prescribes certain discrimination standards which are qualification requirements for employee retirement plans (and related trusts) described in sections 401(a), 403(a), and 405 of the Code. Section 411 (d)(2) and (d)(3) of the Code prescribe additional vesting-discrimination standards which are also qualification standards for these retirement plans.

Specific Rules Concerning Plan Provisions

In general, this amendment, which is applicable to certain retirement plans covered by section 4021(a) of ERISA, raises the limits on the amount of employer contributions to such plans which can be used for the benefit of each of the 25 highest paid employees without violating the provisions of section 401(a)(4) of the Code. As a result of the interaction of sections 401(a) and 411, these new limits for plans, allowing additional employee benefits attributable to employer contributions, must be used where applicable in order for the plan to remain qualified. The limits on the use of employer contributions for the benefit of the 25 highest paid employees are an exception to the requirements of section 411(a) which prohibit the forfeiture of vested benefits. Section 411(d)(2) provides that section 411(a) does not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions of the plan adopted pursuant to regulations prescribed by the Secretary to preclude the discrimination prohibited by section 401(a)(4). This amendment is such a regulation. By implication, any vested benefits that may be provided based on this amendment must be nonforfeitable in accordance with section 411(a).

The increased amount available to substantial owners from plans covered by section 4021(a) of ERISA is equal to the present value of the benefit guaranteed for substantial owners under section 4022 of ERISA upon termination of the plan or, if the plan has not terminated, the present value of the benefit that would be guaranteed if the plan terminated on the date the benefit commenced. The increased amount available to employees of such plans other than substantial owners is equal to the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA. These new limits are only to be used when they produce an amount higher than the old limit in § 1.401-4(c)(2)(iii) of the regulations.

In response to the comments received, certain revisions have been made to the amendment proposed. First, the effective date has been clarified. These new limits are effective for plans terminating on or after March 12, 1984. Plan amendments would be required for these terminating plans. For plans not terminating, plan amendments incorporating these new limits must be adopted that are effective for plan years beginning after December 31, 1983. However, in the interim these new limits may be elected without a plan amendment on or after [the date final regulations are published in the Federal Register]. No formal election need be filed with the Service. An election will be deemed to have been made if the new limits are used in an applicable distribution.

Also, the regulation is clarified to specify that the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA is to be determined in accordance with the regulations of the Pension Benefit Guaranty Corporation (PBGC).

Some commentators inquired as to the effect of the regulation on Rev. Rul. 80-229, 1980-2 C.B. 133, regarding distribution upon termination of assets in a plan in which the value of plan assets as of the date of termination is not less than the present value of all

accrued benefits (whether or not forfeitable). Those guidelines may still be applied as indicated in that revenue ruling, whether or not the termination would otherwise invoke the early termination restrictions of this amendment.

It should also be noted that nonforfeitable benefits for purposes of Title IV of ERISA are determined under the definition of that term in Title IV and implementing PBGC regulations.

Drafting Information

The principal author of these final regulations was Marjorie Hoffman of the Employee Plans and Exempt Organizations 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 regulation, both on matters of substance and style.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Lists of Subjects in 26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

PART 1—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, the proposed amendment to 26 CFR Part 1 is hereby adopted subject to the changes set forth below:

Section 1.401-4(c)(7) (iii) and (vi) as set forth in the notice of proposed rulemaking, is amended to read as follows:

§ 1.401-4 Discrimination as to contributions or benefits.

* * * * *

(c) * * *

(7) * * *

(iii) A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of all employees described in paragraph (c)(2) (other than an employee who is a substantial owner as defined in section 4022(b)(5) of ERISA) shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) or a dollar amount which equals the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA (determined on the date the plan terminates or on the date benefits commence, whichever is earlier, and determined in accordance with regulations of PBGC) without regard to any other limitations in section 4022 of ERISA.

* * * * *

(vi) Paragraph (c)(7) of this section applies to plan terminations occurring on or after March 12, 1984. For distributions not on account of plan terminations, paragraph (c)(7) applies to distributions in plan years beginning after December 31, 1983. However, a plan may elect to apply that paragraph to distributions not on account of plan termination on or after January 10, 1984.

This Treasury decision is issued under the authority contained in sections 411(d) (2) and (3) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 88 Stat. 912; 26 U.S.C. 411(d) (2) and (3) and 7805).

Philip E. Coates,

Acting Commissioner of Internal Revenue.

Approved: December 19, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Section 1.401-4 is amended by adding three new sentences at the end of paragraph (c)(1) and by adding a new paragraph (c)(7). These added provisions read as follows:

§ 1.401-4 Discrimination as to contributions or benefits.

* * * * *

(c)(1) * * * Any pension plan containing a provision described in this paragraph shall not fail to satisfy section 411(a), (d)(2) and (d)(3) merely by reason of such a plan provision. Paragraph (c)(7) of this section sets forth special early termination rules applicable to certain qualified defined benefit plans for plan years affected by the Employee Retirement Income Security Act of 1974 ("ERISA"). Paragraph (c)(7) of this section does not contain all the rules required by the enactment of ERISA.

* * * * *

(7)(i) A qualified defined benefit plan subject to section 412 (without regard to section 412(b)(2)) shall not be required to contain the restriction described in paragraph (c)(2)(ii)(*c*) of this section applicable to an employee in a plan whose full current costs for the first 10 years have not been funded.

(ii) A qualified defined benefit plan covered by section 4021(a) of ERISA ("qualified Title IV plan") shall satisfy the restrictions in paragraph (c)(2) of this section only if the plan satisfies this paragraph (c)(7). A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of an employee described in paragraph (c)(2) of this section who is a substantial owner, as defined in section 4022(b)(5) of ERISA, shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) of this section or a dollar amount which equals the present value of the benefit guaranteed for such employee under section 4022 of ERISA, or if the plan has not terminated, the present value of the benefit that would be guaranteed if the plan terminated on the date the benefit commences, determined in accordance with regulations of the Pension Benefit Guaranty Corporation ("PBGC").

(iii) A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of all employees described in paragraph (c)(2) of this section (other than an employee who is a substantial owner as defined in section 4022(b)(5) of ERISA) shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) of this section or a dollar amount which equals the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA (determined on the date the plan terminates or on the date benefits commence, whichever is earlier and determined in accordance with regulations of PBGC) without regard to any other limitations in section 4022 of ERISA.

(iv) A plan provision satisfying this paragraph (c)(7) may be adopted by amendment or by incorporation at the time of establishment. Any allocation of assets attributable to employer contributions to an employee which exceeds the dollar limitation in this paragraph (c)(7) may be reallocated to prevent prohibited discrimination.

(v) The early termination rules in the preceding subparagraphs (1) through (6) apply to a qualified Title IV plan except where such rules are determined by the Commissioner to be inconsistent with the rules of this paragraph (c)(7), § 1.411(d)-2, and section 4044(b)(4) of ERISA. The early termination rules of this paragraph (c)(7) contain some of the rules under section 401(a)(4) and (a)(7), as in effect on September 2, 1974, and section 411(d) (2) and (3). Section 1.411(d)-2 also contains certain discrimination and vesting rules which are applicable to plan terminations.

(vi) Paragraph (c)(7) of this section applies to plan terminations occurring on or after March 12, 1984. For distributions not on account of plan terminations, paragraph (c)(7) applies to distributions in plan years beginning after December 31, 1983. However, a plan may elect to apply that paragraph to distributions not on account of plan termination on or after January 10, 1984.

[FR Doc. 84-643 Filed 1-9-84; 8:45 am]
BILLING CODE 4830-01-M

PANAMA CANAL COMMISSION

35 CFR Part 111

Revised Shipping and Navigation Rules for the Panama Canal

Correction

In FR Doc. 83-31205 beginning on page 52703 in the issue of Tuesday, November 22, 1983, make the following correction:

On page 52711, § 111.37(a)(4) in the third line from the top of the middle column of the page, the Morse Code should have read ".....".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

Conveyance of Small Tracts

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations establish standards and procedures for implementing the Act of January 12, 1983 (96 Stat. 2535), commonly known as the Small Tracts Act, which enables the Secretary of Agriculture to sell, exchange, or interchange certain limited and specific categories of National Forest System lands. The proposed regulations will help resolve title conflicts for small parcels of land, facilitate the rapid resolution of certain encroachment problems, reduce the number of decisionmaking levels previously involved in resolving title claims problems, and provide for more efficient management of the National Forests. In addition, the regulation provides for disposal of narrow strips of land held for right-of-way purposes, but no longer needed, and disposal of small, irregular-shaped parcels of National Forest System lands intermingled with patented mining claims.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: George Liddicoatt, Jerry Sutherland, or Paul Haarala, USDA, Forest Service, Lands Staff, (703) 235-8188.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to implement the Small Tracts Act was published on May 19, 1983, 48 FR 22589-91. By notice of July 29, 1983, 48 FR 34481, the public comment period was extended to September 16, 1983. Comments were received from 33 sources including individuals, businesses, and local governments. The major comments and actions taken in response to these comments are summarized below and keyed to section headings of the proposed rule.

Response to Public Comments

Section 254.30 Purpose.

No comments were received on this section; however, on advice of counsel, the section has been amended to clarify that application of these regulations does not constitute authorization of, or consent to, adverse possession of lands administered by the Secretary of Agriculture.

Section 254.31 Definitions.

This section received the largest number of comments, most of which concerned a better definition of "color and claim of title", "the applicant", and "improvements". In response, we have redefined the terms "claim of title" and "applicant" to clarify their meaning. The term "improvements" has many meanings. The one proposed is considered to be the most inclusive of those meanings; therefore, it has not been changed. Other respondents suggested adding definitions for the terms "survey" and "actual and constructive notice." Survey, as used by these respondents, was more restrictive than that intended in the enabling legislation; therefore, those comments were not adopted. We have deleted the words "actual and constructive notice" to eliminate the problems with their meaning. Other minor changes were also made to these definitions to adopt language used in the enabling legislation and to clarify or create a more precise definition. These changes included replacing the word "person" for "landowner" in the definition of applicant, and the use of "person" in other definitions; "very" replaces "substantially" and the word "adjacent" was deleted in the definition of "Approximately Equal Value"; "odd-shape" is deleted in the definition of "mineral survey fractions", and "business entity" was added in the definition of "person". The definition of "Lands" was considered not necessary to the regulations and was deleted.

Section 254.32 Encroachments.

Section 254.33 Road Rights-of-Way.

No Major comments were received on these sections. Minor changes were made from the proposed rule to improve sentence structure and the noted deletion of the words "actual or constructive" in § 254.32(b)(3).

Section 254.34 Mineral Survey Fractions.

Several comments were made concerning the consistency of language in this section with the language of the Small Tracts Act, and concerning how interests of unpatented mining claims would be protected. In response to those comments, we have made minor word changes to incorporate language of the Small Tracts Act. The other concerns are procedural in nature and where instructions are not already in place to protect valid third party interests, such as grazing permittees and holders of unpatented mining claims, instructions will be issued in the Forest Service Manual. The Small Tracts Act does authorize the Secretary of Agriculture to sell mineral interests. The coordination of these actions with the Bureau of Land Management and their record system is recognized.

Section 254.35 Limitations

Most respondent's comments on this section dealt with granting the abutting landowner the first right of acquisition. Questions were raised about the procedure to be followed, and the basis for granting first right of acquisition to abutting landowners. It was also suggested that local governments should have first right of acquisition. There are simply too many different situations involving abutting landowners to attempt to define a single set of simple procedures to be applied in all situations; therefore, procedures for handling multiple abutting landowner situations will be left to local Forest Service personnel to work out with abutting owners. The primary use of the mineral survey fraction sales authority will be directed at disposing of small parcels of land that create management problems for both the federal land manager and the adjoining private party owners. It should also be recognized that the Small Tracts Act is not a general disposal authority but is to be used only in those limited and specific categories of cases for which it has been designed.

Section 254.36 Determining Public Interest

Most respondents commenting on this section suggested adding "other land use rules and regulations" to item (g). That time was rewritten to include the suggested meaning. Other comments suggested a lead-in paragraph, and the expansion of items (b), (c), and (e). We agree with these suggestions and have rewritten and added to items (a), (b), and (c) to clarify this section.

Section 254.40 Applications

No major comments were received. Minor changes were made in sentence structure. Item (d) was deleted as unnecessary and "administrative" in item (c) was changed to "incidental" to be consistent with language in the Act.

Section 254.41 Public Sale or Exchange in Absence of Application

Most comments addressed the need to clarify or define reasonable notice. We have rewritten this provision to more fully describe the public notice and sale procedure.

Section 254.42 Valuation of Tracts

Some changes in wording were made to clarify this section. One respondent suggested that value be established as of the date the encroachment began. This suggestion is not consistent with the intent of the Small Tracts Act. The date of value will be current with the date of sale or exchange under this authority. This has been clarified in the final regulation.

Section 254.43 Surveys

Some changes were made to this section to clarify survey standards and requirements.

Section 254.44 Document of Conveyance

Several comments made either a recommendation to add or delete the need for terms and convenants in the deed; others concerned clarifying the recording process. It is our intent to keep the conveyance document as free as possible of terms, conditions, and convenants; however, we cannot eliminate the opportunity for their use if necessary. Changes were made to clarify the recording process and to provide a more descriptive title.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined this is not a major rule. The result from this regulation will have little or no effect on the economy. The proposed procedures provide a streamlined, simplified mechanism of resolving small claims and disputes over small parcels of land, which will significantly reduce time and costs to the Federal Government and private parties in resolving these cases. There are no alternatives to issuance of these regulations which are required by the Small Tracts Act.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it does not directly result in additional procedures or paperwork. The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969. Individual environmental assessment reports will be made on a case-by-case basis.

List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisitions and exchanges, Permits, Sales.

PART 254—LANDOWNERSHIP ADJUSTMENTS

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is amended as follows:

(1) Change the title of Part 254 from "LANDOWNERSHIP" to "LANDOWNERSHIP ADJUSTMENTS";

(2) Add a new Subpart C to read as follows:

Subpart C—Conveyance of Small Tracts

Sec.
254.30 Purpose.
254.31 Definitions.
254.32 Encroachments.
254.33 Road rights-of-way.
254.34 Mineral survey fractions.
254.35 Limitations.
254.36 Determining public interest.
254.37–254.39 [Reserved]
254.40 Applications.
254.41 Public sale or exchange in absence of application.
254.42 Valuation of tracts.
254.43 Surveys.
254.44 Document of conveyance.

Authority: Pub. L. 97–465; 96 Stat. 2535.

Subpart C—Conveyance of Small Tracts

§ 254.30 Purpose.

These regulations set forth procedures by which the Secretary of Agriculture may resolve land disputes and management problems pursuant to Pub. L. 97–465, commonly called the Small Tracts Act, by conveying, through sale, exchange, or interchange, three categories of tracts of land: Parcels encroached on, road rights-of-way, and mineral survey fractions. Implementation of these regulations does not constitute authorization of nor consent to adverse possession against lands administered by the Secretary of Agriculture.

§ 254.31 Definitions.

For the purpose of this subpart.

An "applicant" is a person who occupies or has improvements on National Forest System land under claim of title or color of title, or who owns land abutting or underlying a road right-of-way, or who owns land interspersed with or adjacent to mineral survey fractions.

"Approximately Equal Value" is a comparative estimate of value of lands involved in an interchange where elements of value, such as physical characteristics and other amenities, are readily apparent and substantially similar.

"Claim of Title" is a claim of land as a person's own, based on any reasonable evidence which establishes the person's actual use of the land as though the person had full title thereto from the time the person obtained ownership of abutting land.

"Color of Title" arises from an instrument purporting to convey title to a tract of land.

"Encroachments" are improvements occupied or used on National Forest System land under claim of title or color of title.

"Exchange" is a discretionary, voluntary transaction involving mutual transfers of land or interests in land between the Secretary of Agriculture acting by and through the Forest Service and a nonfederal entity.

"Good Faith" is honesty of intention and freedom from knowledge of circumstances which ought to put a prudent person upon inquiry.

"Improvements" mean an addition to property costing labor or capital which affects its value. The term generally includes fixtures, structures and attendant facilities, or buildings.

"Interchange" is a land transfer in which the Secretary and another person exchange lands or interests in lands of approximately equal value without a formal appraisal.

"Mineral survey fractions" are small parcels of National Forest System lands interspersed with or adjacent to lands transferred out of Federal ownership under the mining laws.

"Person" includes any nonfederal entity such as a State or any political

subdivision as well as any individual or business entity.

"Secretary" refers to the Secretary of the United States Department of Agriculture.

§ 254.32 Encroachments.

(a) Conveyances under this subpart are limited to tracts of 10 acres or less to resolve encroachments by persons:

(1) To whom no advance notice was given that the improvements encroached or would encroach, and

(2) Who in good faith relied on an erroneous survey, title search, or other land description which did not reveal such encroachment.

(b) Forest Service officials shall consider the following factors when determining whether to convey lands upon which encroachments exist:

(1) The location of the property boundaries based on historical location and continued acceptance and maintenance,

(2) Factual evidence of claim of title or color of title,

(3) Notice given to persons encroaching on National Forest System lands,

(4) Degree of development in the encroached upon area, and

(5) Creation of an uneconomic remnant.

§ 254.33 Road rights-of-way.

(a) Reserved or acquired road right-of-way parcels subject to conveyance under this subpart are limited to those which are substantially surrounded by lands not owned by the United States.

(b) Forest Service officials shall consider public road system right-of-way needs based on National Forest transportation planning and State and local law before making any conveyance of rights-of-way.

(c) Reimbursement will be required for the value of any improvements made by the United States or other highway authorities, unless waived by the Chief of the Forest Service.

§ 254.34 Mineral survey fractions.

(a) Mineral survey fractions subject to conveyance under this subpart are limited to those tracts which:

(1) Cannot be efficiently administered because of size, shape, or location;

(2) Are occupied or could be occupied or used by adjoining owners; and

(3) When sold separately or aggregated in one transaction, do not exceed 40 acres.

(b) Forest Service officials shall consider the following criteria in determining whether to convey mineral survey fractions under this subpart:

(1) The mineral survey fractions are interspersed among and are more or less an integral part of private land holdings;

(2) The feasibility and cost of surveying the parcels in order to manage them effectively;

(3) The size, shape, and location of the parcels as they affect management, utility, access, occupancy or use of the parcels or the lands with which they are interspersed.

§ 254.35 Limitations.

(a) Lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, and National Monuments are excluded from any conveyance under these provisions.

(b) Lands within National Recreation Areas may not be conveyed by sale under this subpart.

(c) The value of Federal lands conveyed in any transaction, pursuant to this subpart, shall not exceed $150,000.

(d) Compensation for loans conveyed shall be of at least equal value, or in the case of interchange, of approximately equal value, and may be in the form of land, interest in land (including minerals), or cash, or any combination thereof.

(e) The sale, exchange, or interchange of lands or interest in lands under these rules are discretionary and shall be made only if found to be in the public interest.

(f) The abutting landowner(s) shall have the first right of acquisition.

(g) The area of land conveyed shall be limited to the minimum necessary to resolve encroachment or land management problems.

§ 254.36 Determining public interest.

(a) The requirements of § 254.35 and of one of §§ 254.32, 254.33, or 254.34 must be met before a determination of public interest can be made.

(b) Before a conveyance is made under this subpart, such conveyance must be determined to be in the public interest.

(c) Forest Service officials shall consider the following criteria in determining when the public interest will be served:

(1) Sale, exchange, or interchange of the affected lands is not practicable under any other authority of the Secretary;

(2) Administration and management of National Forest System lands will be more efficient and will result in improved utilization;

(3) Access to and use and enjoyment of National Forest System lands by the general public will not be unduly impeded or restricted;

(4) New or extensive inholdings which would create management problems will not be established;

(5) Scenic, wildlife, environmental, historical, archaeological, or cultural values will not be substantially affected or impaired;

(6) Existence of structures authorized under a special use permit or easement, and

(7) Applicable Federal, State, and local laws, rules, regulations, and zoning ordinances will not be violated.

§§ 254.37–254.39 [Reserved]

§ 254.40 Applications.

(a) A request for conveyance of National Forest System land must be made in writing to the District Ranger or the Forest Supervisor who has administrative jurisdiction over the land.

(b) The applicant shall bear all reasonable costs of administration, survey, and appraisal incidental to the conveyance.

(c) Costs incidental to the conveyance may be waived at the discretion of the Chief of the Forest Service.

§ 254.41 Public sale or exchange in absence of application.

(a) Mineral survey fractions or road rights-of-way which have not been applied for by an abutting landowner may be offered to the public for sale or exchange at not less than fair market value.

(b) Public notice of a proposed sale of land for which there is no applicant shall be published once a week for four consecutive weeks in a local newspaper prior to the date of sale.

(c) The public notice shall describe the lands to be sold, minimum acceptable price, conditions of sale, sealed or oral bid procedures, date and location of sale.

§ 254.42 Valuation of tracts.

(a) Approximately equal value shall be determined by comparing and evaluating the elements of value on the lands or interest in lands to be interchanged. Elements of value to be considered include size, shape, location, physical attributes, functional utility, proximity of other similar sites, and amenities in the immediate environs of the parcel. Findings that tracts are approximately equal in value shall be documented. An applicant must signify acceptance of the value determination by signing the documented findings prior to the interchange.

(b) Equal value in sale or exchange transactions shall be developed by recognized appraisal methods following Forest Service appraisal procedures and the Uniform Appraisal Standards for Federal Land Acquisition. The date of the value estimate will be current with the date of sale or exchange.

(c) Improvements to National Forest System land made by any persons other than the Government may be excluded from the property value determinations.

§ 254.43 Surveys.

All necessary tract surveys of National Forest System land shall be conducted by a licensed private surveyor under Forest Service instructions, contracted by the person applying for the conveyance, or by a Forest Service surveyor. The person will also be required to have all Federal property boundaries resulting from a conveyance marked and posted to Forest Service standards.

§ 254.44 Document of conveyance.

(a) Title to the United States may be conveyed by quitclaim or warranty deed. The United States will convey title only by quitclaim deed.

(b) Deeds shall be free of terms, conditions, and convenants except those deemed necessary to ensure protection of the public interest.

(c) A copy of all documents of conveyance will be transmitted after recordation, where applicable, to the appropriate State Office of the Bureau of Land Management.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

December 16, 1983.

[FR Doc. 84-535 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. MA-936; A-1-FRL 2504-6]

Approval and Promulgation of Implementation Plans; Massachusetts New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part a revision to the Massachusetts State Implementation Plan (SIP) which incorporates into the Massachusetts SIP preconstruction review requirements for major new sources locating in an area where the air quality is worse than levels set to protect public health and welfare. These new Massachusetts regulations meet the Clean Air Act requirements for review of new sources and modifications in nonattainment areas.

EFFECTIVE DATE: February 9, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408 and Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Branch, EPA, Region I, Room 2111, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5130.

SUPPLEMENTARY INFORMATION: On May 9, 1983 (48 FR 20766) we published a Notice of Proposed Rulemaking (NPR) on revisions to the Massachusetts SIP submitted on May 27, 1982 and September 9, 1982 by the Massachusetts Department of Environmental Quality Engineering (DEQE). The revisions contain changes to preconstruction review requirements for new major sources or modifications locating in a nonattainment area. We received one letter of comment on our proposed approval. Except as noted below, the revisions and the rationale for EPA's proposed action are explained in the May 9, 1983 proposed rulemaking, and will not be restated here.

I. Changes Since Publication of Proposed Rulemaking

In the NPR EPA proposed to take no action on the definition of source and the provision for granting emission reduction credits for source shutdowns and production curtailments submitted by the DEQE. These two provisions are affected by a court decision and settlement agreement, respectively. We have not changed our decision to take no action on these two provisions in this final rulemaking. Recent developments, explained below, may affect our decision in the future, however.

Plantwide v. Dual Definition of Source

DEQE submitted for EPA approval, a definition of source consistent with EPA's October 14, 1981 (44 FR 50766) rulemaking in which source was redefined to mean an entire plant rather than as both an entire plant and an identifiable piece of process equipment (the "dual" definition). The dual definition of source is currently in effect in the Massachusetts SIP. On August 17, 1982 the U.S. Court of Appeals for the Washington, D.C. Circuit issued an opinion in *Natural Resources Defense Council* v. *Gorsuch*, 685 F.2d 718 (D.C. Circuit, 1982) which, if finalized, will vacate EPA's October 14, 1981 rulemaking. After we published our proposed action on the DEQE new source review plan, the Supreme Court granted review of the Court of Appeals decision. The Supreme Court will hear the case sometime next year. Thus, the definition of source as it applies to new source review in nonattainment areas will be uncertain until the Supreme Court renders its decision. Because of the uncertainty regarding the definition of source, we are taking no action on the plantwide definition of source submitted by the DEQE. The dual definition already in the Massachusetts SIP will remain in effect.

Emission Reduction Credit for Source Shutdowns and Production Curtailments

As explained in the NPR, the DEQE provision regarding emission reduction credits for source shutdowns and production curtailment does not meet current federal requirements because it does not limit such credits to replacement units. On August 25, 1983 (48 FR 38751) EPA proposed a regulation which would remove the replacement unit restriction. If this regulation is finalized, we will determine if the DEQE provision is approvable.

II. Renumbering of 310 CMR 7.02(2)(b)(5) and 7.02(2)(b)(6)

DEQE revised Regulations 7.02(2)(b)(5) and 7.02(2)(b)(6) to replace references to the Emission Offset Interpretative Ruling with references to 310 CMR Appendix A in its May 27, 1982 submittal. In its September 9, 1982 submittal DEQE removed Regulation 7.04(2)(b)(4), which is not related to new source review, and renumbered subsequent regulations accordingly. At the time of our proposed approval of the new source review plan it was uncertain if we would approve the removal of Regulation 7.02(2)(b)(4). Therefore, we proposed approval of the numbering in the May 27, 1982 submittal.

On July 7, 1983 (48 FR 31197) EPA approved the removal of Regulation 7.02(2)(b)(4) in an action unrelated to new source review. In today's final action we are approving the renumbering of Regulations 7.02(2)(b)(5) and 7.02(2)(b)(6) to 7.02(2)(b)(4) and 7.02(2)(b)(5).

III. Comments

The Monsanto Company commented on EPA's proposed decision to take no action on the plantwide definition of source and the provision submitted by the DEQE regarding emission reduction credits from source shutdowns and production curtailments.

Comment on Definition of Source

The Monsanto Company (Monsanto) believes that EPA should approve the plantwide definition of source because the October 14, 1981 rulemaking is technically still in effect and because EPA continues to support the validity of that rulemaking. Monsanto stated that the plantwide definition should be removed only at such time as the Supreme Court renders a decision upholding the Court of Appeals decision. Monsanto also urged EPA to include a "grandfather" provision for the use of the plantwide definition in the Massachusetts SIP which would allow sources which applied for a permit on the basis of the plantwide definition to proceed with its construction or modification even if the "dual" definition is reinstituted.

Response

Massachusetts now has a federally approved definition of source for nonattainment areas—the dual definition contained in the Emission Offset Interpretative Ruling of January 16, 1979. Because the Supreme Court granted review of the Court of Appeals decision, which ruled against the use of a plantwide definition of source in nonattainment areas, it is uncertain which definition, dual or plantwide, will eventually be in effect. We believe that it is best to make no changes to the definition of source contained in the SIP until the Supreme Court renders its decision. If the Supreme Court rules in favor of the plantwide definition, Region I will initiate action to approve the definition submitted by the DEQE.

Comment on Emission Reduction Credits From Source Shutdowns or Production Curtailments

The Monsanto Company does not believe that it is necessary for EPA to wait for final implementation of the settlement agreement reached in *EPA* v. *CMA* to approve 310 CMR Appendix A, Paragraph 5(q).

Response

As stated above EPA proposed regulations on August 25, 1983 to implement the settlement agreement reached in *EPA* v. *CMA*. Until these regulations are finalized, the requirement found at 40 CFR 51.18(j)(3)(ii)(*c*) limiting the use of emission credit from prior shutdowns or curtailments to replacement facilities will remain in effect. EPA will determine whether the DEQE provision regarding emission reduction credit from source shutdowns to production curtailments is approvable when the implementation of the setttlement agreement is finalized.

Final Action

EPA is approving:

1. The renumbering of Regulations 310 CMR 7.02(2)(b)(5) and 7.02(2)(b)(6) to 7.02(2)(b)(4) and 7.02(2)(b)(5).
2. The addition of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review" to the Massachusetts SIP.
3. Revisions to 310 CMR 7.00 "General Definitions" with the exception of the definitions of "source" and "building, structure, facility or installation" insofar as they apply to 310 CMR, Appendix A.
4. A revision to 310 CMR 7.02(2)(b)(4) which states that major sources locating in a nonattainment area must meet the requirements of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review" with the exceptions noted below.

Exceptions:

(a) The definitions of "source", "facility", "reconstruction" and "fixed capital cost" now in the Massachusetts SIP will remain in effect.

(b) The provision limiting the use of emissions reduction credit resulting from source shutdowns or curtailments in production or operating hours, Paragraph IV(c)(3) of the Emission Offset Interpretative Ruling, published on January 16, 1979 (44 FR 3274), will remain in effect.

5. A revision to 310 CMR 7.02(2)(b)(5) which replaces the reference to the EOIR with a reference to 310 CMR, Appendix A.

EPA is taking no action on:

1. The definitions of "source" and "building, structure, facility or installation" found at 310 CMR 7.00, "General Definitions" insofar as these definitions apply to the review of new sources in nonattainment areas.
2. Paragraph 4 of 310 CMR Appendix A which requires the installation of RACT at modifications at sources in nonattainment areas where there is no overall increase in emissions. This provision is unnecessary because the dual definition of source applies.
3. Paragraph 5(q) of 310 CMR Appendix A which pertains to source shutdowns and production curtailments.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons and Intergovernmental relations.

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

Dated: January 4, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

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

Subpart W—Massachusetts

Section 52.1120, paragraph (c) is amended by adding paragraph (60) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(60) On May 27, 1982 and September 9, 1982 the Commissioner of the Massachusetts Department of Environmental Quality Engineering submitted a revised plan for new source review in nonattainment areas. The submittal included 310 CMR Appendix A, "Emission Offsets and Nonattainment Review," additions to 310 CMR 7.00, "General Definitions," and revisions to 310 CMR 7.02(2)(b)(4) and 7.02(2)(b)(5), "Plan Approval and Emission Limitations."

[FR Doc. 84-539 Filed 1-9-84 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Parts 66 and 67

[FRL 2479-4]

Air Pollution; Interpretive Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Final interpretive rulemaking.

SUMMARY: This notice announces the Agency's final interpretation and policy on the relationship between Section 120(g) and Section 172(a)(2) of the Clean Air Act. It states that EPA considers Section 172 to be the controlling provision. In the cases of SIP requirements within the scope of Section 172(a)(2) that properly require compliance more than three years after they are approved or promulgated, EPA therefore will only seek Section 120 penalites for a violation after a source is required to be in compliance.

This policy represents a reversal of the Agency's analysis described in the final preamble in 1980 and a return to the Agency's analysis described in the Section 120 rules as proposed (see 44 FR 17310).

DATE: This interpretation is effective January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Christopher Herman, (202) 382-7630.

SUPPLEMENTARY INFORMATION: On July 28, 1980, the Environmental Protection Agency ("EPA") promulgated rules for the assessment and collection of noncompliance penalties pursuant to Section 120 of the Clean Air Act, 42 U.S.C. 7420. (See 45 FR 50086.) One of the issues discussed in the preamble to the final regulations concerned the relationship between Section 120(g) and Section 172(a)(2) of the Clean Air Act. Section 120(g) provides that new or more stringent state implementation plan requirements become enforceable for Section 120 purposes no later than three years after they are approved or promulgated. Section 172(a)(2) allows such plans in some circumstances to provide for final compliance as late as 1987 (if approved) as long as the implementing regulations are submitted by July 1982. If such a revision were approved in 1982, Section 120(g) would appear to require enforcement of such revision in 1985 even against sources which are not required to comply until 1987. This anomaly was described but not resolved in the 1980 rulemaking. The preamble to the final Section 120 rules stated that EPA would separately announce a final interpretation and policy on this question.

By proposed interpretive rulemaking dated June 2, 1983 and subsequently published in the Federal Register (48 FR 26627 June 9, 1983), EPA solicited public comment on its proposed interpretation.

Section 120 of the Clean Air Act, added in 1977, authorizes EPA to assess and collect a penalty from designated sources no less than the economic value of delaying compliance with applicable legal requirements. Section 120(g) states that with respect to emission limitations which become final after the effective date of the 1977 amendments (August, 1977), the penalty shall be imposed on the later of two dates—either July 1, 1979 or the date on which a source is required to be in compliance. Section 120(g) adds that in no event is imposition to be delayed more than three years from the date the new limitations become final.

Section 172 of the Clean Air Act, also added in 1977, deals with state implementation plans to achieve and maintain national ambient air quality standards (NAAQS). It was designed to address the problems of states which did not achieve primary NAAQS by the statutory attainment date, generally 1975. Such nonattainment areas were allowed an extension to December 1982. Areas which could not achieve the NAAQS for ozone and carbon monoxide by that date could request an attainment date extension to not later than December 1987. Areas seeking extensions are required to submit a plan by July 1982 containing enforceable measures which provide for attainment no later than December 1987, Section 172(c).

The provisions of Section 120(g) and 172(a)(2) appear to be in conflict. Strict application of Section 120(g) could create anomalous results for some sources in areas receiving extensions beyond 1982. For example, a SIP revision for an extension area could contain compliance dates as late as December 1987. If that plan has been submitted by July 1, 1982, it could have been approved and in effect by December 31, 1982. Section 120(g) would seem to require EPA to enforce the Section 120 penalty against sources subject to more stringent new SIP revisions no later than three years after the SIP revisions became final, which in this example would be December 31, 1985, i.e., two years prior to the date on which the source is required to be in compliance under the applicable SIP.

In its proposed rulemaking on Section 120, EPA stated that it believed no penalty could be imposed until the compliance date specified in the approved SIP. 44 FR 17310. In its final rulemaking, the Agency discussed the question further. It stated that the provisions may mean that (i) no major source regulated under a July 1982 SIP for an extension area may legally have a compliance date later than three years from SIP approval or promulgation; (ii) a source may have a lengthier compliance schedule but must be assessed the value of savings accruing after the third year; or (iii) penalties may not be imposed against a source three years after the SIP becomes final if a source has a lengthier SIP compliance schedule, provided the source is in compliance with any interim requirements. 45 FR 50086.

Upon further consideration, EPA had decided that, where SIPs in extension areas include compliance schedules extending beyond 1982 which are more than three years in length, Section 120 penalties should not be imposed until after the compliance date as long as the source complies with any interim requirements. Such sources will not be liable for a Section 120 penalty merely by virtue of the fact that a SIP requirement approved or promulgated under Section 172(c) allows compliance more than three years after approval or promulgation.

EPA sees no basis for imposing a penalty where no plan requirement has been violated. This reconciliation avoids inappropriate reference to Section 120(g) in developing compliance schedules for plans submitted for extension areas under Section 172(a)(2). This does not, of course, in any way alter the liability of sources subject to SIP requirements after the final compliance date required in the SIP whether more or less than three years from the date the requirement becomes final.

Summary and Analysis of Public Comment

EPA received seven comments on its proposed interpretation. All commenters supported EPA's interpretation.

This final interpretation is a final action subject to the review provisions of Section 307(d)(7)(B) of the Clean Air Act.

Dated: December 12, 1983.

Alvin L. Alm,

Deputy Administrator.

List of Subjects

40 CFR Part 66

Administrative practices and procedures, Air pollution control, Penalties.

40 CFR Part 67

Air pollution control, Intergovernmental relations, Penalties.

[FR Doc. 84-309 Filed 1-9-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 439

[OW-FRL-2504-4]

Pharmaceutical Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting coding and typographical errors that appeared in the final regulation for the pharmaceutical manufacturing point source category that was published on October 27, 1983 (48 FR 49808). The purpose of this action is to ensure that the final regulations are properly applied in issuing permits and pretreatment requirements applicable to wastewater discharges from the pharmaceutical industry.

FOR FURTHER INFORMATION CONTACT: Dr. Frank H. Hund, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382-7182.

Corrections

I. Preamble

In the preamble to the final regulation published in the Federal Register on October 27, 1983 (48 FR 49808-49831), the following corrections are required.

1. On page 49810, column 1 line 8 delete "trichlorofuloromethane" and insert "trichlorofluoromethane".

2. On page 49812, column 3 line 48 delete "three" and insert "there".

3. On page 49814, column 1 line 6 delete "choloroform" and insert "chloroform".

4. On page 49814 column 3 line 30 delete "$.65 million" and insert "$0.67 million".

5. On page 49815 column 1 line 15 delete "$0.39 million" and insert "$0.41 million".

6. On page 49821 column 1, after line 24, under

"carbon tetrachloride.....2", insert
"chlorobenzene.....1"
"1,2-dichlorobenzene.....2"

7. On page 49821 column 3 line 12 delete "benzene", and insert "*benzene".

8. On page 49821 column 3 line 15 delete "methyl chloride" and insert "*methyl chloride".

9. On page 49821 column 3 line 25 delete "toluene" and insert "*toluene".

II. Regulations

§ 439.12 [Corrected]

On page 49823 column 1 line 22, delete "loans" and insert "loads".

Dated: January 3, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-538 Filed 1-9-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

43 CFR Subtitle A

Coastal Barrier Resources Act; Advisory Guidelines

AGENCY: Fish and Wildlife Services, Interior.

ACTION: Rule-related notice, Correction.

SUMMARY: The Coastal Barrier Resources Act bans all Federal expenditures and subsidies on units of the Coastal Barriers Resources System except for a very few activities listed under Section 6. Included in this list are certain energy development activities. The Office of Coastal Zone Management's Coastal Energy Improvement Program was inadvertently included in the list of Federal Programs totally banned which was published on October 6, 1983 (48 FR 45664). Grants under this program can be used for energy development after consultation with the Department of the Interior. Therefore, this correction is necessary.

FOR FURTHER INFORMATION CONTACT: Frank McGilvrey, Coastal Barriers Coordinator, Fish and Wildlife Service, Washington, D.C. 20240, (202) 343-2618.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-27262 on page 45665 in the issue of Thursday, October 6, 1983, in column three under Department of Commerce, remove: "Office of Coastal Zone Management CEIP grants (Coastal Energy Improvement Program)." This activity can be considered as an exception to the ban on Federal expenditures under Section 6(a)(1) of the Coastal Barrier Resources Act.

Dated: December 27, 1983.

Ronald E. Lambertson,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 84-278 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-07-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 83-115; ENF 83-5; FCC 83-552]

Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies

AGENCY: Federal Communications Commission.

ACTION: Final Order Applying Rules to Divested Bell Operating Companies.

SUMMARY: Commission adopts order applying some of the structural separation conditions in the *Second Computer Inquiry*, 47 CFR 64.702 to the Bell Operating Companies (BOCs) after their divestiture from AT&T. This order requires that, by June 30, 1984, the BOCs provide customer premises equipment (CPE) and enhanced services through an entity separate from regulated operations. This action was taken to reduce the potential for the BOCs to employ revenues for regulated service to cross-subsidize competitive product expenses and to prevent other anticompetitive conduct.

DATES: Permanent capitalization plans for the formation of the separate entities must be filed with the Commission by June 30, 1984. In addition, the order continues the requirement that the BOCs provide cellular mobile services through a cellular subsidiary pursuant to 47 CFR 22.901.

FOR FURTHER INFORMATION CONTACT: Larry Povich, Common Carrier Bureau, Washington, D.C. 20554. Telephone No. (202) 632-6363.

Report and Order

In the matter of policy and rules concerning the furnishing of customer premises equipment, enhanced services and cellular communications services by the Bell Operating Companies (CC Docket No. 83-115); North American Telephone Association; Petition for declaratory ruling on the requirement for sale of customer premises equipment by the Bell Operating Companies (ENF 83-5).

Adopted: November 23, 1983.
Released: December 30, 1983.

By the Commission: Commissioner Dawson concurring in the result.

I. Introduction

1. On February 17, 1983, the Commission adopted a Notice of Proposed Rulemaking (Notice), 48 FR 13056 (March 29, 1983), concerning whether the separate subsidiary requirements set forth in the Computer II

decisions [1] and the Cellular Mobile decisions [2] are applicable to the Bell Operating Companies (BOCs) [3] after they are divested by the American Telephone and Telegraph Co. (AT&T) pursuant to the Modification of Final Judgment (MFJ).[4] In our Brief as Amicus Curiae filed in the MFJ proceedings we stated that we did not believe the separation conditions of Computer II would be applicable to the divested BOCs, although we stated that such a requirement could be imposed on them.[5] The North American Telephone Association (NATA) subsequently sought a declaratory ruling that the separate subsidiary requirements of Computer II applied to the divested BOCs.[6] Because we wished to evaluate whether the Cellular and the Computer II separation conditions should be applied to the divested BOCs, we initiated this proceeding and incorporated the NATA petition for declaratory ruling within it.

2. The Notice sought comments from interested parties concerning whether the BOCs' provision of customer premises equipment (CPE) or enhanced services should be conducted only through a separate subsidiary established pursuant to the Computer II rules and whether their offer of cellular services should continue to be conducted through a cellular subsidiary pursuant to the Cellular rules. The Notice identified the four criteria we used in the Computer II decisions to determine whether to impose separate structure on AT&T's provision of CPE and enhanced services: (1) Control of bottleneck facilities, (2) opportunity for cross-subsidization, (3) integrated nature of company and (4) ability to enter competitive markets through a separate subsidiary. Parties were asked to analyze the post-diverstiture circumstances of the divested BOCs, indicating whether the BOCs met the four criteria. Furthermore, we requested comments with respect to whether modification to the rules is necessary in their application to the RBOCs. Finally, we requested comments on whether there were any enhanced services that the BOCs could provide, given that they were prohibited from offering information services under the MFJ. Comments were filed by numerous parties including the BOCs, equipment manufacturers, enhanced service providers, cellular service providers, federal agencies, and state public utility commissions.[7] Eighteen commenting parties, including the Department of Justice, favored imposition of some form of structural separation by this Commission; four parties urged the Commission not to require structural separation. State public utility commissions believed that whether to require separate structure should be within their discretion.

3. We conclude in this Order that the benefits to ratepayers and competition which can result from the requirement that CPE, enhanced services and cellular services be offered through a limited form of separation outweigh the costs to the RBOCs of forming and operating through separate subsidiaries. Ratepayers will benefit not only through the reduction of common costs between regulated and unregulated operations, but also by the increased detection of any misallocation of costs between the two operations. In addition, competition should benefit since separate structure can reduce opportunities for anticompetitive conduct. Competition should also benefit since regulatory intrusion into CPE and enhanced services businesses will be significantly reduced because auditing accounting systems is more intrusive than is monitoring compliance with structural separation conditions.

4. We recognize, however, that the BOC's positions in CPE markets have been significantly changed by the operation of the MFJ. They will reenter CPE markets with virtually no market share. They will no longer be associated with Western Electric and they will not provide interexchange services. Because of these differences between the divested BOCs and pre-divestiture AT&T we do not apply the full panoply of the Computer II rules. Thus, we permit (1) joint billing for CPE for four years following divestiture, (2) the referral of dial tone customers to the

---

[1] Amendment of § 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 512 (1981) *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer & Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[2] Cellular Communications Systems (Cellular Order), 86 FCC 2d 469 (1981), *reconsideration*, 89 FCC 2d 58 (Cellular Reconsideration), *further reconsideration*, 90 FCC 2d 571 (1982), *appeal dismissed sub nom.* United States v. FCC, Civ. No. 82-1526 (D.C. Cir., Mar. 3, 1983).

[3] Throughout this order the term BOC is used interchangeably with the term Regional Bell Operating Company (RBOC) unless otherwise noted. Although Cincinnati Bell, Inc. (CBI) and Southern New England Telephone Co. (SNET) are AT&T operating subsidiaries, the MFJ excludes them from the requirement that the operating companies be divested. Therefore, the term BOCs will not be used to refer to CBI and SNET. The Commission has already determined not to require CBI and SNET to structurally separate their unregulated CPE and enhanced services activities from their regulated activities. See In re Motion of Cincinnati Bell Inc. for Declaratory Ruling to Remove Uncertainty of its Status under the Commission Decisions in the Second Computer Inquiry, FCC 83-74 (released February 25, 1983). The seven RBOCs are: NYNEX, which encompasses New England Telephone & Telegraph Co. and New York Telephone Co.; Bell Atlantic, which encompasses Diamond State Telephone Co.; Bell Telephone Co. of Pennsylvania, and the Chesapeake & Potomac Telephone Companies; BellSouth, which includes Southern Bell Telephone & Telegraph Co. and South Central Bell Telephone Co.; American Information Technology Corp. (Ameritech), which includes Ohio Bell Telephone Co., Michigan Bell Telephone Co., Indiana Bell Telephone Co., Inc., Illinois Bell Telephone Co. and Wisconsin Telephone Co.; U.S. West, which encompasses Northwestern Bell Telephone Co., Mountain States Telephone & Telegraph Co. and Pacific Northwest Bell Telephone Co.; Southwestern Bell Corp., which includes Southwestern Bell Telephone Co.; and Pacific Telesis Group, which includes Pacific Telephone and Telegraph Co. and Bell Telephone Company of Nevada. A map of the intended geographic boundaries of the RBOCs is in Appendix A to the Notice.

[4] *United States v. American Telephone & Telegraph Co.*, 552 F Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 103 S. Ct. 1240 (1983). AT&T's application with this Commissioin for authority to transfer ownership of facilities in accordance with the Plan of Reorganization is currently under review. *See* File No. W-P-C-4955.

[5] Federal Communications Commission Brief on Question No. 2, at 9 n.3 (filed June 14, 1982), United States v. American Telephone & Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982).

[6] NATA's pleading is summarized in Attachment A. (Attachment A is filed as part of the original document).

[7] Comments were filed by the Associated Bell System Companies (BOCs); Alabama Public Service Commission (Alabama); Association of Data Processing Service Organizations, Inc. (ADAPSO); Associated Telephone Answering Exchanges, Inc. (ATAE); People of the State of California and Public Utilities Commission of the State of California (California); Communications Workers of America (CWA); Computer & Business Equipment Manufacturers Association (CBEMA); Computer & Communications Industry Association (CCIA); Public Service Commission of the District of Columbia (D.C.); Federal Executive Agencies (FEA); Graphic Scanning Corp. (Graphic); Independent Data Communications Manufacturers Association, Inc. (IDCMA); Department of Justice (DOJ); MCI Telecommunications Corp. (MCI); Michigan Public Service Commission Staff (Michigan); National Association of Regulatory Utility Commissioners (NARUC); National Cable Television Association (NCTA); National Telecommunications and Information Administration (NTIA); New York State Department of Public Service (New York); North American Telephone Association (NATA); Pennsylvania Public Utility Commission (Pennsylvania); RCA Cylix Communications Network, Inc. (RCA); Rolm Corp. (Rolm); Satellite Business Systems (SBS); Southern Pacific Communications Co. (SPCC); Tandy Corp. (Tandy); Telocator Network of America (Telocator); Tymnet, Inc. (Tymnet); United Technologies Communications Co. (UTCC); Utelcom, Inc. (Utelcom); Warner Amex Cable Communications Inc. (Warner Amex); and Western Union Telegraph Co. (WU). These comments are summarized in Appendix A. Reply Comments were filed by ATAE; BOCs; California; CCIA; CompuServe, Inc. (CompuServe); CBEMA; Consumers Union (CU); DOJ; FEA; Graphic; IDCMA; MCI; NARUC; NATA; NCTA; NTIA; Rogers U.S. Cablesystems, Inc. (Rogers), Rolm; SPCC; Telocator; and WU. These reply comments are summarized in Appendix B. (Appendix B is filed as part of the original document).

separate subsidiary provided that the customer is informed that alternate CPE vendors exist, (3) joint installation and maintenance for residential and single-line business telephones, and (4) the sharing of administrative services. We also permit the BOCs the opportunity to demonstrate that some other organizational structure, such as a separate unincorporated division, will meet the same goals as would a subsidiary. Finally, we have adopted interim procedures to permit the RBOCs to reenter CPE markets without delay, while providing us the opportunity to review capitalization plans. We give the BOCs permission for six months after the divestiture to conduct unregulated operations without structural separation to provide them adequate time to bring themselves into compliance with this order. Our procedures also permit the RBOCs to meet their obligations under the MFJ to provide for the communications needs of national defense and emergency preparedness concerns. Our decision reflects the difficult balancing we must perform. We seek to promote the provision of efficient, reasonably-priced telecommunications services and equipment to consumers. While we apply regulatory constraints on the BOCs so that they are less able to interfere with achievement of this goal through unreasonable rates or exclusionary conduct, we also look to the BOCs to provide benefits to consumers through their untariffed activities. We may revise our balancing in the future in light of market developments.

A. Background

1. *Computer II and Cellular Separation Requirements*

5. In the Computer II decisions, we determined that the provision of CPE and enhanced services would not be regulated under Title II of the Communications Act. In order for common carriers to participate in these unregulated markets, we placed safeguards on a carrier's offering of unregulated CPE and enhanced services to protect ratepayers from absorbing costs incurred by carriers in the provision of CPE and enhanced services and to prevent anticompetitive abuses. A mechanism to meet these goals was the requirement that CPE and enhanced services offerings by carriers should be provided through a separate subsidiary. The Commission determined that only in the case of AT&T did the benefits to be derived from structural separation outweigh the costs imposed in forming and operating through such a subsidiary. Nevertheless, the Commission determined that it might impose the structural separation requirement on other carriers in the future if circumstances warranted. *Final Decision*, 77 FCC 2d 470; *Further Reconsideration*, 88 FCC 2d at 541.

6. In the Cellular Rulemaking we further determined that AT&T should be permitted to offer cellular mobile radio services only through a separate subsidiary, and not through the same subsidiary formed to offer CPE and enhanced services. The cellular separate structure requirement was imposed in order to help assure disclosure to outsiders of arrangements between AT&T's cellular operation and network services operations and to prevent anticompetitive abuses originating from AT&T's dominant control over wireline services, which competitive nonwireline cellular service providers also must access to offer cellular services.[8]

7. The structural separation requirements of the Computer II rules and the cellular rules were adopted at a time when AT&T comprised a nationwide system of both interexchange and local exchange service providers that serviced virtually 100 percent of all interstate telephone users and approximately 80 percent of all local exchange telephone users. AT&T also possessed a significant headstart in the development of cellular services technology. The annual revenues of the Bell System, the largest corporation in the world, were over $65 billion.

2. *Modification of Final Judgement*

8. On January 8, 1982, following the adoption of the Computer II and Cellular rules, AT&T entered an agreement with the Department of Justice to terminate antitrust proceedings. The agreement called for AT&T to divest itself of the BOCs. The Court has approved the spin off of 22 wholly-owned operating companies and their consolidation into seven regional BOCs (RBOCs).[9] The MFJ removes the line-of-business retrictions which were imposed on AT&T as a result of the Consent Decree entered in 1956 between AT&T and the Justice Department. On the other hand, the MFJ imposes line-of-business restrictions on the RBOCs in order to prevent them from utilizing their control of monopoly telecommunications facilities to provide an unfair advantage in competitive markets. The divested BOCs are limited to providing exchange telecommunications, exchange access, information service access, Yellow Pages directory services and CPE.[10] The BOCs may also provide other products and services if the Court approves. The Court stated that the question of whether there should be structural separation between the activities of the RBOCs was a matter for resolution by regulators. 552 F. Supp. at 193 n.251.

9. The seven RBOCs will range in size from $15.1 to $20.8 billion in assets and from 10.3 to 14.2 million network access lines.[11] At least with respect to the provision of exchange telecommunications services, exchange access and information service access, the RBOCs will operate only within their own geographic territories. The MFJ does not prohibit the BOCs from offering CPE outside of the geographic area in which they provide exchange telecommunications services.

10. The Computer II decisions have not barred the BOCs from providing CPE and enhanced services during 1983 through their own separate subsidiaries. Rather, AT&T has made a corporate decision that unregulated CPE and enhanced services would be marketed

[8] The cellular rules, 47 CFR 22.901, are almost identical to the Computer II rules, 47 CFR 64.702. Significantly, however, the cellular rules, unlike the Computer II rules, permit the sharing of computer facilities used for tariffed service by the landline carrier and its cellular subsidiary if the carrier is adequately compensated for the use. Furthermore, unlike the Computer II rules, the Cellular rules permit joint advertising and promotional efforts on behalf of cellular services between the landline carrier and its cellular subsidiary.

[9] The Court approved the MFJ as submitted by the Department of Justice with certain modifications and made its approval expressly subject to the submission by AT&T and Justice of a plan of reorganization to implement the provisions of the MFJ. On April 21, 1983, the Court approved, again with modifications, a plan which established approximately 170 Local Access and Transport Areas (LATAs). After divestiture AT&T would perform interLATA telecommunications, whereas the BOCs would perform intraLATA telecommunications functions. On July 8, 1983, the Court approved with certain altered requirements AT&T's Plan of Reorganization which described how the divestiture was to take place. These plans were finally approved by order dated August 23, 1983, subject to the outcome of a few minor remaining proceedings.

[10] The MFJ prohibits the BOCs from offering "information services." Information services under the MFJ are basically the offering of the capability of generating, storing, transforming of processing or making available information which may be conveyed over the network. It is unclear whether Computer II's definition of enhanced services is equivalent to the MFJ's term information services. The BOCs would be able to offer an enhanced service which is not an information service and which is an exchange telecommunications service, and exchange access service or an information access service. *See* discussion in section II.B., *infra*.

[11] Asset figures are provided in AT&T's Information Statement and Prospectus, filed with the Securities & Exchange Commission (dated November 8, 1983), as of June 30, 1983 as if the asset transfers required by the MFJ had been made on that date. Network access lines are estimated as of January 1, 1984. *Id.*

exclusively by AT&T Information Systems (ATTIS), formerly American Bell Inc. As a result, the BOCs did not provide new CPE after January 1, 1983.[12] The BOCs, however, have been providing embedded CPE [13] and have been supporting this equipment during 1983. At the time of divestiture, the BOCs must transfer their CPE and related support operations to AT&T, but, pursuant to the MFJ, may then reenter that market.[14]

11. Pursuant to the MFJ, the BOCs will establish a Central Services Organization (CSO). The MFJ requires that the CSO provide a central point of contact for the provision of telecommunications services for national security and emergency preparedness. The RBOCs will each own one-seventh of the stock of the CSO and will pay for the costs incurred by the CSO. Therefore, the CSO will serve as part of the operations of the RBOCs. Nevertheless, despite the fact that the CSO is permitted to provide such support, the BOCs have represented that the CSO will not provide CPE support. The CSO may perform research and development for network operations, plan the network and provide procurement and marketing support to the BOCs in their provision of both exchange telecommunications services and CPE. The CSO may also provide general administrative support for the BOCs, such as financial, accounting, legal, executive and regulatory and legislative affairs assistance. The Court has not limited the ability of the CSO to perform other functions, or to grow or shrink in size, but has made it clear that the CSO should not actually procure products for the BOCs and that both the Court and the Department of Justice would remain alert for anticompetitive conduct by the CSO. *See* July 8 Order, at 139 n.263, 140 n.266. The Plan of Reorganization at page 339 disclosed that the CSO will begin operations with 8,800 employees. Of these, 6,600 will be technical personnel, and there will be 700 procurement support personnel. The remaining 1,500 personnel will be involved in ensuring adequate responses by the RBOCs to national security and emergency preparedness and in providing marketing and other nontechnical management support to the RBOCs.

12. The Plan of Reorganization approved by the Court and AT&T's capitalization plan for the provision of cellular services as approved by this Commission require AT&T to divest its cellular service operations to the BOCs. Each BOC will provide cellular services through individual separate subsidiaries pursuant to the Cellular rules. As noted, the Plan of Reorganization also provides for a separate Cellular Central Staff Organization (CCSO) for the support of cellular services. The CCSO will provide technology oversight capability to ensure that the regional cellular service companies have the ability to provide modern cellular technology. That oversight includes providing support, such as system design, new product and service requirements, technical support for procurement, field support, operating support and cellular technology planning and maintenance. AT&T stated in the Plan of Reorganization that at some time in the future the RBOCs might merge the functions of the CCSO into the CSO.

13. The MFJ, as modified by the Court, gives the RBOCs certain advantages in marketing CPE. In addition, the approved Plan of Reorganization gives the RBOCs certain advantages in providing cellular services. For seven years after the divestiture, the BOCs, in addition to receiving support from the CSO, will have priority access to AT&T, Western Electric and Bell Telephone Laboratories facilities for research, development, manufacturing and other support services to enable them to carry out the provisions of the MFJ. The Court has given the BOCs the right to sublicense Bell System patents not only to other manufacturers of network equipment and services, but also to CPE manufacturers, as well.[15] The Court has also granted to the RBOCs the exclusive use of the Bell System logo and other related trademarks.

B. Issues Before the Commission

14. In the Notice we invited comment on whether the divested BOCs should be required to form separate subsidiaries in order to provide CPE, enhanced services, and cellular services. Specifically, we invited comment on the following issues:

(a) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of enhanced services.

(b) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of CPE.

(c) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of cellular communications services.

(d) If structural separation is required for the BOC's provision of either enhanced services, CPE, or cellular communications services or all of these, what separation requirements should govern the relationship between the subsidiary and affiliated entities in each case?

Notice at para. 26. The Notice stated that we would consider whether any alterations to the structural separation conditions might be warranted due to the individual circumstances of the divested BOCs.

II. Separate Structure

A. Policies Underlying Computer II and the Cellular Separation Requirements

15. We adopted the Computer II rules in order to replace tariff regulation of CPE with market forces and to ensure that ratepayers using AT&T's regulated services did not absorb costs from its unregulated activities. In refusing to regulate enhanced services as common carrier offerings, we found that the marketplace for enhanced services was fully competitive. *Final Decision* at 426. With respect to CPE we concluded that competition was growing and that the Computer II rules contained safeguards which would further the goal of making the CPE market fully competitive. *Id.* at 440–47.

16. Although we determined that market forces would better ensure low-cost, innovative enhanced services and CPE offerings, we recognized that the provision of enhanced services and CPE by AT&T could interfere with proper marketplace functioning. We stated:

> In relying on a structural approach to address our regulatory concerns, the primary benefits of the policy are protection for regulated market ratepayers against costs transferred from the competitive market by the parent corporation, and protection for the general public against such anticompetitive

[12] Certain exceptions exist. For example, the BOCs have been permitted to provide new CPE for disabled customers, *see* American Telephone & Telegraph Co., 92 FCC 2d 1203 (1983), and centrex equipment. *See* Letter from Chief, Common Carrier Bureau to Alfred A. Green, AT&T (July 14, 1983). The BOCs have also been able to provide equipment necessary for the Department of Defense and other federal agencies to meet critical national security and emergency preparedness communications requirements, American Telephone & Telegraph Co., FCC 83-143 (released April 12, 1983), and to provide emergency E-911 equipment. *See* Letter from Chief, Common Carrier Bureau to Alfred A. Green, AT&T (December 30, 1982).

[13] Embedded CPE is that equipment which was subject to the jurisdictional separations and settlements process as of January 1, 1983, which included CPE located on customers' premises or in telephone company inventory as of that date. *See Further Reconsideration*, 88 FCC 2d at 525–26.

[14] The Commission today decided that CPE may be transferred to ATTIS, AT&T's Computer II subsidiary, for provision to the public on a detariffed basis. *See Implementation Proceeding*, CC Docket No. 81-893, FCC 83-551 (adopted November 23, 1983).

[15] The Court was careful to note that the right to sublicence patents rested with the individual RBOCs and not with the CSO.

activities as denial of access and predatory pricing.

Id. at 463. Requiring separation reduces joint and common costs and places a structural check on the allocation of costs between regulated and unregulated operations. *Id.* at 464. Although accounting has been a fundamental regulatory tool employed by the Commission, it was never viewed as a substitute for structural separation. "We view separation and accounting as part and parcel of a single regulatory mechanism." *Id.* at 464.

17. We also recognized that, for some carriers, another way to protect ratepayers for overpricing was to require that competitive costs and revenues be placed in separate books of account from those associated with regulated services. We were aware that, absent structural separation, some cross-subsidization could go undetected. We found that structural separation is more effective than accounting separation in protecting ratepayers against improper cost-shifting. In the case of AT&T, we determined that the costs of maintaining separate structure were outweighed by other public interest considerations. *Reconsideration* at 75.

18. Another major goal we sought to achieve in the Computer II decisions was to prevent uncertainty regarding the provision of competitive CPE and enhanced services which could arise if there were a threat that regulation by this or other agencies might inhibit unregualted providers or create impediments to innovation by carriers and others. *Final Decision* at 423, 427. Relying on accounting separation alone may lead to regulatory intrusion because business practices often change swiftly to meet management objectives.

19. In addition, we acted in Computer II to prevent anticompetitive conduct by carriers which could disrupt the development of competitive markets; carriers should not use their control over monopoly network facilities to provide them an unfair advantage in marketing CPE and enhanced services. *Final Decision* at 463–64. We recognized that certain of the Computer II provisions, such as network information disclosure requirements, should be applicable to all carriers to protect the public.

20. In the Cellular rulemaking we were primarily concerned with promoting the use of new cellular communications technology. In establishing a regulatory framework which would promote development and deployment of cellular services we were concerned that a landline carrier's participation in cellular markets could forestall competitors from entering cellular services markets, *Cellular Order* at 493, and that any cross-subsidization, particularly resulting in predatory pricing, be prevented. *Cellular Reconsideration* at 78. We found that "a separate cellular entity greatly simplifies the opportunity of other cellular operators to gain interconnection rights to the landline network on the same basis as the telephone subsidiary offering the underlying basic cellular transmission facilities." *Cellular Order* at 494.

B. Enhanced Services and Information Services

21. Prior to determining whether the structural separation conditions are applicable to the divested BOCs' unregulated activities, we will address the question raised by the Notice with respect to the scope of the activities in which the BOCs may engage. The Notice asked the extent to which the BOCs will be permitted to offer enhanced services consistent with the MFJ's prohibition against the BOCs' offer of information services. It is unclear whether the scope of enhanced services [16] is congruent to that of information services.[17] The Computer II rules permit carriers to offer enhanced services, but not on a regulated basis. On the other hand, the MFJ permits the BOCs only to offer exchange telecommunications services, exchange access, information access, CPE and Yellow Pages directory services. The BOCs are not permitted to provide information services. In analyzing the application of the MFJ to AT&T, the Court noted that enhanced services "are essentially the equivalent of the 'information services' described in the proposed decree * * *." 552 F. Supp. at 178 n.198. Despite this apparent conclusion by the Court that the BOCs could not provide enhanced services because those services are equivalent to information services, both the BOCs and DOJ argue in this proceeding that there are some enhanced services which the BOCs may offer.

22. We find it unnecessary to resolve the definitional question at the present time. This is particularly the case since the BOCs have not yet announced which enhanced services, if any, they will offer after divestiture and, consequently, have not stated whether, in their view, such offerings would be permitted under the MFJ. We will assume throughout this opinion that the BOCs may offer some enhanced services. Since we do not regulate enhanced services, the decision is for the Court whether any enhanced services may be offered by the BOCs under the MFJ. The Court will be apprised that any such services the BOCs offer will be subject to the additional safeguards of a separate subsidiary. We shall resolve questions of whether a particular offering by a BOC is an enhanced or basic service on a case-by-case basis.[18] Of course, as we develop more of a record on potential BOC enhanced service offerings we will be prepared to refine our separation requirements to be no broader than are necessary to accomplish our policy objectives of assuring unencumbered and nondiscriminatory availability of basic transmission services, fair dealing, and safeguards against improper cost-shifting.

C. Costs and Benefits of Requiring Formation of a Separate Organization

23. In Computer II the Commission discussed four criteria useful in determining whether a carrier should be required to offer CPE and enhanced services through a separate subsidiary rather than only to maintain separate books of account:

(a) a carrier's ability to engage in anticompetitive activity through control over "bottleneck" facilities, i.e., local exchange and toll transmission facilities, on a broad national geographic basis; (b) a carrier's ability to engage in cross-subsidization to the detriment of the communications ratepayer; (c) the integrated nature of the carrier and affiliated entities, with special emphasis upon research and development and manufacturing capabilities that are used in conjunction with,

[16] The Computer II rules define enhanced services as follows: "For the purpose of this subpart, the term 'enhanced service' shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information." 47 CFR 64.702(a).

[17] "'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." MFJ, para. IV.J.

[18] *See, e.g.*, Request of IBM for a Declaratory Ruling, ENF File No. 83-34 (filed June 27, 1983). This request seeks a Commission determination whether Southern Bell Telephone and Telegraph may offer pursuant to tariff Local Area Data Transport Service. With respect to enhanced services which involve code and protocol conversion, we are prepared to be flexible. Specifically, we shall follow the waiver procedures outlined in Communications Protocols under § 64.702 of the Commission's Rules and Regulations, Gen. Docket 80-756, FCC 83-510 (released November 21, 1983), Custom Calling II, 89 FCC 2d 1, 6 (1981), and the *Reconsideration*, 84 FCC 2d at 58.

or are supported by, communications derived revenues; and (d) the carrier's possession of sufficient resources to enter the competitive market through a separate subsidiary.

Reconsideration at 72

24. We determined in the Cellular proceeding that only AT&T should form a separate subsidiary. In relieving other wireline carriers from the structural separation conditions, we stated:

In determining whether a particular carrier should be required to operate through a separate subsidiary, the decision must be based, to the extent possible, on how such a requirement will affect the likelihood that the carrier would otherwise engage in the practices that the requirement is designed to guard against and the ability of the carrier to withstand the costs associated with the requirement.

Cellular Reconsideration at 79. Our determination weighed the costs and benefits of the separate subsidiary requirement. In the following sections, we evaluate the benefits and costs of requiring the BOCs and the CSO to utilize separate subsidiaries for CPE distribution, enhanced services and cellular services.

1. *Benefits to Ratepayers*

25. The question to be addressed here is whether there is potential for cross-subsidization and, if so, whether accounting separation alone will adequately protect against that cross-subsidization. The BOCs argue that the opportunities for cross-subsidization will be minimized because state regulators will assure that monopoly revenues are not used to subsidize competitive offerings. They argue that accounting separation alone will prevent cross-subsidization. They also argue that the number of activities which will produce opportunities for cross-subsidy are limited to retail sales, service operations and administrative costs, which will entail only small costs not justifying the stricter requirement of structural separation.

26. NATA and IDCMA, among others, contend that significant opportunities for cross-subsidization will continue after diverstiture. Rolm states that these opportunities will entail substantial costs when compared to competitive CPE providers' revenues. Consumers Union argues that this Commission has recognized in the past the inadequacies of accounting in detecting and preventing cross-subsidization. Both DOJ and ADAPSO argue that joint marketing, installation, maintenance, research and development and general administrative activities will create opportunities for the BOCs improperly to shift costs to the regulated side of operations.

27. The Department of Justice correctly points out in its comments that a limited definition of cross-subsidization, where competitive costs are subsidized with monopoly revenues to reduce the price charged for competitive products, is not the only type of cost-shifting with which we should be concerned. In Computer II we were also concerned with other detrimental cost-shifting arrangements, which include situations where costs that are common to regulated and unregulated operations, such as where the same personnel market regulated and unregulated products and services, are improperly allocated between regulated and unregulated operations. A further problem arises where all costs of an activity should be billed to unregulated operations, such as advertising for specific unregulated products or services. All of these cost-shifting techniques are of concern to the Commission in fulfilling its duty to protect ratepayers from overcharges. Whenever the term cross-subsidization is used in this order it is intended to refer to all cost-shifting situations.

28. We find that, if the RBOCs are permitted to market CPE, cellular services or enhanced services on an unseparated basis, there are opportunities to engage in cross-subsidization. The BOCs have argued that cross-subsidization will be less likely after divestiture than it was before because they will own no manufacturing facilities. The BOCs are correct that the absence of manufacturing facilities reduces the opportunities to cross-subsidize. In addition, state commissions can be expected to control, to a certain extent, the potential for cross-subsidization through regulation of rates for basic services. Nevertheless, potential cross-subsidization opportunities would exist which could adversely affect ratepayers of regulated services. For instance, if joint marketing were permitted, the personnel who contact customers to market regulated services could be selling CPE and enhanced services at the same time. Difficult, sometimes impossible, problems of fairly allocating the costs of marketing between regulated and unregulated accounts would again occur.

29. Also, if the same technicians who perform installation and maintenance of network facilities are also installing and maintaining CPE, additional allocation problems could occur. Especially if the customer experiences trouble both on the network side of the demarcation point and on the CPE side, accurate allocation of the relative costs between regulated and unregulated accounts may well be impossible. Another miscosting situation could arise if billing, service order entry, or other operational systems were shared between regulated and unregulated operations. It would be difficult to allocate properly the costs associated with these operational systems because the functions performed for and time spent on each type of regulated and unregulated service would not always be comparable.

30. Separation of enhanced services costs could create similar problems if they were offered on an unseparated basis. The provision of enhanced services could entail reliance on the same marketing, installation and maintenance, and operations support organizations that the provision of CPE would. There would be opportunities to place service enhancing software and equipment within the network. Identifying these costs would be very difficult. Furthermore, allowing excess network computer capacity to be used for enhanced services could burden ratepayers. See Final Decision at 478–79. On the other hand, we recognize that not permitting enhanced services to be provided as part of the basic network creates inefficiencies. The Commission acknowledged this in Computer II, but determined that these inefficiencies should be tolerated in light of the public interest benefits which could be derived from compliance with separation conditions. *But see* Section II.B., *supra*.

31. We believe the RBOCs will have the incentive, and should have some ability absent separation, to engage in cross-subsidization to the detriment of ratepayers for regulated services. Shifting costs from unregulated to regulated activities may inflate the revenue requirement for regulated services and lead to higher rates for those services. They type of cross-subsidy allows the RBOCs to increase their profits from competitive activities at any level of prices for those products and services. Yet, if the cross-sudsidies go undetected, they do not impair the RBOCs' profits from regulated activities and, thereby, increase their overall profits.

32. As we have stated previously, accounting alone cannot provide the public as much protection against improper cost-shifting as structural separation can. With separate structure, the existence of joint and common operations is limited, reducing the opportunities to shift costs. In addition, separate structure increases the

detectability of any cross-subsidization which does occur.

33. The BOCs contend that their integration of operations will be significantly reduced following divestiture since they may not own or control manufacturing or interLATA facilities. They argue that the absence of these operations will reduce the opportunities for cross-subsidization. They state that there are no present plans to perform research and development for CPE by the CSO. NATA, on the other hand, argues that the operation of the CSO provides the greatest opportunity for cross-subsidization.

34. The state public utility commissions which filed comments in this proceeding argue that the FCC should leave to state commissions the decision whether to impose separate structure on the BOC's offer of unregulated products and services. They argue that the states, due to their experience regulating BOCs, will be in the best position to determine the necessity and required operations of a separate subsidiary. Although there is some merit to the states' position, we conclude that leaving the determination to state commissions has a significant potential for disrupting competitive provision of products and services. The RBOCs will operate on an integrated multistate, regional basis. If some states within an RBOCs' area of operation require separate structure and others do not, this could confuse BOC business procedures and compound the states' problems in controlling improper cost-shifting. Those difficulties could exist even if all states required separate structure but with different conditions.

35. What is more, this Commission has an interest in preventing RBOC cross-subsidies since significant cross-subsidization may hinder the goal of cost-based access charges for interexchange carrier interconnection with local exchange facilities. Therefore, we do not follow the suggestion that state commissions be left with the discretion whether to require separate subsidiaries. Our action herein to apply separate structure to the divested BOCs forecloses to the states the option to increase or decrease the separation conditions imposed in this Order.

36. We agree with the BOCs that the absence of manufacturing and interLATA facilities reduces the opportunities for cross-subsidization and the potential for anticompetitive conduct. Nonetheless, the MFJ permits the RBOCs to perform research and development not only for their regulated services but also for permissible enhanced services and CPE as well. July 8 Opinion at 140 n.266. The CSO may conduct such research and development as well. Clearly, there is nothing in the Computer II rules which would preclude joint research and development as long as this joint research and development does not involve nongeneric software. 47 CFR 64.702(c)(4). If research and development activities for regulated equipment or services become integrated with research for unregulated activities, there may be opportunities for cost-shifting. The Computer II rules should facilitate the control of these costs by requiring the separate organization to enter a written agreement, which should be filed with this Commission, and which states terms sufficiently specific that this Commission can determine whether the agreement provides for adequate compensation.

37. With cellular services, as with unregulated products and services, the cellular central staff will provide an integrating circumstance which will increase the opportunities for cross-subsidization. The CCSO, as it is presently contemplated, will provide a significant variety of functions in support of the BOCs' cellular services operations, including research and development, procurement support, field and operating support, and planning and maintenance functions. These activities are currently anticipated to be provided separate from CSO network operations. The BOCs, however, have represented that they may merge the CCSO with the CSO. If such a merger were to occur, additional opportunities for cross-subsidization may arise. If a merger were to occur, we can address issues related to the merger at that time.

2. *Benefits to Competition*

38. As we recognized in Computer II, promoting competition is also beneficial to customers of unregulated CPE and enhance services insofar as they are used in conjunction with the basic transmission network. The BOCs argue that they will control bottleneck facilities only in limited geographic territories. They assert that other mechanisms, such as the Commission's Part 68 registration program and the MFJ's equal access requirements, will ensure that the BOCs may not effectively use control over bottleneck facilities to disadvantage competitive providers of CPE and enhanced services. The BOCs also assert that since they will control the actions of the CSO, there will be no national control of bottleneck facilities.

39. DOJ and Rolm argue, on the other hand, that the BOCs will have concentrated bottleneck control in large geographic regions. They point out that the BOCs will have bottleneck control in nearly all metropolitan areas, the major markets for most CPE and enhanced services. NATA, as well as other parties, put forward a statistical showing that each of the RBOCs has within its operating territory a much greater portion of PBXs and telephone sets than even the largest of the independents, GTE. NATA Comments at 12–20. In addition, DOJ argues that it is local, rather than national, control of bottleneck facilities which should govern our decision whether to impose structural separation.

40. Our review of the relevant facts shows that the RBOCs will control substantial local exchange and intrastate-intraLATA facilities in large geographic regions. Each RBOC will serve from 20 to 30 million people within its territory. These figures represent from 70 to 92 percent of the population in the states in which the RBOCs will operate. In addition, the RBOCs will control from 9.7 million to 13.9 million access lines in their respective territories. We agree with the BOCs that NATA's reliance on pre-divestiture statistics with respect to the number of PBXs and telephones in areas served by the BOCs is misleading since the BOCs will be stripped of their embedded base holdings upon divestiture. Nonetheless, these figures do demonstrate the numbers and types of customers which will be served by the BOCs after divestiture.

41. The BOCs argue that in the *Reconsideration Order* the Commission found that nationwide control of bottleneck facilities was necessary to impose separate structure. It is true that, in the context of deciding whether to impose the structural separation conditions in the Computer II decisions, we did identify that nationwide control of bottleneck facilities was a circumstance which characterized AT&T. Nevertheless, we did not mean to imply that nationwide control was a prerequisite to employing separate structure as a condition on other carriers' offer of CPE or enhanced services. Bottleneck facility control in a broad geographic area can raise sufficient interest in the benefits to competition from structural separation.[10]

[10] Under antitrust analysis, a firm's market power is determined in a relevant market, which is the geographic territory of effective competition. A finding of anticompetitive conduct can be sustained if a firm markets products in an area which is less than nationwide. *See, e.g.*, United States v. Griffith, 334 U.S. 100 (1948); United States v. Yellow Cab Co., 332 U.S. 218 (1947); Case-Swayne Co. v. Sunkist Growers, Inc., 369 F.2d 449 (9th Cir. 1966), *cert. denied*, 387 U.S. 932 (1967).

Indeed, we recognized this in our ruling which relieved Cincinnati Bell and Southern New England Telephone Co. from the separation conditions. *See In re Motion of Cincinnati Bell Inc. for Declaratory Ruling to Remove Uncertainty of its Status and the Commission Decisions in the Second Computer Inquiry*, FCC 83-74 (released February 25, 1983).

42. As the Notice made clear, even with effective bottleneck control on a broad geographic basis, such control would be unimportant by itself if the ability and incentives to use those facilities to engage in anticompetitive activities were not sufficient to cause substantial concern. It is true that the BOCs' ability to do so is somewhat curtailed by current regulations. The Commission's policies as enforced through tariff regulation, the complaint process and its Part 68 registration program require that carriers permit registered CPE to be connected to the network. In addition, the network proprietary information disclosure rule of Computer II, § 64.702(d)(2), inhibits any carrier's ability to prevent access to technical information if it designed the network to favor only its own CPE. Finally, the MFJ's equal access requirements for the BOCs also serve to prevent denial of access to the network to any competing enhanced service provider upon request.

43. Although these three provisions do promote equal access to the network, there may be additional, substantial benefits to competition from the BOCs' entry into unregulated markets through separation. The Commission's Part 68 registration program was in existence when structural separation was imposed on AT&T. Similarly, the network disclosure requirements were adopted as part of the Computer II decisions. Adoption of structural separation in addition to these measures reflects our belief that these measures are not sufficient to ensure fair competition. For instance, structural separation strengthens the network disclosure requirement by making any improper disclosure from regulated to unregulated operations easier to detect. Also, these provisions do not prevent all of the types of anticompetitive abuses which might be prevented through the application of separate structure. For instance, ready access to customer proprietary information, which is not controlled by Part 68 or network disclosure requirements, may provide the carrier's competitive operations with an unfair advantage in marketing unregulated products and services. In addition, none of these provisions does anything to control improper cost-shifting, an important goal of the structural separation conditions. *See* section III.B.1., *supra*. Finally, it is significant to note that under the MFJ, the BOCs are obliged to provide equal access to interexchange and information service providers, but are not required to provide equal access for CPE obtained from BOC competitors. The MFJ's equal access requirement also does not require that the BOCs provide access to others which is equal to the access they provide their own operations. Rather it requires only that other entities be accorded equal access among themselves. Thus, the BOCs, under the MFJ, could provide superior access to the network to themselves to the disadvantage of other CPE or enhanced service providers.

44. In Computer II, it was AT&T's widespread control over local exchange and toll facilities that led the Commission to decide that separate structure should be imposed. *Final Decision* at 468. In fact, the types of potential abuses in which the BOCs may engage are some of the same types of anticompetitive practices which were of concern when structural separation was imposed on AT&T. It is true that the BOCs will reenter CPE markets with a zero percent market share since the MFJ requires BOC CPE to be transferred to AT&T. In addition, CPE markets have become increasingly competitive. Nevertheless, even though the BOCs will be entering increasingly competitive CPE markets with little installed base, we find that the potential for use of control of monopoly bottleneck facilities is significant enough at present to require some form of structural separation.

45. Control over local exchange services provides an opportunity for anticompetitive conduct. A carrier could use its position as a supplier of exchange services to promote its own CPE or inhibit the use of a third party's CPE; it could through its control of installation and maintenance forces for network facilities provide discriminatorily superior installation and maintenance services for customers of its own CPE. Another competitive danger might arise if BOC regulated operations conditioned the availability of transmission services upon the purchase or lease of RBOC CPE or enhanced services. Such a tie-in could raise entry barriers in the CPE market and inhibit competition. It should be noted that we are not only concerned with actual tie-ins which might violate antitrust laws, but also with more subtle arrangements, such as those described above, which achieve the same result as a tie-in.

46. Furthermore, a BOC could design or alter network technical specifications to favor its own CPE or enhanced services. Although design changes must be disclosed under Computer II to competitors even by those carriers which are not required to form separate subsidiaries, the existence of structural separation makes more enforceable the early revelation to competitors of these technical changes. In addition, equal access to the network is more easily enforced with separation conditions since the separate organization must obtain network transmission facilities pursuant to tariff. If unseparated operations were permitted, it would be easier for the BOCs to withhold a basic transmission service by offering it only as part of an enhanced service. This could prevent enhanced service suppliers from using new transmission technologies until they could obtain redress from this Commission. Even if the BOC did permit a competitor to obtain access to the basic transmission service, whether a competitive service provider is paying the same as the BOC for that service would be very difficult to determine. The structure separation conditions require that the subsidiary obtain the transmission services under tariff, thereby enabling a competitor to know the terms and conditions of obtaining interconnection from the provisions of that tariff.

47. While we recognize that there is uncertainty as to what types of enhanced services may be provided by the RBOCs, the integration of enhanced services with local exchange switches was an important consideration in adopting Computer II. The separate organization requirement should alleviate most concerns about anti-competitive practices by the BOCs against suppliers of enhanced services since the BOCs would enter, if at all, on the same terms and conditions as other suppliers. Anticompetitive conduct directed against enhanced service providers can be controlled by structural separation in a manner that may not be effective with accounting separation alone. If a BOC's separate entity is required to obtain access to the network in the same fashion as would a competing supplier, the provision of inferior access to a BOC rival would be much easier to detect.[20] In addition, the

[20] We of course expect that BOC regulated operations will give identical treatment to competitors of the RBOC Computer II organization. Each RBOC shall maintain documentation of its compliance with this equal treatment condition of

Continued

design of the network to favor the BOC's own enhanced services would be easier to detect since separate structure could help to reveal any illegal information transfers. Accounting controls, of course, would do nothing to detect or remedy this situation.

48. Cellular services are somewhat distinguishable from CPE or enhanced services because cellular services remain subject to regulation at the state level. Nevertheless, the potential for anticompetitive abuse against cellular carriers will also exist after divestiture. Again, due to the BOCs control over local exchange facilities and, hence, control of access to the network, there is the potential that the BOCs could inhibit access on the same terms and conditions to the nonwireline carrier which competes in the same market. This potential is heightened by the BOCs' authority under the cellular separation rules to share local exchanges switches with its cellular operations. The separate subsidiary structure serves to highlight arrangements between wireline and cellular operations so that discrimination can be more easily detected and corrected.

49. We find an additional benefit to competition to be the reduction that accompanies structural separation of unnecessary regulatory intrusion into unregulated operations. Accounting separation can often be more difficult to oversee, and can require far more intrusive monitoring efforts than does the monitoring of structural separation conditions. This intrusive regulation decreases certainty in unregulated markets since there would be a threat of regulatory interference. This regulatory interference could also arise when a state commission would have to investigate possible cost-shifting from the unregulated side of unseparated operations to the regulated side in fulfilling its duties to protect ratepayers from unjustified rate increases. Regulatory examination of potential cost-shifting may delay or reverse BOC efforts to design and price unregulated offerings flexibly and quickly in response to competition.

50. Furthermore, the regulatory burdens faced by this agency are also borne in part by carriers who must provide detailed documentation of their procedures to aid the Commission in its monitoring efforts. Policing compliance with separation conditions requires only a narrowly defined disclosure of information regarding the business procedures of the separated entity. On the other hand, in order to evaluate compliance with accounting separation, the Commission often must acquire detailed information from carriers on how the company operates and at times must institute operational changes and reporting mechanisms to determine adequately compliance with accounting separation.[21]

51. Some parties argue that unregulated communications offerings can be protected from any anticompetitive abuses through private enforcement of the antitrust laws or enforcement of the MFJ by the Department of Justice. We believe that private and public enforcement of the antitrust laws can achieve complementary goals to this Commission's efforts to monitor compliance with the separation conditions of Computer II and the Cellular rules by the divested BOCs. The Commission serves as a primary and readily accessible forum to remedy anticompetitive abuses. In addition, the prophylactic measure of structural separation has the potential to prevent abuses from occuring in the first place. We note that the Department of Justice argues that the BOC's history of using their monopoly power to gain leverage in unregulated markets supports its conclusion that separate structure should be required.

52. We find that the BOCs will have effective control over bottleneck facilities in large geographic areas with large numbers of subscribers. In addition, we find that at present the BOCs will continue to have both the ability and incentive to engage in anticompetitive practices after divestiture. Structural separation can go far in ensuring that such anticompetitive practices are limited and, in any event, more easily detectable.

3. *Costs of Forming and Operating through Subsidiaries*

53. The BOCs argue that forming separate subsidiaries entails substantial costs. They assert that, due to the diseconomies of scale which result from operating through a separate subsidiary, they may be unable to operate efficiently in unregulated markets. It is primarily for this reason that the FEA and NTIA argue that separate structure should not be imposed. DOJ, on the other hand, observes that the costs of forming separate subsidiaries will be low since the BOCs will be starting new operations rather than having to disentangle existing regulated businesses to form unregulated ones. CCIA notes that each of the BOCs will be among the top 30 Fortune 500 companies after divestiture. NATA states that smaller companies than the BOCs have established separate subsidiaries, apparently at reasonable costs.

54. The BOC's position further is grounded on their argument that there are economies of scale in permitting joint operations. With respect to CPE operations we are unaware of significant economies which could be achieved due to the inherently separate nature of CPE and basic network operations. For example, installation and maintenance personnel must have different skills and expertise to install and maintain sophisticated PBX equipment than to repair network facilities. In addition, there is no reason to believe that significant economies would be lost in requiring separate marketing personnel, for in most geographic areas with substantial residential or business CPE sales, there would be ample business to make separate personnel efficient marketers.

55. Joint operations may allow the BOCs to prosper for reasons other than (1) that they provide a price and quality combination for unregulated products and services that is more attractive than what other suppliers provide, or (2) that they have lower costs. The BOCs could employ their monopoly position in network services to promote their own CPE and enhanced services. These activities involve a danger of anticompetitive practices (e.g., delayed service connection for subscribers purchasing a rival's CPE) and cost shifting (*e.g.*, overallocation toward monopoly services of a sales representative marketing both monopoly services and CPE). Certain types of costs from structural separation will be reduced by the provisions discussed in Section IV, *infra*.

56. With respect to financial resources to form cellular subsidiaries, as Telocator and WU point out, these subsidiaries have already been formed and will be divested intact from AT&T Cellular Co. to the BOCs at divestiture. As with unregulated products and services, we must conclude that the BOCs will have the financial resources to operate through cellular separate subsidiaries.

Computer II in such a form that it may be provided upon request to the Commission. Any unjustified service delays or other impediments to obtaining local service experienced by interconnect companies or enhanced service providers are viewed with disfavor by this Commission.

[21] Although state commissions can be expected to be concerned with BOC accounting practices, as they are with all telephone company providers of local exchange services, accounting regulation by state commissions may be hindered on account of the multistate character and size of the RBOCs.

4. *Application of Separate Structure to BOCs.*

57. Some of the parties argue that the BOCs are similar in size and financial strength to GTE and other independent telephone companies, which were exempted from Computer II's structural separation conditions. We must point out that this proceeding is limited to the question of applying structural separation to the BOCs and this question should be decided on the basis of the factual circumstances of the BOCs alone.

58. We believe that the divested BOCs are distinguishable from GTE at the time it was relieved of the structural separation conditions in Computer II and are distinguishable from GTE and other independent telephone companies at the time they were not required to form cellular subsidiaries in our Cellular decisions. As we previously noted, the RBOCs will possess concentrated control over monopoly bottleneck facilities in large, contiguous geographic areas. The RBOCs will own bottleneck facilities in virtually every major and medium-sized metropolitan and industrial area in the country. In contrast, even the largest of the independents, GTE, controls bottleneck facilities in mostly rural, widely scattered areas. Of course, it is in the metropolitan and industrial areas in which the vast majority of CPE and enhanced services market activity will take place. This disparity between the RBOCs' and GTE's potential customer base is demonstrated by statistics cited in NATA's comments, in which it points out that every one of the BOCs placed more PBXs and telephones in their respective regions during 1981 than did GTE nationally. This disparity would be much more dramatic if another independent were compared to the RBOCs.

59. In addition, to form a separate organization, any of the independents would have to disentangle their unregulated and cellular operations from their wireline operations. The BOCs do not have nearly the same disentanglement costs since they will be starting anew in their provision of unregulated CPE and enhanced services. What is more, presently before a district court is a consent decree agreed to by GTE and the Department of Justice in settlement of a lawsuit in which Justice attempted to challenge the legality under the antitrust laws of the purchase of GTE of the assets and some stock of Southern Pacific Communications Company. According to the terms of that Decree, GTE would be required to form a separate subsidiary to provide interexchange telecommunications and may also provide CPE through that subsidiary. The separation conditions of the Decree, with some exceptions, appear to resemble those contained in Computer II. That Decree also requires GTE to place the enhanced services operations of GTE Telenet in a separate subsidiary which would resemble that required of the BOCs.[22] Therefore, if that Decree is entered by the court, GTE may be placed on a more equal footing with the RBOCs in any event.

III. Limitations on Separation Conditions

60. We have determined that following the planned divestiture the separate structure approach is the most cost-effective regulatory tool to protect ratepayers from bearing the costs of providing competitive products and services and to promote competition. The further question remains whether any of the structural conditions under which the BOCs operate today as part of the integrated Bell System should be modified or eliminated in the post-divestiture environment. At the outset we note that there may be advantages to the BOCs in employing some other form of organizational structure, such as an unincorporated division, rather than a subsidiary. Although the Computer II rules speak in terms of a separate corporation which may provide CPE and enhanced services, other structural arrangements may also be acceptable as long as structural separation conditions are otherwise met. We note that regardless of the structure employed, the RBOCs must comply with the separation conditions contained in the Computer II rules as modified in this order. Therefore, in the context of capitalization plans we will evaluate the propriety of proposed structural arrangements other than a separate subsidiary as long as the RBOC desiring such an arrangement demonstrates that the arrangement is consistent with our Rules and policies and the advantages which would accrue on account of the alternative organizational structure. The RBOC should particularly address how ratepayers can be legally or practically insulated from the financial losses or debts of the entity marketing CPE and enhanced services.[23]

61. Furthermore, the BOCs have proposed that five of the requirements be eliminated. First, the BOCs argue that they should be permitted to share various operational and administrative services between the separate subsidiary and regulated operations. Second, the BOCs argue that the separate subsidiary should be permitted to engage in joint marketing with regulated operations. Third, they argue that the separate subsidiary should be permitted to obtain installation and maintenance services from regulated operations pursuant to contract. Fourth, the BOCs argue that the rule which requires the separate subsidiary to conduct transactions with an affiliated manufacturing entity at arm's length should be eliminated. Fifth, the BOCs request the elimination of the rule which requires capitalization plans for the formation of a separate subsidiary to be presented for Commission approval 180 days prior to the time the separate subsidiary commences operations. We believe that several modifications to the Computer II rules are appropriate in light of the significantly changed circumstances of the BOCs after divestiture. In addition, we intend to review the appropriateness of the separation conditions within two years following the BOCs compliance with the Computer II structural separation conditions, as modified in this order, in light of prevailing circumstances.

A. Joint Operational Activities

62. First, the BOCs request that they be permitted to provide joint services, such as billing, payroll, accounting, legal, personnel recruitment and management, finance, tax, insurance, and pension services. Section 64.702(c)(1) of our Rules specifically prohibits the sharing of billing facilities or personnel between the separate subsidiary and regulated operations. The rule against joint billing is grounded in the concern that the costs of providing billing services cannot be properly allocated between unregulated and regulated operations. This allocation difficulty arises because a myriad of activities included in the billing function, e.g., customer inquiries, order-taking, and collection, must be identified and the costs associated with providing these services for CPE and enhanced services must be segregated on some basis. Opportunities for cross-subsidization would thus arise. In addition, the customer data which is needed properly to compute and send bills includes sensitive customer proprietary information which should not be accessed by personnel providing

[22] *See* United States v. GTE Corp., 1983-2 Trade Cas. ¶50,833, at 58,812-13 (sections IV.A.6 & IV.D.2). *See also*, Competitive Impact Statement filed by the U.S. Department of Justice at 34-39 (May 4, 1983) in United States v. GTE Corp., *supra*.

[23] Regardless of what organizational structure the RBOC employs for enhanced services, the separate organization is required to obtain basic transmission services pursuant to tariff.

unregulated products and services. *See American Telephone & Telegraph Co.*, ENF File No. 83-38 (released September 2, 1983). In addition, particularly with business customers, the activities surrounding billing, such as bill dispute resolution, are integrally related to promoting a continuing relationship with existing customers. Therefore, if the RBOCs CPE and enhanced services marketing personnel have access to billing records for transmission facilities, they could use this information to the disadvantage of competitors. To permit rapid reentry by the BOCs into CPE markets, however, we do permit joint billing for four years following divestiture.

63. Nevertheless, we believe that an exception to the Computer II joint billing restrictions is in order to prevent cutomer confusion caused by the MFJ. Customers may suffer confusion once their embedded CPE is transferred from the BOCs to ATTIs as required in the *Implementation Proceeding*, while the BOCs may provide new CPE to them, but only through a separate bill. This confusion might be compounded since we have permitted the BOCs to provide billing services to ATTIS for transferred CPOE. Regardless, customer confusion after divestiture is likely to persist even if we do not permit the BOCs to bill for ATTIS CPE. Therefore, during this four-year period we will permit the BOCs to send bills to customers which contain charges for CPE provided by the RBOCs' separate organizations. The bill should contain the CPE provider's telephone number of the customer to contact regarding billing problems with CPE charges. BOC operations for regulated service may not provide bill dispute resolution or collection services for CPE charges and all partial payments of bills shall first be applied against charges for transmission services. In addition, a BOC may not terminate transmission service if an RBOC's separate organization cannot collect from a customer. Since a competing CPE provider, such as Sears, Roebuck & Co., may not have transmission service terminated if its customers do not pay their bills, we find no reason to permit an RBOC separate organization to have transmission services terminated either. The term billing services, as used herein, includes only the physical rendering of the bill to the customer and the receipt of remitted amounts. An RBOC's separate subsidiary may only transfer computer tapes containing information needed by the RBOC's unregulated operations to produce the bill. The separate organizations shall pay for all direct and indirect costs of producing those bills pursuant to Commission-approved contracts which shall describe necessary accounting plans; RBOCs wanting to engage in joint billing must file their plans with this Commission within 60 days of the release of this decision. We will review these contracts to determine whether the charges to the separate organization for the billing services are equivalent to the charges ATTIS pays the BOCs for similar services. This joint billing permission should not be used in any way to market or promote the separate organization's unregulated products and services.

64. Other operational services, however, which are characterized as administrative services, including financial, accounting, and legal services, are of the variety which this Commission has permitted AT&T to share with ATTIS. Like AT&T, however, the RBOCs may share only those administrative services contained in an RBOC's Commission-approved administrative plan. *See* section IV.E., *infra*.

B. Marketing

65. The BOCs next argue that there should be no prohibition of joint marketing, subject to appropriate accounting controls. The BOCs argue that, due to their diminished market power after divestiture, they should not be constrained with the joint marketing prohibition. They argue that customers should be able to obtain at one time both network services and CPE. We must reject these arguments, with one exception. The BOCs have failed to identify convincing reasons why accounting controls effectively can be employed to segregate competitive and regulated costs. As stated previously, reliance on accounting systems alone to allocate common costs is often unsatisfactory. By requiring the total separation of marketing forces, including advertising costs in the case of unregulated products and services, we can more effectively ensure that ratepayers do not bear costs which should be borne by the competitive sector.

66. Furthermore, joint marketing may give the BOCs' marketing operations for unregulated products and services an important competitive advantage. Mixing the marketing of network facilities and unregulated products creates the potential for abuses which the Computer II rules sought to prevent, i.e., the monopoly network facility provider's use of monopoly-derived revenues and its monopoly position to gain unfair leverage in unregulated markets. After divestiture, this control over local bottleneck facilities will continue with the RBOCs in a similar fashion as the bottleneck control which existed with AT&T when the separation conditions were first imposed on AT&T. Nevertheless, we do permit joint marketing for six months after January 1, 1984, to provide the BOCs time to comply with this order.

67. Despite this general prohibition against joint marketing, we find that an exception is warranted to permit BOC operations for regulated services to refer residential and business customers to the RBOC separation organization for CPE, provided that the contact person informs customers that CPE can be obtained from other vendors as well as the separate organization. This exception is warranted because the BOCs will reenter CPE markets with a zero percent market share in an increasingly competitive market. In addition, this referral will serve to reduce the likely customer confusion when they are informed that the transmission service sales force no longer handles CPE. The BOCs should be able to inform customers of the impact of Computer II and the planned divestiture and that there are alternate suppliers of CPE, among which is the RBOC subsidiary. Furthermore, this exception, in the greater context of the structural separation required in this order, poses only limited opportunities for cross-subsidization which will have a de minimis impact on ratepayers.

68. Thus, the customer contact person for network services may state in a neutral fashion that the company does not provide CPE any longer pursuant to an FCC order, but that CPE is provided both by other vendors and its separate operating arm. The contact person may then ask the customer if he or she wishes to be transferred to the separate organization's marketing personnel and complete the transfer of the call if the customer desires. The BOCs shall, however, bill all direct and indirect costs of providing such referrals to the separate organization pursuant to a Commission-approved marketing plan; RBOCs wanting to engage in dial tone referral should file their accounting plans with this Commission within 60 days of the release of this order. Included within these accounting plans should be a description of the proposed operating procedures in connection with these referrals, including the nature and extent of customer contact by network personnel. In addition, we will continue to evaluate the impact upon ratepayers and competition from this referral approach and whether, due to an RBOC's increased market share of some other factor, the referral is no longer

warranted. If the referral approach becomes the vehicle for direct marketing of CPE by network personnel or otherwise is abused, *e.g.*, where a competitor's products are derogated, we will require its termination.[23a]

C. Installation and Maintenance Services

69 The BOCs argue that the separate subsidiary should be able to contract with regulated operations for the provision of engineering, installation and maintenance, and similar services, subject to appropriate accounting controls. Indeed, pursuant to Commission waiver, for the eighteen month period following January 1, 1983, the BOCs have been permitted to provide installation and maintenance services in support of ATTIS complex business CPE pursuant to an accounting plan approved by the Commision.[24] This transitional waiver was granted because the bifurcated approach to deregulating CPE created two classes of equipment, one embedded and regulated, and one new and unregulated. We recognized at that time that it was unnecessarily wasteful to create two installation and maintenance forces to meet that temporary, bifurcated environment.

70. The circumstances which justified our grant of permission to AT&T to share installation and maintenance services for complex business CPE during a transmission period do not apply to the divested BOCs' offer of business CPE. First, the BOCs will not have two sets of CPE, one embedded and one unregulated, since under the terms of the MFJ embedded CPE must be transferred to AT&T. Second, the personnel who have the sophisticated training necessary to maintain and install business CPE need not be the same personnel who perform network installation and maintenance. Thus, we do not believe that the creation of BOC accounting plans similar to the one under which AT&T presently operates would be in the public interest in the present factual circumstances.[25] We reject installation and maintenance sharing because excessive, costly and burdensome regulatory involvement in the operation, plans and day-to-day activities of the carrier would be necessary to audit and monitor the accounting plans necessary for such sharing to take place. Nonetheless, to ease the transition to compliance with the structural conditions enunciated in our rules, as modified by this order, joint installation and maintenance is permitted until June 30, 1984.

71. With respect to installation and maintenance of residential and single line business telephones, however, different considerations may be involved. First, since these products involve simple installation and maintenance procedures, craftspersons for network facilities may be employed to provide support for residential and single-line business telephones. Second, because the installation and maintenance procedures required for residential and single-line business telephones may be more simplified than for complex business CPE there may be fewer costs which need allocating between regulated and unregulated operations. Given these factors, separation of these functions may not be warranted under our cost-benefit analysis. Thus, we will permit, but will not require, the RBOCs' network installation and maintenance operations to provide support under contract to the separate organizations' provision of residential and single-line business telephones. These contracts, including a description of how costs are to be allocated, must be filed within 60 days of the release of this order and should describe the accounting plans to be established to allocate all direct and indirect costs of providing those services to the CPE organizations.

D. Arm's Length Bargaining with Manufacturing Affiliate

72. The BOCs contend we should delete the Computer II requirement that the separate subsidiary deal with an affiliated manufacturer only on an arm's length basis. The MFJ prohibits the BOCs from owning manufacturing facilities and it imposes non-discriminatory procurement obligations on the BOCs. Therefore, immediately after divestiture this rule is of no consequence to the BOCs. If, however, manufacturing operations were permitted by the Court in the future and were placed within the separate subsidiary for CPE and enhanced services or if manufacturing capabilities are procured by the separate organization itself, rather than the regulated operation, by contract or other means, it would appear that, due to reduced opportunities for cross-subsidization and anticompetitive conduct with regard to the offering of regulated transmission services, waiving the restriction might be in order. Presently, there is an insufficient record upon which to waive the manufacturing rule. Since the BOCs will not own manufacturing facilities at present, there is no need to resolve this question at this time. We will resolve this issue if and when the MFJ's manufacturing bar is lifted.

E. 180-Day Filing Requirement for Capitalization Plan

73. The BOCs request that we waive the requirement that capitalization plans for the forming of separate organizations be filed for Commission approval 180 days prior to the time of formation.

Because the time before the scheduled date of divestiture is short, we find that it is appropriate to waive the requirement that they obtain Commission approval of capitalization plans prior to the commencement of unregulated operations. The BOCs should not be delayed from entering the CPE and enhanced services marketplaces. AT&T decided that ATTIS would be the sole Bell System provider of new CPE and enhanced services, and that the BOCs would not participate in unregulated markets until divestiture. In order that the Commission can review the BOCs' capitalization plans, permit their rapid reentry into the CPE market, and permit the BOCs time to comply with this order, we will permit the BOCs to offer regulated and unregulated products and services without structural separation for six months until June 30, 1984, at which time full compliance with this order should be achieved. All direct and indirect costs associated with providing CPE and enhanced services should be separately accounted for and not charged to ratepayers.

74. Each RBOC shall file an interim capitalization plan for the formation of a separate organization within 30 days of

[23a] Provision of simple telephones for use with party-line service may present special "customization," installation and maintenance problems, *see*, Amendment of Part 68, 92 FCC2d 1, 32–39 (1982). In view of the limited amount of this equipment, its continuing numeric decline, and these special problems, we shall grant the BOCs the flexibility to market such equipment directly from their unseparated operations, provided that proper accounting separation of the costs of this activity is ensured in the accounting plans to be filed with this Commission. This option may prove particularly appropriate if a given BOC chooses otherwise not to market simple telephone equipment.

[24] AT&T plan was approved by the Bureau pursuant to delegated authority. *See*, letter from Chief, Common Carrier Bureau to Alfred A. Green (July 28, 1982); letter from Chief, Common Carrier Bureau to D. J. Culkin (Aug. 30, 1982); letter from Chief, Common Carrier Bureau to Alfred A. Green (Dec. 16, 1982); letter from Chief, Common Carrier Bureau to D. J. Culkin (Feb. 18, 1983).

[25] The accounting requirements are contained in letters from the Chief, Common Carrier Bureau to Alfred A. Green and D. J. Culkin, dated Dec. 16, 1982 and Feb. 18, 1983, respectively. These require that the same reporting procedures that ATTIS planned to employ for BOC field forces to bill their time spend on installation and maintenance work for ATTIS CPE be used when performing similar work for BOC embedded CPE.

the release of this Order.[26] The RBOCs may commence unregulated operations as of January 1, 1984.[27] Those plans should provide information as to the amount and type of assets and personnel each RBOC will transfer to its separate organization to support its first year of operations; the operational plans which they will institute to ensure compliance with the Computer II rules; and the timetable for full compliance with the Computer II rules, which must be completed within six months of the time interim plans are filed.[28] These plans will be effective for only the first year of the RBOCs' operations in order that we may have the opportunity to comport with the Computer II rules or to ensure adequate safeguards for the protection of ratepayers. These plans will identify the methodology to be employed for recording preoperational expenses from August 11, 1982, the date the Court permitted the BOCs to reenter CPE markets, to the date on which full compliance with this order is attained. The plan shall provide that the separate entity will be organized or incorporated as of January 1, 1984. The plan shall also identify the steps each RBOC will take and the timetable for bringing itself into full compliance with the Computer II rules as modified in this order and shall indicate that the separate subsidiary shall have the capability of independent operations within six months of the filing of the interim plan. The deadline for filing initial capitalization plans should not be burdensome since the initial capitalization plan is intended to be only a framework of the capitalization and operations of the RBOC subsidiaries. We note that even AT&T's permanent capitalization plans have been relatively short in length. In addition, we have accorded some information provided by AT&T with respect to financial projections confidential treatment.

75. On or before June 30, 1984, the RBOCs shall file their formal plans for capitalizing the separate organizations to assure that they are capable of independent operations. Those permanent plans shall indicate the RBOC's compliance with Computer II rules and shall contain any changes which have been required as a result of the staff's review of the RBOC's initial capitalization plans. Each RBOC should be aware that, if its plan does not comport with with Computer II, it will be required either to modify procedures or to terminate the offer of CPE and enhanced services until it is in full compliance with our Rules.[29]

76. Different issues are implicated, however, with respect to the separation of regulated and unregulated operations in the CSO. The BOCs have provided us with very little information with respect to the planned operations for the provision of marketing and procurement support for RBOC CPE operations. The BOCs have represented that they will perform no support functions related to CPE. Nevertheless, BOC descriptions of CSO activities have not been explicit and the CSO is empowered to provide such support. Therefore, within sixty days from the release of this Order the RBOCs shall file with the Commission a report describing in detail the planned operation and functions of the CSO, particularly indicating any activities to be provided in support of RBOC CPE or enhanced services businesses, if any, and any services it will provide AT&T and its affiliates, if any. Until this report has been filed, the CSO should not provide support for CPE or enhanced services businesses.[30] This report should not prove burdensome since it is intended to be only a framework of the intended operations. In addition, since the CSO will assume many of the network planning functions that AT&T has performed in the past, the CSO is obliged to disclosed network information as required in *Computer & Business Manufacturers Association*, FCC 83-182 (released May 9, 1983).

77. Although we have approved in principle the proposition that there are some services which the BOCs should be permitted to share, a delineation of any specific services must await the filing of shared administrative service plans by each of the RBOCs as to the types of services they propose to share

[26] Immediately after the planned divestiture the BOCs will each have a separate subsidiary for the provision of cellular services. The manner in which these subsidiaries have been formed has already been approved by this Commission pursuant to the Cellular Capitalization Plan filed by AT&T. *See* American Telephone & Telegraph Co., FCC 83-126 (released April 15, 1983), *recon. pending, appeal dismissed*, MCI Cellular Telephone Co. v. FCC, No. 83-1158 (D.C. Cir. September 12, 1983). In its plan, AT&T proposed to form AT&T Cellular Co., which would place in subsidiaries the cellular facilities and personnel necessary to provide cellular service and equipment in each of the seven regions comprising the seven RBOCs. AT&T Cellular Co. provides support services to those seven subsidiaries. After divestiture the seven subsidiaries will be divested to the appropriate RBOCs or BOCs. The cellular support staff will form the CCSO. In these circumstances, there is no further reason to require Commission approval of these subsidiaries.

[27] Thus, the RBOCs will be able to begin all operations in furnishing CPE, including submitting bid proposals, procuring products for resale and distribution products as of January 1, 1984. *See* Petition for Reconsideration filed by Ohio Bell Telephone Co., dated July 22, 1983, of the Common Carrier Bureau Letter-Order, dated June 28, 1983; Letter from Illinois Bell Telephone Co. to Chief, Common Carrier Bureau, dated June 24, 1983.

[28] In formulating these plans, the RBOCs should be guided by the Computer II decisions and the Commission decisions approving AT&T's four capitalizations plans for ATTIS's provisions of unregulated CPE and enhanced services. *See* American Telephone & Telegraph Co., 90 FCC 2d 404 (1982), *recon. granted in part and denied in part*, 91 FCC 2d 578 (1982), *further recon. denied*, FCC 83-424 (released September 20, 1983) (enhanced services capitalization plan); American Telephone & Telegraph Co., 91 FCC 2d 578 (1982), *recon. denied*, FCC 83-424 (released September 20, 1983) (new CPE capitalization plan); American Telephone & Telegraph Co., Mimeo No. 1600 (released December 30, 1982) (Picturephone Meeting Service capitalization plan); American Telephone & Telegraph Co., FCC 83-123 (released April 13, 1983) (report and order concerning new CPE capitalization plan re preoperational expenses and structural separation condition compliance); *recon. pending, appeal dismissed*, MCI Cellular Telephone Co. v. FCC No. 83-1158 (D.C. Cir. September 12, 1983) (cellular services capitalization plan); Procedures for Implementing the Detariffing of Embedded Customer Premises Equipment and Enhancing Services (Second Computer Inquiry), CC Docket 81-893, FCC 83-551 (adopted November 23, 1983) (embedded CPE capitalization plan).

[29] At present it is unclear what products and services the BOCs will offer. The record with respect to where Yellow Pages operations are to be located is incomplete. If Yellow Pages are regulated by state commissions it may be inappropriate to locate those operations within the Computer II subsidiary. Therefore, within sixty days of the release of this order the RBOCs should file with the Commission their description of where Yellow Pages operations will be located in the various states, whether such operations are in any way regulated by the states and whether Yellow Pages revenues are available to offset rates for regulated services. Due to the particular circumstances of the cellular services marketplace, it may be reasonable to allow the BOCs to offer cellular CPE through the cellular subsidiary. The present record, however, is inadequate to resolve this question. Therefore, in the near future, we shall commence a proceeding regarding how cellular CPE should be provided. Pending its outcome however, deregulated cellular CPE may be offered through the Computer II separate subsidiary but not the cellular subsidiary. Tymnet requests that we require the BOCs' to offer Digital Electronic Message Service only through a separate subsidiary. Since this question is beyond the scope of the Notice we decline to consider this question at this time. With respect to other unregulated products and services, it is arguable that all unregulated products and services should be offered through the Computer II subsidiary. This question is currently subject to a Notice of Inquiry with respect to AT&T's offer of unregulated products and services other than CPE and enhanced services. *See* In re Long-Run Regulation of AT&T's Domestic Interstate Services, CC Docket No. 83-1147, FCC 83-482, at ¶ 44, (released October 27, 1983). After evaluating the comments in that docket, we shall determine what treatment is appropriate in the case of the divested BOCs.

[30] This requirement does not apply to any CPE for which there is a current waiver in effect. In addition, there is no impediment to the CSO providing on an unseparated basis CPE necessary for the Department of Defense and other federal agenices to meet critical national security and emergency preparedness communications requirements. This CPE, however, may not be tariffed. *See* American Telephone & Telegraph Co., FCC 83-143 (released April 12, 1983). Indeed, the RBOCs have the duty under the MFJ to provide through a centralized organization a central point of contact to meet defense and emergency preparedness needs. MFJ, para. I.B

with their separate organizations, if any, their operational plans for sharing administrative services, and the accounting plans which they will employ to ensure that all direct and indirect costs incurred in support of the separate entities' operations are billed to the separate organizations.[31] These plans should be filed within 60 days of the release of this Order and should contain information which is similar with regard both to the kinds of services to the shared and the related accounting systems and information which is contained in the plans filed by AT&T for sharing administrative services and approved by this Commission. *See General Departments Order*, 90 FCC 2d 184 (1981), *Shared Services Order*, 92 FCC 2d 676 (1982), *recon. denied*, FCC 83-355 (released July 29, 1983).[32]

78. After these plans have been analyzed by the staff, we shall make a determination whether the extent of sharing and the operation and the accounting plans are in the circumstances of the individual parties. To the extent that it is feasible to do so, the RBOCs may submit a joint plan for sharing administrative services, although such a joint filing must identify and justify any individual differences in accounting and operational procedures in the various companies included within the plan. After January 1, 1984, the RBOCs may on an interim basis share the same administrative services as AT&T may share provided that unregulated operations are charged with all costs of providing those services. All allocative formulae for distributing joint and common costs between regulated and unregulated operations are subject to modification and true up procedures any time after these procedures are established.

79. We have fashioned these interim procedures in order to provide the RBOCs with sufficient time to organize and make plans to bring themselves into compliance with our Rules. By our order we intend that the RBOCs be provided every opportunity to rapidly reenter CPE markets. Therefore, the RBOCs may pursue regulated and unregulated businesses without structural separation until June 30, 1984. The RBOCs should utilize this six-month period to take any interim steps necessary to comply with this order by June 30. We do require, however, that during this period the BOCs should in a neutral fashion inform every customer to whom it provides CPE that other vendors sell CPE. It would seem that many of the separation conditions in Computer II will be easier to comply with initially, rather than to start unseparated operations and have to split regulated and unregulated functions later. For instance, there appears to be little reason to begin a joint billing system for business CPE. Sales for unregulated products and services will initially be quite small and a number of supporting services can conveniently be performed on a separated basis or obtained through third parties. In addition, joint installation and maintenance appears unnecessary at the outset since installation activity will be quite small, and there exist third parties from whom such services may be obtained. We will not make the decision for the BOCs as to which of these separation conditions with which they will initially comply. Nevertheless, interim sharing must be fully concluded by June 30, 1984.

IV. Conclusion and ordering clauses

80. We have determined in this proceeding that structural separation should be imposed on the divested BOCs in their offering of CPE and enhanced services, although modifications to the Computer II separation conditions have been made to accommodate the particular circumstances of the divested BOCs. It is evident that we will engage in less regulation of the competitive provision of products and services than if we were to rely solely on accounting to prevent improper cost-shifting. We have found that the benefits, in the ability to detect and prevent improper cost-shifting and other anticompetitive practices, outweigh the costs imposed on the BOCs in forming and operating through separate organizations. We have also concluded that the BOCs have failed to demonstrate that most of the separation conditions should not be applied to them at this time. In this order, however, we do adopt interim arrangements so that the BOCs may begin unregulated operations as of January 1, 1984.

81. Accordingly, it is ordered that pursuant to sections 4(i), 4(j), 201-205, 214, 220, 221 and 403 of the Communications Act of 1934, as amended (47 U.S.C. sections 154 (i), (j), 201-205, 214, 220, 221 and 403), section 553 of the Administrative Procedure Act (5 U.S.C. section 553), and sections 1.411, *et. seq.*, of the Commission's Rules (47 CFR sections 1.411, *et. seq.*), we hereby order that the provisions of § 64.702 of the Commission's Rules (47 CFR 64.702), are applicable to NYNEX, Atlantic Bell Companies, Bell South, Southwestern Bell, American Information Technology Corp., U.S. West, Pacific Telesis Group and to all successors in interest to those companies as stated herein.

82. It is further ordered that the Petition for Declaratory Ruling filed by North American Telephone Association filed November 30, 1982 is Granted as described herein.

83. It is further ordered that all motions to accept late file pleadings are hereby granted.

84. It is further ordered that NYNEX, Atlantic Bell Companies, Bell South, Southwestern Bell, American Information Technology Corp., U.S. West, and Pacific Telesis Group shall file interim capitalization plans for the formation of separate subsidiaries which comply with the Computer II rules and decisions rendered pursuant to those rules within 30 days of the release of this order if they intend to enter unregulated markets by January 1, 1984 and formal capitalization plans no later than June 30, 1984. The RBOCs should be in compliance with the Computer II rules as modified in this order within six months of the release of this order.

85. It is further ordered that if an RBOC wishes to provide billing services for CPE customers pursuant to this order it shall file its accounting plan with the Commission within 60 days of the release of this order.

86. It is further ordered that if an RBOC wishes to refer customers to its Computer II subsidiary pursuant to this order it shall file its accounting and operational plan with the Commission within 60 days of the release of this order.

87. It is further ordered that if an RBOC wishes to provide installation and maintenance services for residential and single-line business telephones

[31] Presently pending, however is a Petition for Declaratory Ruling filed by IBM seeking to determine whether an offering of Southern Telephone & Telegraph Co., Local Area Data Transport Services, is an enhanced service and, hence, should not be offered pursuant to tariff. See n.18, *supra*. In addition, presently pending before the Commission is a request for waiver filed by Michigan Bell Telephone Co. in order to provide Miss Dig, an enhanced service which permits a caller who wishes to dig into the ground to discover the location of any nearby utility lines. ENF File No. 83-30.

[32] AT&T presently plans to hold separate the CCSO staff for the support of cellular services from that of the CSO. This planned separation should include the use of accounting which is separate from that utilized to collect costs of other CSO operations. Within 60 days of the date of this order the CCSO shall file a description of the separation conditions it plans to adhere to and the accounting plan it proposes to use to hold cellular costs separate from other regulated costs. AT&T states that at some time in the future it may decide to merge the staff of the CCSO with that of the CSO. At least six months prior to the time any such modification is planned to take place, the CSO must present its plans to the Commission describing the merger and identifying where in the CSO the CCSO staff will be transferred and present its plan with respect to how these services are to be provided consistent with the Cellular rules.

pursuant to this order it shall file its accounting and operational plan with the Commission within 60 days of the release of this order.

88. It is further ordered that if an RBOC or the CSO propose to share administrative services between the Computer II subsidiary and other portions of the company, it shall file a shared administrative services plan with the Commission within 60 days of the release of this order.

89. It is further ordered that the RBOCs shall file with this Commission within 60 days of the release of this order a report describing the activities of the Central Services Organization as required herein and a report describing Yellow Pages operations as required herein. These two reports may be consolidated into one.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, Appendices A and B, Summaries of Comments, of this document will not be printed herein. However, these comments may be viewed in the FCC Dockets Branch, Rm. 239, 1919 M St. NW., Washington, D.C. 20554.

[FR Doc. 84-554 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-712; RM-4476]

FM Broadcast Station in Lawton, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 232A to Lawton, Oklahoma, as that community's fourth FM assignment, in response to a request filed by James L. Gardner.

DATE: Effective March 12, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lawton, Oklahoma), MM Docket No. 83-712; RM-4476.

Adopted: December 14, 1983.

Released: January 5, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* 48 FR 34778, published August 1, 1983, proposing the assignment of Channel 232A to Lawton, Oklahoma, as that community's fourth FM allocation, in response to a petition filed by James L. Gardner ("petitioner"). Supporting comments were filed by the petitioner reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 232A to Lawton. An interest has been shown for its use, and such assignment could provide a fourth local FM service to that community.

3. As explained in the *Notice,* in order to comply with the minimum distance separation requirements of § 73.207 of the Commission's Rules, the instant proposal requires a site restriction 4.2 miles northwest of Lawton to avoid short-spacing to Station KDNG-FM (Channel 233), Gainesville, Texas.

§ 73.202 [Amended]

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 12, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Lawton, Oklahoma	232A, 237A, 251, and 269.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-555 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Improved Personnel Dosimetry Processing

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: Tests have indicated that a significant percentage of personnel dosimetry processors may not be performing with a reasonable degree of accuracy. Current regulations do not address the competency of these processors. The Nuclear Regulatory Commission (NRC) is proposing amendments that would require its licensees to utilize the specified services of processors that have been accredited by the National Voluntary Laboratory Accreditation Program of the National Bureau of Standards.

DATES: Comments must be received on or before March 12, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule, the supporting Regulatory Analysis and the Initial Regulatory Flexibility Analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of the Regulatory Analysis, the Initial Regulatory Flexibility Analysis, and of comments received by the Commission regarding this rulemaking may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies of the Regulatory Analysis and Initial Regulatory Flexibility Analysis may be obtained on request from Margaret V. Federline, Occupational Radiation Protection Branch, Division of Facility Operations, Office of Nuclear Regulatory Research, Mail Stop NL 5650, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Margaret V. Federline, Division of Facility Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Mail Stop NL 5650, Washington, DC 20555, telephone (301) 443-7686; inquiries regarding the Laboratory Accreditation Program for Personnel Dosimetry Processors at the National Bureau of Standards should be addressed to Robert L. Gladhill, Office of Laboratory Accreditation, National Voluntary Laboratory Accreditation Program, National Bureau of Standards, Technology B-141, Washington, DC 20234, telephone (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Personnel dosimeters are devices worn by workers to monitor their exposure to radiation. NRC licensees are required to perform personnel monitoring as specified in 10 CFR Part 20, § 20.202, and to record and maintain radiation exposure records as specified in § 20.401.

Several types of personnel monitoring devices are available:

1. Whole body or whole body and skin personnel dosimeters, such as film badges including track-etch type dosimeters, and thermoluminescent dosimeters (TLDs) including albedo dosimeters;
2. Extremity dosimeters for assessing dose equivalent to hand and forearms, feet and ankles; and
3. Pocket ionization chambers, including direct-reading and indirect-reading dosimeters.

After being exposed to radiation, personnel dosimeters (with the exception of pocket ionization chambers) must be processed to estimate the radiation dose received by the individual while wearing the device. Dosimeters are collected from workers at various prescribed time intervals and processed either by the licensee in-house or by a commercial dosimetry processor(s). Personnel dosimeters appear to be capable of providing consistently accurate information on the amount of radiation received, provided the dose recorded by the dosimeter is above the detection threshold, e.g., about 20 mrems for photons. However, personnel dosimeters must be processed accurately and consistently, and interpreted correctly to provide adequate dose estimates. Data from the processing of personnel dosimeters are the basis for licensee and NRC records of external doses to workers.

Several dosimetry processor performance studies conducted between 1967 and 1976 indicated poor performance (excessive bias and variance) of processor's dosimeters when tested against a number of early performance standards; [1] these studies clearly demonstrated the need for common performance criteria for both film and thermoluminescent dosimeter (TLD) processor testing. As a result of these studies and strong encouragement by the Task Force on Personnel Dosimetry of the Conference of Radiation Control Program Directors (which represents the States), the NRC, the Bureau of Radiological Health (now the National Center for Devices and Radiological Health), and the Energy Research and Development Administration (now the Department of Energy) jointly conducted a public meeting in 1976 at which the personnel dosimetry performance problem was discussed in an open forum by personnel dosimetry processors, dosimetry users, and representatives of State Governments and Federal agencies. These discussions revealed general agreement that a personnel dosimetry problem does exist and that the problem is sufficiently broad in scope that it should be adddressed by the Federal government, since voluntary standards programs for personnel dosimetry processors have historically failed to achieve wide participation and acceptance from the personnel dosimetry processing industry. Also, copies of a draft performance standard,

[1] C. M. Unruh, et al., "The Establishment of and Utilization of Film Dosimeter Performance Criteria," BNWL-542, (1967), Battelle Northwest Laboratories, Richland, Washington.

L. Nichols and C. Newton, Jr., "Performance Tests of Commercial Personnel Monitoring Services," July 25, 1974–January 25, 1975, Battelle Northwest Laboratory, Richland, Washington. Unpublished Report—Available NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

L. L. Nichols, "A Test of the Performance of Personnel Dosimeters," BNWL-2159 (1977), Battelle Northwest Laboratory, Richland, Washington.

which designed to establish uniform criteria for testing the performance of film and TLD dosimetry processors, were distributed at the meeting. The draft standard was written by a working group of the Health Physics Society Standards Committee (HPSSC) and was subsequently published in draft form by the American National Standards Institute (ANSI) as ANSI Standard N13.11.

Many of the 1976 public meeting attendees cautioned against precipitious action by any Government agency and strongly recommended a pilot study (1) to evaluate the newly formulated draft HPSSC/ANSI Standard N13.11, and (2) to provide processors the opportunity to take any necessary corrective actions in their operations prior to the implementation of new Federal regulations on the dosimetry performance problem.

As a result of these recommendations, two rounds of personnel dosimetry processor proficiency testing were conducted for NRC by the University of Michigan (UM) from 1977–1979.[2] Fifty-nine personnel dosimetry processors, who provide dosimetry services for approximately 90% of the nuclear worker population in the U.S., voluntarily participated in these tests. Proficiency testing was conducted in accordance with the draft HPSSC/ANSI standard.

The HPSSC/ANSI Standard, "Criteria for Testing Personnel Dosimetry Performance," includes criteria for performance testing of personnel dosimetry processors who provide whole body or whole body and skin dosimetry services in eight radiation categories including x-ray, gamma, beta, neutron, and mixtures of these radiations. Criteria for testing the performance of extremity dosimeter processors and for use in evaluating the performance of pocket ionization chambers were specifically excluded from the scope of the HPSSC/ANSI Standard by the working group who wrote the Standard.

Results of the two rounds of proficiency testing of dosimetry processors indicated that improvement is needed on the part of many processors and that a significant percentage of the processors are not performing with a degree of accuracy acceptable to the NRC. Criteria for dosimetry processor performance acceptable to the NRC are specified in ANSI Standard N13.11. Results also indicated that the whole body or whole body and skin dose received by occupationally exposed personnel may often be considerably different from the dose recorded.

Because of the importance of personnel dosimetry measurements and the apparent poor performance of some processors, NRC considers that there is a need to evaluate the performance of personnel dosimetry processors periodically and to make a specific determination of competency.

Interagency coordination and cooperation was initiated very early in the program with the formation of the Interagency Policy Committee on Personnel Dosimetry (IPCPD) in 1977 to guide and coordinate correction of the dosimetry processor performance problem. NRC staff members have participated and reported to the IPCPD on the progress of this rulemaking action at all meetings. The IPCPD Committee includes representatives from: The National Center for Devices and Radiological Health [3] which is a part of Health and Human Services (HHS), the Department of Defense (DOD), the Department of Energy (DOE), the Environmental Protection Agency (EPA), the National Bureau of Standards (NBS), the NRC, the Occupational Safety and Health Administration which is a part of the Department of Labor (DOL), and the Conference of Radiation Control Program Directors which represents the States.[4] The representatives of these agencies consider the NRC to be the lead agency for the overall problem, and they plan to recommend to their various agencies that similar programs be adopted.

Industry coordination and cooperation from personnel dosimetry processors has been sought since 1977 when the Industry Overview Committee on Personnel Dosimetry was formed to monitor the progress and development of this program and to ensure that any regulatory action would be effective and appropriate to the need.

The NRC published in the Federal Register (45 FR 20493) an Advance Notice of Rulemaking (ANR) on March 28, 1980. The ANR fully described the results of the UM tests, discussed the need for improved dosimetry processing through rulemaking, and presented and requested comments on four methods for the operation of a proficiency testing laboratory (PTL) that would conduct performance testing against the criteria in the HPSSC/ANSI Standard. Any PTL established in accordance with one of these methods would be monitored for technical competency by the National Bureau of Standards (NBS). Licensees would be required to obtain or provide dosimetry services which satisfied criteria as established by the NRC and administrated by the PTL. The four methods for PTL operation as described in the ANR are:

1. NRC would not specify the PTL; processors and licensees would be left to their own initiatives to establish one or more PTL(s) to administer proficiency testing against the standard.

2. The PTL would be a Federal government facility managed and operated by NRC.

3. NRC would contract the services of a PTL and utilize the contractor's facilities.

4. Other government agencies experienced in laboratory testing would operate a PTL in Federal government-owned facilities.

Of the forty-six letters of comment received in response to the ANR, twenty-one letters did not state a preference for a method of operating the PTL. Three commenters felt no program at all was necessary. In the remaining 22 comment letters, one or more preferences were expressed as being acceptable for the operation of the PTL. Twenty preferences were for the various types of Federal government-controlled laboratories (methods 2, 3, or 4). Comments asked questions and commented on who should control the testing laboratory and on procedures to be used in the regulatory program, as addressed in the ANR. Other commenters discussed potential administrative, contractual, and legal problems that could result from a processor failing to achieve accredited status. These problems have been investigated by the NRC staff. There was concern regarding the values and impacts of this regulatory program. Many commenters discussed the importance of defining and requiring minimum elements of a generic quality assurance program that should be established. Several dosimetry processors who replied requested that a third round of performance testing be conducted to allow processors to be tested against the revised standard before a program becomes effective. (Such testing has been conducted, and is discussed later in this notice.) The major technical questions raised concerned the

[2] Plato, P. and G. Hudson, "Performance Testing of Personnel Dosimetry Services: Final Report of a Two-year Pilot Study, October 1977–September 1979," NUREG/CR 1064, January, 1980 University of Michigan, Ann Arbor, Michigan.

[3] Formerly the Bureau of Radiological Health (BRH).

[4] The Conference of Radiation Control Program Directors has strongly supported the development of this rule since 1973. The Conference recently advised the States of the current status of this program and encouraged individual letters to the Commission urging their strong endorsement for this rule. Several such letters have already been received.

selection of dose conversion factors within the standard and the appropriateness of currently required dose measurements at three tissue depths described in NRC Form 5. These comments were examined, and a response is contained within the summary analysis of comments, which is available for review at the Commission Public Document Room (see Addresses section of this notice).

Subsequently, on April 15, 1980, the NRC staff briefed the Commission on interim actions that could be taken by NRC staff to improve personnel dosimetry processing prior to the date of the effective rule. The Commission discussed the importance of examining a processor's routine processing activities to ensure appropriate quality assurance techniques were being utilized and to determine that routine dosimetry processing was being conducted with the same processing protocols that a processor might use when participating in performance testing.

On May 28 and 29, 1980, the NRC held a two-day public meeting with personnel dosimetry processors and other interested persons to discuss alternative methods for the operation of a PTL as stated in the ANR and to obtain comments from the dosimetry processing industry on the appropriate elements of a quality assurance (QA) program for personnel dosimetry processing.

During the comment period, a fifth method for PTL operation was identified by the National Bureau of Standards (NBS) which would be part of the National Voluntary Laboratory Accreditation Program (NVLAP) of the NBS which is a part of the Department of Commerce (DOC). The NBS, through NVLAP, could contract the services of a PTL to administer proficiency testing of processors which would utilize the contractor's facilities under currently existing NVLAP procedures. The NVLAP method would include a thorough examination of each participating processor's routine dosimetry processing and quality assurance activities through an on-site review. The NVLAP method would essentially offer a system of third party accreditation by a Federal government agency, the DOC, through the NBS.

In a letter dated December 23, 1980, the NRC staff requested the DOC to work together with NRC to establish a Laboratory Accreditation Program for Personnel Dosimetry Processors. The DOC, in accordance with NVLAP procedures and authority, stated in 15 CFR Part 7b, published NRC's request for the development of such a Laboratory Accreditation Program (LAP) in the Federal Register on January 29, 1981 (46 FR 9689) and requested public comment. The NRC sent a copy of the DOC's Federal Register Notice and a description of the NVLAP method to all known dosimetry processors, and known interested persons on February 6, 1981.

Nineteen letters of comment were received on the NVLAP method for operating the PTL as part of an accreditation program. The 19 letters were unanimous in favoring this method for operating a program for improved dosimetry. These comments are available for review at the Commission's Public Document Room (see Addresses section of this notice).

The HPSSC, which developed the draft standard that was used in the UM personnel dosimetry performance testing studies, has completed and adopted the final Health Physics Society Standard which has also recently been accepted as a final American National Standard, ANSI N13.11, by the Board of Standards Review of ANSI. Provisions will be made in the program associated with this rulemaking action to allow for changes in the ANSI standard as research or practical experience shows the need for revision.

Since the draft HPSSC/ANSI standard was significantly revised following the UM pilot study, the NRC staff authorized the UM to conduct a third round of performance testing of processors against the revised standard. This round of testing has been completed.[5] Essentially the same conditions under which processors were tested in rounds 1 and 2 were also present for this final round of testing.

Seventy dosimetry processors voluntarily participated in the third round of testing. It is estimated that these 70 dosimetry processing services develop and/or process more than 80% of the dosimeters worn by radiation workers in the U.S. Fifty-four of the 70 dosimetry processors completed these tests; seven processors dropped completely from the program during the testing period while the other nine processors submitted dosimeters but failed to return reported doses for these dosimeters to the proficiency testing laboratory at the UM. The accuracy of the irradiations performed by the UM for all radiation categories was verified by the NBS. All pilot study results have been maintained confidential by the University, and results of the pilot study are coded so that processors' names and results remain anonymous, even to the NRC.

Processors chose the categories in which they were tested. The standard provides for tests to be conducted from a total of six radiation protection categories and two radiation accident categories. The radiation protection categories include high-energy photons, low-energy photons, beta particles, neutrons plus high-energy photons, mixtures of high- and low-energy photons, and beta particles plus high-energy photons. Radiation accident categories are for high- and low-energy photons.

Participants sent the prescribed number of dosimeters to the UM where they were irradiated to doses known only to the UM and returned to the processor. The processor then determined the dose for each dosimeter and reported the results back to the UM.

The ANSI standard evaluates a processor's ability to determine the dose within a specific tolerance limit, L. Statistical criteria used in the standard include bias and precision terms. For each category, the average performance index (bias term), $\bar{P}$, and its standard deviation (precision term), S, are calculated. The performance index for a single dosimeter, P, is calculated by:

$$P=\frac{H'-H}{H}$$

where:
H=delivered quantity
H'=reported quantity

For each category, an average performance index, $\bar{P}$, and its standard deviation, S, are calculated.

A processor passes a category if

$\bar{P}+S<L$
where
a: L=0.3 (accident categories)
b: L=0.5 (protection categories)

The standard deviation, S, for a set of dosimeters is a measure of how results are scattered. It should be noted that the individual results can be very scattered and still have an average result very near, or even equal to, the true value. Widely scattered results have a large value of S; if the individual results are all very near the true value, S is very small.

Results from the third round of tests have been analyzed. Several dosimetry processors submitted more than one model of dosimeter for performance testing. Of the models submitted for testing, 75% of all catergories attempted were passed; thus, 25% of all category

[5] Plato, P. and J. Kikoa, "Performance Testing of Personnel Dosimetry Services: Final Report of Test #3," NUREG/CR-2891, November 1982, University of Michigan, Ann Arbor, Michigan.

tests attempted were failed. In total, 86 different models of dosimeters were submitted for these tests. Six percent of all models of dosimeters failed every category attempted and 44% passed every category attempted. Therefore 50% of all models submitted for testing did not successfully pass all categories for which they were tested. The highest overall passing rate for all models of dosimeters among the eight radiation categories was 94% for high-energy photons in the protection dose range, and the lowest passing rate of 55% was achieved for low-energy photons in the protection dose range.

An alternative method of examining the overall performance of dosimetry processors would be to examine the performance index, P, of each of the dosimeters irradiated without regard to S. When the reported dose estimate is compared with the delivered dose, 78% of the dosimeters tested during the third round were within ±30% of the correct delivered dose. When the individual results are evaluated using criteria of ±50% of the correct delivered dose, 89% of all processed dosimeters met this criterion.

Although the identity and individual results of the dosimeter test data are confidential to the UM, the contractor reports that the categories failed in this round of testing are evenly distributed among large and small, commercial and in-house processors. NRC considers that improvement on the part of most dosimetry processors is needed and that the regulations should be amended to include competency requirements to improve the quality of dose measurements.

Regulatory Approaches Considered for the Proposed Rules

The Commission recognizes that any performance testing program can only test the ability of a processor to meet the criteria of a standard at a given point in time. A performance testing program, by itself, will not determine whether the processor actually treats its routine client's dosimeters with the same competency accorded to dosimeters received from the PTL. Therefore, it is necessary to supplement the performance testing program with checks of a processors quality assurance program regardless of the method chosen.

The Commission considered five alternative approaches for establishing a regulatory program intended to ensure improved personnel dosimetry processing. The following regulatory alternatives are presented by ranking these options from the least restrictive (no action necessary) to the most restrictive.

Alternative 1—No change in current requirements.

Alternative 2—Change in the regulation to require that licensees obtain personnel dosimetry processing from (1) processors who have successfully participated in dosimetry performance testing administered in accordance with the ANSI Standard N13.11, and (2) processors who have a documented quality assurance program. NRC would not specify the proficiency testing laboratory (PTL). The necessary elements of the QA program would be specified in the regulations. NRC inspectors would require from the licensee proof of successful performance testing and evidence that its processor's QA program complied with the regulation whether the dosimetry service was performed in-house or commercially.

Alternative 3—Change in the regulation to require that licensees obtain personnel dosimetry processing from (1) processors who have successfully participated in dosimetry performance testing administered in accordance with the ANSI Standard N13.11 by an NRC-specified testing laboratory, and (2) processors who have a documented QA program that contains necessary elements as specified in the regulation. This alternative differs from the previous alternative in that NRC would specify the PTL.

This alternative could be accomplished by either of the following approaches:

Alternative 3, Option A—NRC would obtain the services of a contractor laboratory through the competitive bidding process. NRC licensees would be required to obtain personnel dosimetry services from a processor who had successfully participated in performance testing by NRC's contractor PTL. NRC inspectors would, during licensee inspection, examine written proof provided by the licensee (1) that such performance testing was completed by the processor of licensee's personnel dosimetry, and (2) that the processor maintained a QA program that included the elements specified in the regulations.

Alternative 3, Option B—Third Party Accreditation: NRC would specify in the regulation that licensees utilize the services of personnel dosimetry processors accreditated under the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (NBS) which is a part of the Department of Commerce (DOC). NVLAP accreditation for personnel dosimetry processors would be based on three primary elements: (1) Performance testing of personnel dosimetry processors in accordance with ANSI Standard N13.11 to be performed by a laboratory contracted by NBS, (2) information collected from the personnel dosimetry processor by questionnaire, and (3) on-site inspection of routine dosimetry processing and QA techniques by NVLAP contracted assessors. The NBS would establish with NRC's approval general and specific accreditation criteria for a laboratory accreditation program (LAP) for personnel dosimetry processors which are consistent with NVLAP's established general and specific criteria currently used in programs for assessing the competency of laboratories (44 FR 12982). As appropriate, any exceptions to NVLAP accreditation criteria would be published in the Federal Register for public comment, and the necessary procedural steps to complete the NVLAP accreditation process for this LAP based on NRC's recommendations and the public response would be taken. The NBS, as the DOC's designee, would grant certificates of accreditation to those processors complying with NVLAP criteria. NBS, which is responsible for the on-site evaluation of laboratories under NVLAP procedures, would identify and contract with dosimetry processing experts, and it would conduct training regarding NVLAP procedures to prepare these technical experts to assess compliance of dosimetry processors with NVLAP criteria to ensure that an acceptable QA program is documented as well as implemented.

Alternative 4—Since many dosimetry processors are not NRC licensees, and since dosimeters in themselves are not radioactive but are passive monitors which measure dose received by the worker, NRC would request from the Congress the authority to license personnel dosimetry processors directly. If this authority were granted, the regulations would be appropriately amended regarding proficiency testing and quality assurance criteria acceptable to the NRC.

Alternative 5—Change in the regulation to require that licensees obtain their personnel dosimetry services from an NRC-operated or NRC-contracted dosimetry service. NRC would issue, through its laboratory, dosimeters for licensee use, and the laboratory would perform all dosimetry processing. In addition, all processing would be performed in accordance with an NRC-specified quality assurance program.

A complete analysis of these alternatives is included in the Regulatory Analysis which is available from Margaret V. Federline (see section entitled, "For Further Information Contact"), or the analysis may be examined in the Commission's Public Document Room (see section entitled, "Addresses").

Conclusions

The Commission is proposing amendments which endorse Alternative 3-Option B, which would, by amendments to the regulations, require NRC licensees to utilize the services of personnel dosimetry processors accredited by the National Bureau of Standards under the NVLAP program. The laboratory accreditation program, as previously described, would be administered by another Federal agency, the NBS, in accordance with NVLAP procedures specified in 15 CFR Part 7b. The NBS has, through a competitive solicitation process, contracted with the University of Michigan to conduct performance testing of processors against criteria specified in ANSI Standard N13.11 and plans to contract the personal services of personnel dosimetry experts to conduct on-site review of an applicant processor's routine dosimetry processing and quality assurance activities. This alternative would help correct the personnel dosimetry processor performance problem with minimum NRC staffing and resources. This program has been designed to become self-supporting from processor fees and will biennially test and evaluate the technical competency of personnel dosimetry processors performing dosimetry services for NRC licensees. It would also establish uniform minimum quality assurance criteria for routine and special dosimetry processing.

The NRC and NBS signed an Interagency Agreement on July 17, 1981, for the establishment of a Laboratory Accreditation Program (LAP) for Personnel Dosimetry Processors and a revision to that agreement on June 18, 1982 (copy available upon request). The DOC/NBS NVLAP staffs have worked with the NRC staff to develop this program within an appropriate time frame.

The Interagency Policy Committee on Personnel Dosimetry has been kept abreast and consulted about the development of the laboratory accreditation program by NBS for NRC. Representatives on the Committee have expressed agreement with the NVLAP program.

The Industry Overview Committee has worked closely with NRC and NVLAP personnel (1) in reviewing and suggesting proposed accreditation criteria for use in the development of this laboratory accreditation program, (2) in providing guidance toward selecting, training, and defining the role of NVLAP assessors who will be responsible for conducting on-site review of personnel dosimetry processors' quality assurance programs, and (3) by participation in a recent two-day public workshop sponsored by NVLAP, which was held in Washington, D.C., April 12 and 13, 1982, at NBS to discuss technical benchmarks for determining compliance of personnel dosimetry processors with NVLAP accreditation criteria.

Copies of NVLAP general and specific criteria are available in 15 CFR part 7b, and single copies are available upon request from Robert L. Gladhill (see "ADDRESSES" section). NVLAP criteria address the operation of the laboratory by focusing on the organizational structure, technical management, professional and ethical business practices, and the system for assuring the quality of test results. The criteria also generically indicate those fundamental elements necessary for the successful performance of routine services by applicants including staff competence and training, laboratory facilities and equipment, test plans, equipment calibration procedures, laboratory records, data handling procedures, and quality control checks and audits.

The availability of the laboratory accreditation program was announced by NBS/DOC in the Federal Register on July 28, 1983 (48 FR 34316), and supplemental information has been provided to NVLAP program applicants which details, using dosimetry processing terminology, the way general and specific criteria apply to dosimetry processors. The NVLAP/NBS staffs have worked closely with the personnel dosimetry processors, the Industry Overview Committee on Personnel Dosimetry, the Interagency Policy Committee on Personnel Dosimetry, and the NRC in developing approriate supplemental information for this LAP which was used in writing the application booklet that provides the details of NVLAP accreditation. The criteria and supplemental information establish a framework for uniformly evaluating personnel dosimetry processors, for minimizing accreditation costs, and for administering the program.

Scope of Proposed Rules

These proposed rules are specifically applicable to the processing of personnel dosimeters used to satisfy NRC requirements for determining the whole body or whole body and skin dose from X-rays, gamma, beta, and neutrons, or mixtures of these radiations for which dosimeter processing is required including film, track-etch, thermoluminescent and albedo-type dosimeters.

While the NRC recognizes the importance of assessing the accuracy of extremity dose measurements made by dosimetry processors, performance criteria for testing processors for extremity dosimeters are not available at this time. The NRC has formally requested the HPSSC to form a working group to establish such performance and quality assurance criteria for extremity dosimeter processing testing. The Chairman of the HPSSC has acknowledged the NRC's request for development of such a standard and has announced that such a group has been formed. It is estimated that a minimum of two years will be required for development and publication of a final ANSI Standard after formation of the working group. If publication of a draft ANSI Standard for public trial and use is desirable, a minimum of one and a half years would be required after working group formation. The NRC will consider appropriate amendments to § 20.202(c) when such performance criteria are available, and it is expected that such criteria will subsequently be added to the LAP for personnel dosimetry processors at the NBS.

While the NRC recognizes that some licensees use pocket ionization chambers for the purposes of recording the official whole body dose of individual employees and that this is an acceptable method of providing dosimetry services in accordance with § 20.202 of the NRC regulations, pocket ionization chambers do not require the services of a personnel dosimetry processor for interpretation or dose assessment. Appropriate calibration of pocket ionization chambers is necessary for their correct utilization. Performance criteria and calibration guidance for appropriate use and selection of pocket ionization chambers are available in NRC's Regulatory Guide 8.4, "Direct-Reading and Indirect-Reading Pocket Dosimeters," and from ANSI standards; but since these dosimeters do not require processing, they are beyond the scope of these proposed rules.

Personnel dose determinations can also be derived from survey measurements and exposure time; but, these determinations are also not included in the scope of these proposed rules.

Proposed Implementation

Processors must request application materials, complete their application forms, and submit fees to NVLAP for proficiency testing and administration which includes on-site assessment by one or more NVLAP assessors. The operational LAP and proficiency testing is currently scheduled to begin by January 1984. Copies of the LAP availability notice have been sent to all known personnel dosimetry processors and known interested persons. Processors who wish to have full benefit of additional periods of proficiency testing before NRC's final rule becomes effective (to ensure that they pass the initial testing categories they attempt) should register immediately. According to current projections, the first accreditations could be announced as soon as six months after the beginning of proficiency testing. NRC's final rule will be scheduled to become effective approximately 26 months after proficiency testing begins (February 1986) to allow processors ample opportunity to participate in performance tests administered by NBS's contractor PTL. NRC plans to act on the final rule as soon as possible after analysis of comments to this Notice of Proposed Rulemaking.

With respect to Agreement States, this item will be made a matter of compatibility because it concerns basic radiation standards.

Paperwork Reduction Statement

The application, reporting, and recordkeeping requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB); OMB approval No: 3150-0014.

Initial Regulatory Flexibility Statement

The need for these rules has been described in the Regulatory Analysis which is available for copy at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 or from Margaret V. Federline (see section entitled "For Further Information Contact"). The Regulatory Analysis contains a complete analysis of all technical and procedural alternatives and a statement of statutory considerations.

These rules as proposed would require NRC licensees to utilize the services of personnel dosimetry processors who are accredited under the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (NBS). Currently, NRC licensees are not required to obtain services of accredited processors because NRC does not have competency requirements for personnel dosimetry processors in its regulations. These rules are, however, being developed concomitantly with a Laboratory Accreditation Program for Personnel Dosimetry Processors being established for NRC by the NBS. It is important to note that all dosimetry processors are not NRC licensees but that nearly all commercial dosimetry processors do business with NRC licensees. It is further expected that the members of the Interagency Policy Committee on Personnel Dosimetry will recommend programs of the same nature for their respective agencies.

Approximately 4,500 licensees are currently performing personnel monitoring for their employees as prescribed in 10 CFR Part 20, § 20.202, and are maintaining radiation exposure records as specified in 10 CFR Part 20, § 20.401. NRC's contractor, the University of Michigan (UM), has estimated that there are about 90 personnel dosimetry processors in the United States who perform peronnel dosimetry services in-house or commercially. These processors were initially categorized in a June 13, 1981, letter which was updated in a November 6, 1982 letter from UM to NRC.[6] Eighty of these processors may be considered as large entities; they include seven large commercial processors, seven large private corporations, nine national laboratories, 31 nuclear power plants, 10 DOE contractors, eight military organizations, three large universities, four state public health departments, and one medical facility. These entities do not fall within the definition of "small entities," as set forth in section 601(3) of the Regulatory Flexibility Act, or within the definition of "small business" as found in section 3 of the Small Business Act, 15 U.S.C. 632, or the Small Business Size Standards in regulations issued by the Small Business Administration of 13 CFR Part 121. The remaining ten processors may, for purposes of this Regulatory Flexibility Statement, be considered "small entities" as defined in Section 601(3) of the Regulatory Flexibility Act. It was further estimated that as a group, these ten processors process only about 0.5% of all personnel dosimeters processed in the United States. It is estiamted that NRC licensees currently employ approximately 23% of the 1.4 million workers in the United States who require personnel monitoring as a result of their potential exposure to ionizing radiation.

The costs for participating in performance testing and the accreditation program, whether a processor is performing these services in-house or commercially and regardless of size, is for the purposes of this analysis approximately the same.

It has been estimated by processors that the average processor will spend approximately $7,800 on a one-time basis to prepare for the accreditation program. In most cases, the NRC believes these costs have already been incurred by processors because of the third round of testing at the UM against the revised standard and the frequent discussions and meetings that NRC staff has held with licensees and dosimetry processors in discussing the need for improved dosimetry processing and plans for NRC rules on this subject. Processors will also incur biennial costs for accreditation which include NVLAP administrative fees and costs associated with the proficiency testing administered by the PTL contracted by NBS to administer such tests in accordance with ANSI Standard N13.11. NVLAP administrative fees will include costs for (1) processing an application for accreditation, (2) conducting on-site inspection of an applicant processor's routine dosimetry processing and quality assurance techniques, and (3) for evaluating the competency and quality assurance efforts of the PTL. These biennial costs (which also include projected in-house costs to the processor) for the average processor which submits one model dosimeter for testing in eight radiation categories are estimated to be approximately $14,000 or $7,000 annually. Unlike the average dosimetry processor which participated in the third round of testing, the average "small entity" processor submitted one model of dosimeter for testing in 4 radiation categories. Projected costs for NVLAP accreditation fees, proficiency testing, and in-house costs for accreditation of a "small entity" processor total $11,800 for each 2 year accreditation period, or $5,900 annually. The Regulatory Analysis fully discusses the details of these estimates and projects that the individual processor costs could range from $6,200 to $17,200 every two years.

The total volume of business within the dosimetry processing industry is estimated at $34 million annually. The ten small personnel dosimetry processors which could be affected by this rule account for approximately 0.5%,

[6] Available at the Commission's Public Document Room (see section entitled Addresses) or Margaret V. Federline (see section entitled for Further Information Contact).

or $170,000 of the business annually.[7] While the NRC does not know the distribution of this volume of business amont the ten dosimetry processors, an even distribution would create an average annual business of $17,000. Thus, the estimated biennial accreditation costs of $11,800 ($5,900 annual cost) for the NVLAP program is likely to have a significant economic impact on their dosimetry processing . business. Complete details of these estimated accreditation costs are available in the Regulatory Analysis and in the Initial Regulatory Flexibility Analysis (available as explained under the heading "Addresses" earlier in this notice).

It is the finding of the Commission in the Preliminary Regulatory Analysis that the only acceptable alternative procedure for solving this problem is by rulemaking action and that the particular alternative proposed, third party accreditation by the National Voluntary Laboratory Accreditation Program (NVLAP), offers equal benefits for small and large processors and will almost certainly guarantee improvements in the quality of reported dose estimates. The costs necessary for compliance with this proposed regulatory program are well justified and worth the health and safety benefits that will result from improved dosimetry. The Commission has carefully examined the elements of the proposed NVLAP accreditation program and finds that differing compliance, reporting requirements, or simplification of the accreditation program are not acceptable for evaluating a processor's ability to perform accurate and consistent personnel dosimetry for NRC licensees. The NRC and NVLAP staffs have taken actions to reduce the costs associated with the accreditation of processors. The ultimate effect of a dosimetry processor not gaining accreditation could mean that it would no longer be feasible for the processor to remain in business. The accreditation process, however, offers a participating dosimetry processor considerable opportunities for correction of identified inadequacies, for repeat performance testing, and for appeal of any accreditation decisions.

In summary, the Commission has considered the impact of the NVLAP accreditation program upon the small entities affected, and has concluded that the benefits gained by workers, licensees, the general public and the NRC from providing improved personnel dosimetry services that would result from the proposed accreditation requirement and program are necessary in spite of the program's possible economic impact upon a few small entities.

Any small entity subject to this regulation which determines that because of its size that it is likely to bear disproportionate, adverse, economic impact should apprise the Commission of this in a written comment that indicates:

(a) The processor and/or licensee's size in terms of annual receipts derived from service, number of employees, and the number of dosimeters processed annually;

(b) How the proposed regulations would result in a significant economic burden upon the licensee or processor as compared to larger licensees or processors;

(c) How the proposed regulations could be modified to take into account its differing needs or capabilities;

(d) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the commenter; and

(e) How the regulations, as modified, would still adequately protect public health and safety and provide adequate radiation dosimetry services for U. S. nuclear workers.

List of Subjects in 10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, and Waste treatment and disposal.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 533 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 68 Stat. 930, 933, 935, 936, 937, 948, as amended; 42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201. For the purposes of sec. 223, 68 Stat. 938, as amended; 42 U.S.C. 2273, § 20.401–20.408 issued under sec. 161o., 63 Stat. 950, as amended; 42 U.S.C. 2201(o). Secs. 202, 206, Pub. L. 93–438, 88 Stat. 1244, 1246 (42 U.S.C. 5842), unless otherwise noted.

2. New paragraph (c) is added to § 20.202 to read as follows:

§ 20.202 Personnel monitoring.

* * * * *

(c) After February 1986, all personnel dosimeters, except extremity dosimeters and pocket ionization chambers, that require processing to yield a dose value and that are provided to comply with § 20.101, with the requirements of paragraph (a) of this section, or with the applicable terms and conditions of any license issued by the Nuclear Regulatory Commission:

(1) shall be processed by a processor currently accredited by the National Voluntary Laboratory Accreditation Program for Personnel Dosimetry Processors of the National Bureau of Standards in accordance with accreditation criteria established in 15 CFR Part 7b; and

(2) shall be approved in this accreditation process for the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

* * * * *

3. New paragraph (d) is added to § 20.401 to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

* * * * *

(d) Each licensee subject to § 20.202(c) of this part, in addition to preserving personnel monitoring records in accordance with § 20.401(c)(1) of this part, shall also preserve with these records copies of pertinent personnel dosimetry processor accreditation certificates from the National Voluntary Laboratory Accreditation Program as necessary to demonstrate compliance with § 20.202(c) after February 1986.

Dated at Washington, D.C. this 4th day of January, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[7] It should be noted that only 4 of the 10 identified "small entity" processors participated in the third round of testing at the UM.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AAL-7]

Proposed Alteration to Control 1234, Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to expand Control 1234, Additional Control Area, northward and westward to coincide with the newly established common boundary of the Oakland and Anchorage Oceanic Control Areas/Flight Information Regions. This action would facilitate the use of the more efficient domestic, rather than oceanic, air traffic control (ATC) procedures in the proposed designated airspace designation.

DATE: Comments must be received on or before February 24, 1984.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83-AAL-7, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AAL-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to expand Control 1234, Additional Control Area, westward and northward so that it would coincide with the newly established boundary of the Oakland and Anchorage Oceanic Control Areas/Flight Information Regions. Currently, the least efficient of ATC procedures (oceanic procedures) are applied by ATC in separating aircraft from each other in the proposed airspace designation. By incorporating this airspace into Control 1234, ATC would be authorized to apply the more efficient domestic ATC aircraft separation procedures. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Additional control area, Aviation safety.

The Proposed Amendment

§ 71.163 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Control 1234

By deleting the words "to lat. 54°49'00"N., long. 170°12'30"E.; to lat. 54°23'00"N., long. 174°30'00"E.; to lat. 53°36'00"N., long. 176°47'00"W.; to lat. 54°02'00"N., long. 174°00'00"W.; to lat. 60°00'00"N., long. 174°00'00"W.;" and substituting the words "to lat. 60°00'00"N., long. 180°00'00".W; to lat. 62°35'00"N., long. 175°00'00"W.;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a),

1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on January 3, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-542 Filed 1-9-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Parts 625 and 655

[FHWA Docket No. 83-26]

National Standards for Traffic Control Devices; Request for Comments on Proposed Amendments to the Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices; request for comments.

SUMMARY: The FHWA is inviting comments on proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD is incorporated by reference in the design standards for Federal-aid highways found in Part 625 of Title 23, Code of Federal Regulations. It also recognized in 23 CFR Part 655 as the national standard for traffic control devices on all public roads.

The amendments affect various parts of the MUTCD and are intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals, and markings.

DATE: Comments must be received on or before April 9, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-26, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, D.C. 20950. all comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($20.00).

FOR FURTHER INFORMATION CONTACT: Mr. Philip O. Russell, Office of Traffic Operations, (202) 426-0411, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA both receives and initiates requests for changes (i.e., amendments) to MUTCD. Each request is assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected an, by Arabic numeral, the order in which the request was received.

This notice is being issued to provide the public an opportunity to participate in the processing of proposed amendments to the MUTCD. Based upon comments received in response to this notice and upon its own experience, the FHWA will consider final amendments for inclusion in the MUTCD which will be published in the Federal Register and incorporated by reference in the CFR.

Index of Requests

1. Signs (Part II)

(a) Request II-1 (Chng.)—Specific Service Signs
(b) Request II-33 (Chng.)—Hazardous Material Routing Sign
(c) Request II-60(c) (Chng.)—Preferential Lane Signing and Marking
(d) Request II-65 (Chng.)—Service Signing for Liquefied Petroleum Gas
(e) Request II-66 (Chng.)—Lane Drop Symbol Sign
(f) Request II-67 (Chng.)—Delete/Modify LIMITED SIGHT DISTANCE Sign
(g) Request II-71 (Chng.)—Narrow Bridge Symbol Sign
(h) Request II-73 (Chng.)—Signing and Marking Structures with Substantial Vertical Clearances
(i) Request II-75 (Chng.)—Sign Requirements for Two-Way Left Turn Only Lanes
(j) Request II-76 (Chng.)—Supplemental Guide Signs for Traffic Generators Adjacent to Freeways
(k) Request II-77 (Chng.)—Guidelines for Selection of Control Cities
(l) Request II-78 (Chng.)—Library Symbol Sign
(m) Request II-81 (Chng.)—Symbol for CB Emergency Channel
(n) Request II-83 (Chng.)—Memorial Signing for Highways
(o) Request II-84 (Chng.)—Trial Markers on Interstates
(p) Request II-85 (Chng.)—Delete Word Message Alternates to Symbols

Markings (Part III)

(a) Request III-2 (Chng.)—Delineators on Tangent Freeways Not Required
(b) Request III-9 (Chng.)—Uses and Spacing of Raised Pavement Markers
(c) Request III-26 (Chng.)—Delete Requirements for No-Passing Zone Markings
(d) Request III-27 (Chng.)—Skid Resistance of Marking Materials
(e) Request III-23 (Chng.)—Chevron Marker

3. Signals (Part IV)

(a) Request IV-20 (Chng.)—Peak Hour Delay and Volume Warrants
(b) Request IV-34 (Chng.)—Traffic Signal Operation as a Flashing Device
(c) Request IV-38 (Chng.)—Bicycle Volume in Advance Engineering Data
(d) Request IV-39 (Chng.)—DONT ENTER Pedestrian Phase
(e) Request IV-42 (Chng.)—Traffic Signal Design Configuration
(f) Request IV-43 (Chng.)—Four Hour Traffic Signal Warrant
(g) Request IV-44 (Chng.)—Use of Lane Use Control Sign in Lieu of LEFT (RIGHT) TURN SIGNAL Sign
(h) Request IV-45 (Chng.)—Type E Signal Arrangment for the Stem Approach to a Tee Intersection

4. Traffic Control for Street and Highway Construction and Maintenance Operations (Part VI)

(a) Request VI-20 (Chng.)—Delete Use of Hand Signaling Flags
(b) Request VI-21 (Chng.)—Minimum Mounting Height of Barricade Warning Lights
(c) Request VI-23 (Chng.)—Color of Barricade Supports
(d) Request VI-24 (Chng.)—Minimum Lamp Candlepower of Arrow Panels
(e) Request VI-25 (Chng.)—Use of 28-inch Cones
(f) Request VI-26 (Intr.)—Detour Signing
(g) Request VI-28 (Chng.)—Identification of Channelizing Devices

Copies of the proposed text changes to the MUTCD will be distributed to everyone currently appearing on the FHWA mailing list for MUTCD matters. Those wishing to be added to the mailing list or receive copies of the proposed text should write to the Federal Highway Administration

(FHWA), Office of Traffic Operations, 400 Seventh Street, SW., Washington, D.C. 20590 or contact Mr. Philip O. Russell (202) 426-0411.

Discussion of Requests

The FHWA proposes to act on the following requests for change to the MUTCD as noted below:

1. Signs (Part II)

(a) *Request II-1 (Chng.)—Specific Service Signs.* Specific service information signs are official traffic control devices that provide directional information and the business identification of a limited number of facilities offering gas, food, lodging, and camping to highway users. Standards for specific service information signs are presently codified in 23 CFR Part 655, Subpart C. The MUTCD is the vehicle for publishing and distributing the national standards for traffic control devices and since the MUTCD is incorporated by reference in the CFR, it is inappropriate for the specific service information standards to remain isolated in a separate, detailed regulation.

Incorporating these standards into the MUTCD will consolidate all traffic control device standards into the same publication and facilitate the rescission of 23 CFR Part 655 Subpart C and the Federal-Aid Highway Program Manual, Volume 6, Chapter 8, Section 3, Subsection 8, National Standards for Specific Information Signs.

The FHWA is proposing that the standards for specific service information signs be incorporated into the MUTCD as a separate Subpart of Part II. The language as contained in the CFR has been rewritten into a format usable in the MUTCD. The criteria for availability of services and the area where services may be signed has been relaxed.

This proposed change imposes no additional costs as the choice of using specific service information signs rests with the highway agency.

(b) *Request II-33 (Chng.)—Hazardous Material Routing Sign.* There is interest by some States in designating certain routes for vehicles transporting hazardous cargos and from carrying hazardous cargos on other routes.

A research study was conducted for FHWA to consider hazardous cargo routes and traffic control devices. Based on this study a symbol depicting the intials HC on the side view of a flat bed truck was recommended. This symbol would be circumscribed by a green circle to identify routes where hazardous cargos are permitted and a red prohibitive symbol to identify locations where hazardous cargos are prohibited. The FHWA asked the National Committee on Uniform Traffic Control Devices (NCUTCD) to informally consider these symbols with educational plaques, as a national standard. The NCUTCD suggested, instead of these symbols, that the symbol approved for use in Canada be used. The Canadian symbol is a black diamond circumscribed by a green circle for permitting hazardous cargos and a red circle for prohibiting hazardous cargos.

The NCUTCD is concerned that many of the ramifications of this problem are unknown and that some 1,000 commodities have been classified as hazardous. Many hazardous cargos are transported by means other than trucks as depicted in the FHWA proposed symbol. Vehicles transporting hazardous cargos are required to display a diamond shaped placard of varying color and companion symbol that connotes the type of hazardous material.

The FHWA proposes to standardize a hazardous material symbol sign and is requesting additional input and comment on the symbols discussed above.

(c) *Request II-60(c)—Preferential Lane Signing and Marking.* The MUTCD provides only general information on the use of signing and marking preferential lanes. The FHWA requested comments in Docket No. 81-5, 46 FR 32822, on the possibility of expanding Sections 2B-20 and 3B-19 to provide more specific guidance on the application of traffic control devices in conjunction with preferential lanes.

The FHWA has received additional information and is proposing to make additions to Sections 2B-20 and 3B-19 of the MUTCD that will provide guidance on the frequency of signs considering speeds, block lengths, and other considerations. Suggested spacing of signs and destination information needs are included. Placement should be such that a motorist will at all times be able to see at least one and preferably two signs.

This proposed change would not impose any additional costs, but provides highway agencies additional guidance for identifying preferential lanes.

(d) *Request II-65 (Chng.) Service Signing for Liquefied Petroleum Gas.* The MUTCD provides for the use of white on blue directional signs to indicate the availability of eligible motorist services at intersections and interchanges. Eligible motorist services are restricted by the MUTCD to Food, Gas, Lodging, Camping, Phone, Hospital, Diesel, and Tourist Information. The National LP-Gas Association has requested that the MUTCD be amended to include liquefied petroleum gas (LP-Gas) as an eligible motorist service.

The National LP-Gas Association has reported that the sale of LP-Gas carburetors in 1979 exceeded 250,000 units, an increase of 84 percent over the number of units sold in 1978, and that there are probably over 500,000 LP-Gas powered vehicles in use in the United States.

The FHWA concludes that the number of LP-Gas vehicles and other conditions, such as remote and/or recreation areas, justify consideration of the LP-Gas service sign.

The FHWA proposes that the MUTCD be amended to permit LP-Gas identification as an acceptable motorist service.

This proposed change imposes no additional costs but would make standard a symbol for identifying LP-Gas refilling facilities.

(e) *Request II-66 (Chng.) Lane Drop Symbol Sign.* The MUTCD provides for the use of the special black on yellow warning legend EXIT ONLY on overhead guide signs related to lane drops at interchanges, but does not provide a standard warning sign for use at lane drops at intersections. However, the MUTCD requires the use of regulatory signs such as the R3-7 sign (RIGHT LANE MUST TURN RIGHT) at lane drops at intersections.

The city of Phoenix, Arizona, has developed a symbol sign and has requested a change in the MUTCD to adopt this as a standard warning sign for optional use in advance of lane drops, primarily at intersections. The proposed sign has a black legend on a yellow background.

The city of Phoenix commented that the legend RIGHT LANE MUST TURN RIGHT is too long for a diamond shaped warning sign and suggested adoption of the proposed symbol sign as a counterpart to the MUTCD W4-3 warning sign (Added Lane Sign).

The FHWA does not find there is sufficient information or justification for an amendment.

(f) *Request II-67 (Chng.) Delete/Modify LIMITED SIGHT DISTANCE Sign.* Section 2C-39 of the MUTCD specifies that the LIMITED SIGHT DISTANCE Warning sign (W14-4) is designed for use on vertical curves which do not have adequate safe stopping sight distance available.

The New York State Department of Transportation (NYDOT) commented that lack of further criteria and restrictions in the MUTCD on the use of the W14-4 sign has resulted in a

proliferation of the signs on completed projects in that State. The NYDOT recently completed a study entitled "Evaluation of Limited Sight Distance Warning Signs" [1] which indicates that the sign is neither understood nor complied with by drivers included in the study.

The NYDOT requested that Section 2C-39 either be eliminated from the MUTCD or that the MUTCD be amended to restrict the use of the sign. The NYDOT suggested criteria for use if the sign is not eliminated. The FHWA proposes adding criteria for use of the sign to Section 2C-39.

This proposed change adds no cost, but provides more specific criteria for identifying locations where limited distance signs might be used.

(g) *Request II-71 (Chng.)—Narrow Bridge Symbol Sign.* The Narrow Bridge symbol sign (W5-2a) is a pictorial representation of a bridge using two edge lines. Each edge line has four angles and three separate stroke widths. The symbol also has a single broken centerline. The Pennsylvania Department of Transportation (PennDOT) commented that the sign lacks boldness and public acceptance and that the broken centerline is not correct since two-way narrow bridges should be stripped for no-passing.

The PennDOT requested that the present symbol be deleted and that a proposed simplified symbol without a centerline and bolder strokes be adopted in its place. The PennDOT also requested that the proposed symbol be authorized for use at narrow structures such as culverts and underpasses as well as at narrow bridges.

The proposed symbol is untested and its adoption is opposed by the NCUTCD. Therefore, the FHWA does not propose a change.

(h) *Request II-73 (Chng.)—Signing and Marketing Structures with Substandard Vertical Clearances.* The MUTCD provides limited information on locating low clearance signs upon a substandard vertical clearance structure and marking the point of vertical obstruction. Frequently, the point of low clearance may be on the shoulder portion of the roadway, especially in sections that are heavily superelevated or for arched structures.

It has been proposed that more specific information pertaining to traffic control for low clearances be incorporated into the MUTCD. The FHWA believes that the signing in the MUTCD allows adequate flexibility and each site requires special consideration and engineering. The FHWA is not proposing to amend Section 2C-34.

(i) *Request II-75 (Chng.)—Sign Requirements for Two Way Left Turn Only Lanes (TWLTL).* Section 2B-19 requires by a "shall" condition that Two Way Left Turn Only Signs (R3-9a, 9b) be used where a lane in the center of a highway is reserved for the exclusive use of left turning vehicles in either direction and is not used for passing and overtaking. These signs may be either overhead mounted (R3-9a) or post mounted (R3-9b) signs.

The city of Phoenix requested that the MUTCD be changed to allow the option of exercising engineering judgment to determine if, or how frequently signing needs to accompany TWLTL striping.

The FHWA is proposing to amend Sections 2B-19 and 3B-12 to change the "shall" condition to "should" in the use of TWLTL signs and provide guidance for posting signs: (1) On perimeter routes approaching a city or metropolitan area where the TWLTL concept is used, (2) on new sections of TWLTL installation for a 1 year period, (3) in areas where weather conditions inhibit visibility of pavement markings, and (4) in areas where TWLTL concept is new or rare.

This proposed change would relax the present requirement of the MUTCD while maintaining adequate means to inform the public of two way left turn lanes.

(j) *Request II-76 (Chng.)—Supplemental Guide Signs for Traffic Generators Adjacent to Freeways.* Section 2E-28 of the MUTCD contains information on supplemental guide signing. The MUTCD recommends that each State develop an appropriate policy for supplemental signing taking into consideration such items as population, traffic generator and distance from the route being signed, and the significance of the destination. The American Association of State Highway and Transportation Officials (AASHTO) has developed a policy which provides supplemental signing criteria that will serve as the basis for determining that those facilities which generate the greatest need for information will be the ones used on the supplemental guide signs.

AASHTO has proposed that its policy on supplemental guide signing be incorporated as a reference in the MUTCD for nationwide guidance.

Accordingly, the FHWA proposes to add to Section 1A-7 and Section 2E-28, second paragraph, a reference to the AASHTO Policy, Guidelines for Selection of Supplemental Guide Signs for Traffic Generators Adjacent to Freeways.

In conjunction with this change, the FHWA is proposing to relax the recommendation in Section 2E-28 for States to develop a supplemental signing policy and the requirement for installation of supplemental guide signs as an independent assembly.

This proposed change would not impose any additional costs, but provides a reference to a source of information that will promote more uniform implementation of supplemental signed destinations.

(k) *Request II-77 (Chng.—Guidelines for Selection of Control Cities.* Section 2F-7 states that control cities are major destinations on the freeway route, but does not further define major destinations.

The AASHTO has developed guidelines for selecting control cities which should be applied to new requests for signing control cities, but are not intended to be used as a basis for revising established signing. The AASHTO has requested the criteria be incorporated into the MUTCD.

The FHWA is proposing to amend Section 2F-7 to incorporate only a reference to the AASHTO criteria on selecting control cities.

This proposed change would not impose any additional costs, but provides better criteria for selection of major destinations for signing messages.

(l) *Request II-78 (Chng.)—Library Symbol Sign.* The American Library Association (ALA) has developed and tested a white on blue symbol for use to identify libraries and has proposed its use as an alternative to the library word message. Libraries are primarily a destination rather than a motorist service, therefore, the colors should be white on green background. The symbol is of a stylized person looking at an open book.

This symbol does not convey the intended specific meaning. Therefore, the FHWA is not proposing the adoption of the library symbol as a white on green General Information Sign (I Series).

(m) *Request II-81 (Chng.)—Symbol for CB Emergency Channel.* REACT International, Inc., has proposed the adoption of a symbol sign to indicate citizens band (CB) radio monitoring service by either official or volunteer personnel. The symbol depicts the hand held mike portion of a CB radio.

A recently approved addition to the MUTCD provides for signing, as needed, to identify areas where the emergency (CB) channel is monitored by an official

[1] Evaluation of Limited Sight Distance Warning Signs, 1981, Traffic and Safety Division, New York State Department of Transportation. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

government agency or its official designee. This approved sign contains the name of the monitoring agency and the words MONITORS CB CHANNEL 9.

The FHWA does not propose adoption of the mike symbol sign which would be accompanied with a supplemental plate identifying the official monitoring agency as an alternate to the Channel 9 Monitored Sign (D12-3).

(n) *Request II-83 (Chng.)—Memorial Signing for Highways.* At the outset of the Interstate highway program AASHTO developed a signing policy for the Interstate System. Included in that policy was a provision that prohibited signing Interstate highways as Memorial Highways. This policy was concurred in by the FHWA and subsequently incorporated into the MUTCD.

This policy and the subsequent standards have permitted recognition of the memorial names by allowing the placing of memorial plaques in rest areas, scenic overlooks, or other appropriate points inconspicuously located relative to vehicle operation along the highway.

The FHWA has received many requests for approval to memorialize highways with the intent of placing a sign along the route which so identifies that route. The naming of a public highway and the placing of signs is a State responsibility and there is a strong desire at the State level to permit installation of memorial signing. Accordingly, the FHWA proposes to amend Sections 2D-50 and 2F-2 to eliminate the prohibition to memorial signing.

This proposed amendment will not impose any additional costs on highway agencies but will allow States greater latitude in the installation of Memorial Highway signs.

(o) *Request II-84 (Chng.)—Trail Markers on Interstates.* Trail markers are informational plaques or shields that provide the public with route guidance in following a trail of particular cultural, historical, or educational significance. The MUTCD permits the use of such trail markers on conventional roads but specifically disallows this use on the Interstate system.

The FHWA is proposing to amend Section 2D-51 to eliminate the prohibition of trail markers on Interstate highways.

This proposed amendment will impose no additional costs on highway agencies but will permit the identification of an Interstate route as a part of a particular trail.

(p) *Request II-85 (Chng.)—Delete Word Message Alternates to Symbols.* Over the years, the trend set in the MUTCD has been toward broader use of symbols rather than word message signs. Symbols have several advantages over word messages. They provide instant communication with the traveling public, since they can be understood at a glance without having to be read. Also, they overcome language barriers. This is important in view of the growth of international travel. The gradual implementation of symbol signs over the past 10 years has helped promote public familiarity through uniform application.

Because of the above reasons, the FHWA is proposing that the following sections of the MUTCD be revised to eliminate the use of word message signs for the following signs having a standard symbol sign.

Section 2B-15—Turn Prohibition Signs
Section 2B-16—U-Turn Prohibition Signs
Section 2B-25—Keep Right Sign
Section 2B-36—No Hitchhiking
Section 2C-17—Signal Ahead
Section 2C-21—Narrow Bridge
Section 2C-23—Divided Highway (Road) Begins
Section 2C-24—Divided Highway (Road) Ends
Section 2C-25—Two-Way Traffic
Section 2C-26—Hill Sign
Section 2C-28—Pavement Ends
Section 6B-20—Advance Flagger
Section 6B-23—Worker Sign

This proposed change will impose some additional costs on highway agencies. The costs will be reduced to a neglible amount by providing an extended period for implementation.

2. Markings (Part III)

(a) *Request III-2 (Chng.)—Delineators on Tangent Freeway Sections Not Required.* The Texas State Department of Highways and Public Transportation requested that the MUTCD be changed to delete the requirement for delineators on tangent sections of freeways. The State feels that continuous delineators are not needed for motorist guidance where edge markings are used.

Research has shown that raised pavement markers serve well as both near and far delineation. Raised pavement markers present a more accurate prospective of the driving surface and they have a more significant effect on mean lateral placement than post mounted delineators. Drivers need some form of roadway delineation under all weather conditions, but with a minimum of redundancy.

In light of the experience of several States and the research findings, the FHWA is proposing to amend Section 3D-4 to allow the use of raised pavement markers as a substitute for delineators on tangents.

This proposed change would not impose any additional costs, but provide highway agencies with greater flexibility in the use of freeway delineation.

(b) *Request III-9 (Chng.)—Uses and Spacing of Raised Pavement Markers.* Although the MUTCD provides detailed guidance on the use of pavement marking lines, there is no guidance in the MUTCD on the placement of raised pavement markers used to supplement or simulate marking lines.

The Amerace Corporation of Niles, Illinois, has requested the addition of such guideline to the MUTCD.

The NCUTCD established a task force that worked on language for inclusion in the MUTCD. The FHWA agrees in general with the NCUTCD recommendation and included the guidance in the MUTCD Handbook. The proposed changes to the MUTCD are not necessary at this time.

(c) *Request III-26 (Chng.)—Delete Requirements for No-Passing Zone Markings.* The MUTCD requires the marking of no-passing zones where centerlines are installed.

The State of Missouri has established a policy of not marking no-passing zones on two-lane rural highways with traffic volume below 1,000 vehicles per day. This policy was developed from a University of Missouri at Rolla, report, "Simulation of Passing on Two-Lane Rural Highways."

Missouri has proposed that the MUTCD requirement for no-passing zone marking be relaxed by changing the "shall" to a "may" based upon the results of the reports and Missouri's favorable past experience with the present State policy.

When no-passing zones are not identified, the motorist is left with sole responsibility for determining where it is safe to pass. Such a responsibility is disconcerting to motorists especially in rolling terrain. Many traffic engineers believe that such a relaxation of this requirement would be a move away from motorist safety.

The FHWA is not proposing this change to the MUTCD.

(d) *Request III-27 (Chng.)—Skid Resistance of Marking Materials.* A recent research report [2] concluded that

[2] Skid Resistance of Pavement Marking Materials, 1980, Report No. FHWA/RD-80-199. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590. Available for purchase from the National Technical Information Service, Springfield, Virginia 22161.

pavement marking materials, when applied to pavements, cause a local reduction in skid resistence. The resulting differential frictions can create problems for drivers of automobiles and other four-wheel vehicle if applied to large areas, such as gores, legends, and stop bars. This research indicates that current marking practices and standards for the application of markings to large areas traversed by vehicles and pedestrians should be reviewed.

The FHWA proposes to add to the MUTCD Handbook language that will make highway agencies more cognizant to skidding problems associated with large painted areas. A change to the MUTCD is not necessary.

(e) *Request III-28 (Chng.)—Chevron Marker.* Section 3C-1 of the MUTCD specifies that object markers are used to mark obstructions within or adjacent to the roadway. In addition, Section 3C-3 indicates that in some cases there may not be a physical object involved; but other roadway conditions such as an abrupt change in roadway alignment may be identified by use of a Type 2 or Type 3 object marker. The Type 3 Object Marker (OM-3R and OM-3L) consists of a vertical rectangle approximately 1 foot by 3 feet in size with alternating black and reflectorized yellow stripes sloping downward at an angle of 45 degrees.

The city of Mesa, Arizona, believes that more emphasis and meaning could be given to those standard object marker patterns and initially proposed a modified Type 3 object marker depicting a chevron on a 1' x 3' panel for use as an alternate to the standard Type 3 object marker. The cities of Mesa and Phoenix, Arizona, conducted a 6-month evaluation of the experimental marker design. As a result of the evaluation,[3 4 5] the following conclusions were reached:

1. The proposed Chevron Marker *is not* appropriate for use in marking an object in or near the roadway, or in delineating a sharp curve.

2. The proposed Chevron Marker should not be used as a substitute for the black and yellow Chevron Alignment Warning Sign.

3. The proposed Chevron Marker does appear to have a definite use in straight taper sections. That is, in roadway sections where a lane is dropped in a taper section or the roadway alignment moves abruptly in a straight taper.

4. The proposed Chevron Marker has an extremely good target value for both day and night applications.

The FHWA is proposing use of the Chevron Markers along taper sections of pavement width transitions or lane reduction transitions. The Chevron Marker be identified as a new Type 4 marker for inclusion in Section 3C.

3. Signals (Part IV)

(a) *Request IV-20—Peak Hour Delay and Volume Warrants.* The original proposal was recommended by the NCUTCD to serve as an interim peak hour warrant until confirmed or modified by research. The proposal was based on several years of experience in Texas.

The FHWA decided to defer action on this request pending the completion of a National Cooperative Highway Research Program (NCHRP) research project to verify these peak hour warrants and peak hour warrants developed under a previous NCHRP research project 3-20.

The research has now been completed.

The FHWA proposes to amend the MUTCD by adding the NCUTCD's recommended Peak Hour Delay and Peak Hour Volume Warrants. These new warrants would be referred to as Warrant 10 and Warrant 11, respectively.

This proposed amendment increases the latitude for what should justify a signal installation, but does not impose any additional costs.

(b) *Request IV-34 (Chng.)—Traffic Signal Operation as a Flashing Device.* Section 4B-19 of the MUTCD states that "when a traffic signal is being operated as a flashing device, all signal faces on an approach shall be flashed." This requires that signal heads placed exclusively for left turn movements must also be flashed along the major roadway.

In the opinion of the Maryland Department of Transportation (MDOT) this results in a problem relative to exclusive left turn signals. If flashed RED for major road traffic, MDOT believes the indication is troublesome and provides a conflict with the flashing YELLOW indication displayed over the through lanes.

The Maryland DOT requested that Section 4B-19 of the MUTCD be changed to permit the several jurisdictions to operate traffic signals in the flashing mode in a manner consistent with their own experiences.

In the opinion of the FHWA the darkening of any signal would lead to driver confusion because the motorist would not know whether the signal was malfunctioning or operating as intended. Therefore, the FHWA is withdrawing further consideration of this request.

(c) *Request IV-38 (Chng.)—Bicycle Volume in Advance Engineering Data.* Section 4C-1 of the MUTCD requires a comprehensive investigation of traffic conditions and physical characteristics of a location to determine the necessity for a signal installation. Such data should include: vehicle volume, turning movement, pedestrian volume, speed, geometrics, and other data. Bicycles are considered to be an element of pedestrian traffic and, therefore, are represented in the listing of data for determining the warrant and design for signal system installations.

The Tennessee Department of Transportation requested that revisions to the MUTCD be made that would clarify this intent. Specifically, it requested that Section 4C-1 be revised by adding "and bicycle" after "pedestrian" in Item 3 on page 4C-1 and in Item 4 on page 4C-2.

In the opinion of the FHWA, current MUTCD language is broad enough to allow for bicycle counts. Therefore, the FHWA is withdrawing further consideration of this request.

(d) *Request IV-39 (Chng.)—"DONT ENTER" Pedestrian Phase.* Pedestrian signal indications are special types of signal indications intended for the exclusive purpose of controlling pedestrian traffic. These indications consist of the illuminated words WALK and DONT WALK or the illuminated symbols of a walking person (symbolizing WALK) and an UP RAISED PALM (symbolizing DONT WALK).

The Arizona Department of Transportation noted that pedestrians are often confused when the signal changes to flashing "DONT WALK" before they have completed crossing the street and proposed that the pedestrain signal indication be changed to read and "DONT ENTER X-WALK."

The FHWA does not have sufficient evidence of the alleged confusion caused by the WALK legend or evidence of less confusion with the proposed DONT ENTER legend. Therefore, the FHWA is withdrawing further consideration of the request.

(e) *Request IV-42—"Traffic Signal Design Configuration"* on the basis of NCHRP Project 3-23, "Guidelines for Uniformity in Traffic Control Design Configurations," the NCUTCD recommended numerous changes to the MUTCD. These changes are to Sections 4B-8, 4B-10, 4B-11, and 4B-12, and

[3] "Mesa Hazard Markers," July 1981, City of Phoenix, Arizona, Traffic Engineering Department.

[4] "Chevron Alignment Markers," December 1980, City of Mesa, Arizona, Transportation Department.

[5] "Chevron Alignment Marker," July 31, 1980, letter report. City of Mesa, Arizona, Transportation Department. Copies of these reports are available for inspection and copying at the FHWA, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

concern signal lens design, lens illumination, visibility and shielding of signal faces, and the number and location of signal faces, respectively. The FHWA proposes to adopt this request as recommended, with only minor modifications, and to amend the MUTCD accordingly.

These proposed changes would impose some additional costs on State and local highway transportation agencies. To minimize these costs the FHWA proposes a 5-year implementation period.

(f) *Request IV-43—Four Hour Traffic Signal Warrant.* The NCUTCD has developed and is recommending that a Four Hour Warrant be added to the MUTCD. After experience has been gained with this new Warrant, the continuing need for Warrants 1, 2, and 8 can be evaluated.

The FHWA proposes to amend the MUTCD by adopting the request. This Warrant, would be labeled Warrant 9 and added to the MUTCD as Section 4C-10.1.

This proposed amendment increases the latitude for what should justify a signal installation, but does not impose any additional costs.

(g) *Request IV-44 (Chng.)—Use of Lane—Use Control Sign in Lieu of Left (or Right) Turn Signal Sign.* The city of West Palm Beach, Florida, requested that MUTCD Section 4B-12.4 be revised to allow use of the "Lane-Use Control" sign for a single signal face controlling an exclusive turn lane. The city believes that this usage would be in keeping with the intent to use symbol signs and would not seem to pose a problem for motorists.

The Signals Technical Committee of the NCUTCD considered this request and believes the use of the "Lane Use Control Signs," could lead to unnecessary driver confusion especially if the signal face controlling the exclusive turn is not mounted over that particular lane.

The FHWA, therefore, is withdrawing further consideration of the request.

(h) *Request IV-45 (Chng.)—Type "E" Signal Arrangement for the Stem Approach to a Tee Intersection.* The city of West Palm Beach, Florida, requested that Section 4B-12.1 be changed to allow use of the type "E" arrangement of lenses in signal faces (Figure 4-1 of the MUTCD) for controlling one of the turning movements on the stem approach to a "Tee" intersection. The city believes that the type "E" signal arrangement meets the intent of the MUTCD by providing the number of red indicators necessary for the critical turning movements.

It is the opinion of FHWA that the type "E" signal arrangement does not satisfy the dual indication requirements of Section 4B-12.1 since an 8-foot separation is required between signal heads.

Therefore, the FHWA is withdrawing further consideration of the request.

4. Traffic Control for Street and Highway Construction and Maintenance Operations (Part VI)

(a) *Request VI-20 (Chng.)—Delete Use of Hand Signaling Flags.* Part VI-F of the MUTCD provides for the use of either a red flag or a sign paddle with the legend STOP on the one side and SLOW on the other as hand signaling devices to control traffic through work areas. Section 6F-4 specifies the signaling procedures (1) to stop traffic, (2) to indicate that it is safe for traffic to proceed, and (3) to slow or alert traffic with these devices. These procedures are illustrated in Figure 6-15 on page 6F-3 of the MUTCD. A supplemental hand movement is either permitted or required for the three signaling procedures using either device except when using the flag to slow or alert traffic.

The Texas Transportation Institute (TTI) recently reported[6] on its study of motorists understanding of these and other hand signaling procedures.

The report reached conclusions that the red flag is relatively ineffective and the STOP/SLOW paddle is much more effective.

The FHWA agrees that sign paddles provide more positive guidance for the motorist. It is proposed that flags be limited to use only in emergency situations and that the sign paddle be the primary hand signaling device. It is proposed that Section 6F-4 be revised accordingly.

This proposed change would impose some additional costs, but will provide motorists with more positive guidance at work sites. The implementation period would be such that impact on highway agencies and contractors would be minimal.

(b) *Request VI-21 (Chng.)—Minimum Mounting Height of Barricade Warning Lights.* Section 6E-5 of the MUTCD specifies that warning lights on barricades shall be installed at a minimum mounting height of 36 inches to the bottom of the lens. Warning lights are usually mounted atop the top rail of a barricade. The MUTCD specifies that the height of the rail top of the most commonly used barricades (Type I and Type II) shall be at least 36 inches.

The C and A Companies, Inc., requested that the MUTCD be amended to permit a reduced mounting height which would permit the mounting of warning lights within the top rail of barricades.

The FHWA is proposing that warning lights be permitted in the top barricade rail if at least a minimum reflective area given by Table VI-1 (8 inch min. width x 2 feet min. length or 192 square inch) is provided in the top rail.

This proposed change will not impose any additional costs, but provides highway agencies greater flexibility for selection of barricades.

(c) *Request VI-23 (Chng.)—Color of Barricade Supports.* Section 6C-8 of the MUTCD specifies that the predominant color of barricade supports (the components other than the rails) shall be white except that unpainted galvanized metal or aluminum may be used. The South Dakota Department of Transportation (DOT) has requested an amendment to the MUTCD to delete this requirement. The South Dakota DOT commented that this requirement incurs a great deal of cost, time, and trouble to enforce without serving any useful purpose.

It is recognized that barricades are normally used in a position on the traveled way and, therefore, needs a high degree of visibility. However, the support system provides a very small portion of the area facing traffic and does not add significantly to the visibility of the device. The FHWA proposes deleting the last sentence of paragraph 7 in Section 6C-8.

This proposed amendment would reduce cost of some barricades while slightly reducing visibility.

(d) *Request VI-24 (Chng.)—Minimum Lamp Candlepower of Arrow Panels.* Table VI-3 in Part VI of the MUTCD provides some minimum criteria for Arrow Panels, but does not include criteria for minimum lamp candlepower. The American Traffic Services Association (ATSA) requested that the following data be added to Table VI-3:

Arrow Panel type	Initial minimum rated lamp candlepower
A	1,000
B	7,000
C	8,800

[6] Driver Understanding of Work Zone Flagger Signals and Signaling Devices, 1981, Texas Transportation Institute. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

The ATSA commented that these values are based on current industry practice and provide for devices that will meet the minimum legibility distance required.

The FHWA proposes adding to Table VI-3, the initial minimum rated lamp candlepower.

This proposed amendment would impose some additional costs but these costs will be mitigated by providing a reasonable period for implementation.

(e) *Request VI-25 (Chng.)—Use of 28 Inch Cones.* Section 6C-3 of the MUTCD provides that cones shall be at least 18 inches in height. Based on the National Cooperative Highway Research Project Report 236, "Evaluation of Traffic Controls for Highway Work Zones," [7] the ATSA requested that Section 6C-3 of the MUTCD be amended to recommend a minimum height of 28 inches for cones used on high-speed facilities (day and night) and for all facilities during the hours of darkness.

The FHWA proposes to revise the MUTCD to recommend a minimum height for cones used on high speed facilities.

This proposed amendment will not impose any additional cost.

(f) *Request VI-26 (Chng.)—Detour Signing.* Sections 6B-8 and 6B-9 provide that Road (Street) Closed signs shall be accompanied by appropriate detour signing. The Illinois Department of Transportation (DOT) believes that a mandatory requirement for signed detours on some less important streets is not needed. Illinois DOT suggested that the MUTCD language be revised to require detour signing where appropriate.

The FHWA in response to this proposal has stated that each detour should be treated separately. There may be situations where little, if any, signing is needed for detours. It is incumbent on the responsible city, county, or State highway agency to establish and sign appropriately an acceptable detour bearing in mind the likelihood of mortorists unfamiliar with the road network encountering the road closure. The FHWA is proposing the mandatory condition for detour signing in Section 6B-8 and 6B-9 be changed to a recommended condition.

This proposed amendment will not impose any additional costs on highway agencies. It will provide more engineering discretion in determining those less important roads that do not need detour signing.

[7] Copies available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, HTO-21, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

(g) *Request VI-28 (Chng.)—Identification of Channelizing Devices.* The ATSA has proposed that the MUTCD be amended to permit the name of the contractor agency or supplier on barricades to assist in identifying the barricade owner.

The ATSA states that the barricade identification helps personnel, especially law enforcement personnel, to know whom to contact for replacement, repair, or repositioning. The ATSA proposes the name be permitted only on nonreflectorized members.

The FHWA proposes to amend Section 6C-8 to allow channelizing device identification on the face of nonreflectorized barricade members.

This proposed change would not impose any additional costs.

This notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. For the reasons stated herein, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full regulatory evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice. List of Subjects in 23 CFR Parts 625 and 655.

Design standards, Grant programs-transportation, Highways and roads, Signs, Traffic regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal program and activities apply to this program)

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

[FR Doc. 84-432 Filed 1-9-84; 8:45 am]

BILLING CODE 4910-22-M

23 CFR Part 645

[FHWA Docket No. 80-4, Notice 2]

Accommodation of Utilities

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to revise its regulations on the accommodation of utility facilities and private lines on the rights-of-way of Federal-aid and direct Federal highway projects to clarify existing provisions and to eliminate unnecessary and duplicative requirements.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to the Federal Highway Administration, HCC-10, FHWA Docket No. 80-4, Notice 2, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Carney, Office of Engineering (202) 426-0450; or Mr. Michael J. Laska, Office of the Chief Counsel (202) 426-0762; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

An advance notice of proposed rulemaking was published on September 27, 1976 (41 FR 42220), to request comments on a proposed updating of FHWA's regulation dealing with the accommodation of utility facilities on the rights-of-way of Federal and Federal-aid highway projects (23 CFR Part 645, Subpart B). Two comments were received on the advance notice of proposed rulemaking, one from a utility company and the other from the American Association of State Highway and Transportation Officials (AASHTO).

A notice of proposed rulemaking (initial NPRM), FHWA Docket 80-4 (45 FR 26220, April 17, 1980), presented the FHWA's proposals for updating its current regulations dealing with the utility facility and private line use and occupancy of the rights-of-way of Federal-aid and direct Federal highway

projects. There were 83 comments submitted to FHWA regarding the NPRM. Comments were received from State highway agencies, utility companies, public interest groups, safety organizations, the Rural Electrification Administration, and the American Society of Civil Engineers. Based on further review and on the nature and extent of the comments to the NPRM, FHWA is again proposing revisions to the utility accommodation regulations so as to solicit additional public input prior to preparation of a final rule.

Discussion of Comments

The following discussion addresses significant issues raised in comments to the initial NPRM:

Economic Impacts

The utility industry expressed concerns regarding how the proposed revisions would be interpreted and applied and the resulting economic impact. The utility company comments indicated a belief that the economic impact of the proposed revisions could well be very substantial and, as a consequence, the FHWA should proceed with caution and that a regulatory evaluation should be prepared. The initial NPRM, while containing language changes highlighting safety requirements, was not considered by the FHWA to be a significant change from existing regulations. The initial NPRM included references to other safety related requirements such as those found in 23 U.S.C. 109(1); 23 CFR Part 630, Subpart J; and the "Manual on Uniform Traffic Control Devices" (This publication is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection and copying from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D); however, these other safety requirements are contained in existing regulations and are not imposed by the proposed revisions. Further, the economic impacts mentioned by several commenters are fundamentally related to the terms of existing use and occupancy agreements between individual utilities and State highway agencies. The right and obligation to maintain a safe roadside environment is legitimately within a State's police power for preserving health and safety and does not occur as a result of the proposed revisions. A draft regulatory evaluation has been prepared reflecting the above discussion.

Safety Issues

Considerable concern was expressed with respect to the highway safety issues raised by the initial NPRM. In general, the commenters agreed that highway safety is important, but, as previously discussed, the utility industry focused their concerns on the potential economic impacts. One view expressed by a safety group emphasized that the revisions should be more explicit to adequately safeguard the motorist from the dangers of utility poles. The group called for a policy with more definitive requirements to promote a safer roadside environment. This general view was also expressed by one State highway agency. The basic premise of both the existing regulation and the initial NPRM was that utility installations must conform to the clear roadside policy applicable to the type of highway involved. Since a policy of maintaining a clear roadside should not be restricted to a specific utility accommodation regulation, no specific requirements were proposed.

This approach leaves some discretion for maintaining clear roadsides to the States and avoids establishing a restrictive Federal regulation detailing specific requirements. The FHWA proposes in this NPRM to continue this approach and to refine it further by defining the issues involved. A new definition of clear recovery area under § 645.207(b) is being proposed. Additionally, the American Association of State Highway and Transportation Official's (AASHTO) "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, is proposed to be incorporated under §§ 645.207(b) and 645.211 to aid in the FHWA review of the adequacy of the "State Utility Accommodation Policies." A new § 645.209(b) is also proposed to be added regarding requirements for new utility installations. (This AASHTO publication is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, N.W., Washington, D.C. 20001.)

Traffic Control Plans

There were several comments on this proposed requirement regarding traffic control plans. Although some were supportive of requiring utility traffic control plans, most had reservations. The traffic control plan concept is considered by the FHWA to be a necessary and appropriate requirement, and the requirement is retained in this document. Also, several commenters felt clarification of the plan's requirements was necessary. The FHWA agrees and has rewritten the proposed § 645.209(j). This section would require that the highway agencies establish procedures for the development of the traffic control plans.

Wetland Drainage

A public interest organization objected to the possible interpretation of the definition of utility which would include the installation, on Federal-aid rights-of-way, of structures to drain adjacent wetlands. In light of the concerns about wetland drainage, a new § 645.209(l) is proposed to prohibit the installation of privately owned lines on the right-of-way (i.e., into roadside ditches). This does not preclude making provisions for normal overland drainage, nor does it address the issue of publicly owned installations. In this respect, it must be noted that such entities as drainage districts are legally constituted activities which are generally considered a utility and the proposed wording would not limit their activities on or across the rights-of-way.

Right-of-way Widths

Several comments from the utility industry addressed difficulties utility companies have or may experience in obtaining their own rights-of-way. One utility company suggested that the highway agencies should be acquiring wider rights-of-way to enable the safer accommodation of utilities within the public rights-of-way. The AASHTO publications "Geometric Design Guide for Local Roads and Streets," 1970, and "A Policy of Design of Urban Highways and Arterial Streets," 1973, in discussing the rights-of-way needs for nonfreeway highway facilities, point to the desirability of providing border areas of sufficient width to accommodate utility facilities. (These publications are on file at the Office of the Federal Register in Washington, D.C. They are available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, N.W., Washington, D.C. 20001.) To accommodate this suggestion, the FHWA proposes to revise § 645.209(a) to include a

statement that potential utility joint-use should be considered in determining rights-of-way for a proposed project.

Proposed Revisions

The majority of the proposed revisions are editorial or provide clarification. In addition to the proposed revisions discussed above in response to comments received on the NPRM, the following revisions to the existing regulation are proposed:

1. Section 113 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599, 92 Stat. 2689) amended 23 U.S.C. 109 by adding a new subsection (1) relating to the Secretary of Transportation's approval of the use of Federal-aid highway rights-of-way by utility facilities. Further, 23 U.S.C. 109(1)(A) was amended by Pub. L. 96-109, 93 Stat. 796, which deleted the words "any aspect of" leaving the text to read, "which would adversely affect safety." The intent of this statutory amendment was not to deemphasize congressional concern with safety, but to clarify Federal policy on utility accommodations. Proposed implementing procedures for 23 U.S.C. 109(1) have been developed as part of this rulemaking process.

2. Appendix A, which refers to certain sections of the AASHTO publication entitled, "A Policy on the Accommodation of Utilities on Freeway Rights-of-Way," would be eliminated. The material contained in the appendix has been sufficiently referenced in the text of the proposed rule, making the appendix unnecessary.

3. The current regulations require a State highway authority to submit a statement to the FHWA on the authority of utilities to use and occupy the rights-of-way of State highways, the State's authority to regulate such use, and the policies the State highway authority employs, or proposes to employ, for accommodating utilities within the rights-of-way of Federal-aid highways under its jurisdiction. The proposed rule retains this requirement. Statements previously submitted and approved by the FHWA need not be resubmitted provided the statement adequately addresses the requirements in this regulation. If the revisions to the statements or new statements are necessary, the proposed rule establishes a 1-year target date for submittal of the revised or new statements to the FHWA.

4. The FHWA proposes to use the AASHTO publication "A Policy on the Accommodation of Utilities Within Freeway Rights-of-Way," 1982, for application on Federal-aid and direct Federal highway projects. The FHWA also proposes to use the AASHTO publications "A Guide for Accommodating Utilities Within Highway Rights-of-Way," 1981, and "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, when evaluating the adequacy of a State highway agency's utility accommodation policy. These AASHTO publications are proposed for incorporation by reference in the proposed rule.

Interested persons are invited to comment on these AASHTO publications and their use for controlling utilities on highway rights-of-way. These publications are on file with the Office of the Federal Register in Washington, D.C. They are available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices, as prescribed in 49 CFR Part 7, Appendix D. These publications may be purchased from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001.

The FHWA has determined that the document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. A draft regulatory evaluation (initial regulatory flexibility analysis) is available for inspection in the public docket and may be obtained by contacting Mr. James A. Carney at the address provided under the heading "For Further Information Contact." The FHWA has made a preliminary determination that these revisions are not likely to have a significant economic impact on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions) pursuant to Pub. L. 96-354, the Regulatory Flexibility Act. Based on comments received in response to this notice, the FHWA will review the need for a regulatory flexibility analysis in conjunction with the preparation of a final rule.

In consideration of the foregoing and under the authority of 23 U.S.C. 109, 116, 23 CFR 1.23, 1.27 and 49 CFR 1.48(b), the FHWA proposes to amend Part 645 of title 23 of the Code of Federal Regulations as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 645

Grant Programs—transportation, Highways and roads, Incorporation by reference, Utilities.

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Part 645 is amended by revising Subpart B to read as follows:

PART 645—UTILITIES

* * * * *

Subpart B—Accommodation of Utilities

Sec.
645.201 Purpose.
645.203 Applicability.
645.205 Policy.
645.207 Definitions.
645.209 General requirements.
645.211 State highway agency accommodation policies.
645.213 Use and occupancy agreements (permits).
645.215 Approvals.

Authority: 23 U.S.C. 109, 116; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); Executive Order 11990, 42 FR 26951 (May 24, 1977).

Subpart B—Accommodation of Utilities

§ 645.201 Purpose.

To prescribe policies and procedures for accommodating utility facilities and private lines on the rights-of-way of Federal-aid or direct Federal highway projects.

§ 645.203 Applicability.

(a) This subpart applies to new utility installations within the rights-of-way of Federal-aid or direct Federal highway projects.

(b) This subpart applies to existing utility facilities which are to be retained, relocated, or adjusted within the rights-of-way of active projects under development or construction when Federal-aid or direct Federal highway funds are either being or have been used on the involved highway facility. Where existing utility installations are to remain the highway agency and utility are to enter into an appropriate agreement as discussed in § 645.213 of this part.

(c) This subpart also applies to existing utility facilities which are to be adjusted or relocated under the provisions of § 645.209(k).

§ 645.205 Policy.

(a) It is in the public interest for utility facilities to be accommodated on the rights-of-way of a Federal-aid or direct Federal highway project when such use

and occupancy of the highway rights-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations.

(b) The manner in which utilities cross or otherwise occupy the rights-of-way of a Federal or Federal-aid highway project can materially affect the highway, its safe operation, aesthetic quality, and maintenance. Therefore, it is necessary that such use and occupancy, where authorized, be regulated by highway agencies in a manner which preserves the operational safety and the functional and aesthetic quality of the highway facility. This subpart shall not be construed to alter the basic authority of utilities to install their facilities on public highways pursuant to law or franchise and reasonable regulation by highway agencies with respect to location and manner of installation.

§ 645.207 Definitions.

For the purpose of this regulation, the following definitions shall apply:

(a) *Aesthetic quality*—those desirable characteristics of the appearance of the highway and its environment, such as harmony between or blending of natural and manufactured objects in the environment, continuity of visual form without distracting interruptions, and simplicity of designs which are desirably functional in shape but without clutter.

(b) *Clear recovery area*—that portion of the roadside, within the highway rights-of-way as established by the highway agency, free of nontraversable hazards and fixed objects. The purpose of such areas is to provide drivers of errant vehicles which leave the traveled portion of the roadway a reasonable opportunity to stop safely or otherwise regain control of the vehicle. The clear recovery area may vary with the type of highway, terrain traversed, and road geometric and operating conditions. The American Association of State Highway and Transportation Officials (AASHTO) "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and all FHWA division and regional Offices as prescribed in 49 CFR Part 7, Apppendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) should be used as a guide for establishing clear recovery areas for various types of highways and operating conditions.

(c) *Clear roadside policy*—that policy employed by a highway agency to provide a clear recovery area in order to increase safety, improve traffic operations, and enhance the aesthetic quality of highways by designing, constructing and maintaining highway roadsides as wide, flat and rounded as practical and as free as practical from natural or manufactured hazards such as trees, drainage structures, non-yielding sign supports, highway lighting standards, and utility poles and other ground-mounted structures. The policy should address the removal of roadside obstacles which are likely to be associated with accident or injury to the highway user, or where such obstacles are essential, the policy should provide for appropriate countermeasures to reduce hazards, such as placement at a location which affords protection to an out-of-control vehicle, provision of breakaway features, protection by impact attenuation devices, or shielding. In all cases full consideration shall be given to sound engineering principles and economic factors.

(d) *Direct Federal highway projects*—those active or completed highway projects such as forest highways, public lands highways, etc., which are under the direct administration of the Federal Highway Administration (FHWA).

(e) *Federal-aid Highway projects*—those active or completed highway projects administered by or through a State highway agency which involve or have involved the use of Federal-aid highway funds for the development, acquisition of right-of-way, construction or improvement of the highway or related facilities, including highway beautification projects under 23 U.S.C. 319.

(f) *Freeway*—a divided arterial highway with full control of access.

(g) *Highway agency*—that department, agency, commission, board, or official of any State or political subdivision thereof, charged by its law with the responsibility for highway administration.

(h) *Highway*—any public way for vehicular travel, including the entire area within the rights-of-way and related facilities constructed or improved in whole or in part with Federal-aid or Federal highway funds.

(i) *Private lines*—privately owned facilities which convey or transmit the commodities outlined in paragraph (m) of this section, but devoted exclusively to private use.

(j) *Rights-of-way*—real property, or interests therein, acquired, dedicated or reserved for the construction, operation, and maintenance of a highway in which Federal-aid or Federal highway funds are or have been involved in any stage of development. Lands acquired under 23 U.S.C. 319, Landscaping and Scenic Enhancement, shall be considered to be highway rights-of-way.

(k) *State highway agency*—the highway agency of one of the 50 States, the District of Columbia, or Puerto Rico.

(l) *Use and occupancy agreement*—the document (written agreement or permit) by which the highway agency approves the use and occupancy of highway rights-of-way by utility facilities or private lines.

(m) *Utility facility*—privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary.

§ 645.209 General requirements.

(a) Highway and traffic safety is of paramount, but not of sole importance, when accommodating utility facilities within highway rights-of-way. Utilities provide an essential public service to the general public. Traditionally, as a matter of sound economic public policy and law, utilities have used public road rights-of-way for transmitting and distributing their services. However, due to the nature and volume of highway traffic, the effect of such joint use on the traveling public must be carefully considered by highway agencies before approval of utility use of the rights-of-way of Federal-aid or direct Federal highway projects is given. Adjustments in the operating characteristics of the utility or the highway or other special efforts may be necessary to increase the compatability of utility-highway joint use. The possibility of this joint use should be a consideration in establishing right-of-way requirements for highway projects. In any event, the design, location, and manner in which utilities use and occupy the rights-of-way of Federal-aid or direct Federal highway projects must conform to the clear roadside policies for the highway involved and otherwise provide for a safe traveling environment as required by 23 U.S.C. 109(l)(1).

(b) On Federal-aid or direct Federal highway projects, new above ground

utility installations, where permitted, shall be located as far from the traveled way as possible, preferably along the right-of-way line. New above ground utility installations should be compatible with existing roadside conditions. Where it is necessary to locate above ground utility facilities within the clear recovery area of the highway they shall be of an approved breakaway design. Exceptions may be made to this requirement where (1) the use of a breakaway design is not practical, (2) protection to traffic is provided by impact attenuation devices or shielding, and (3) a determination has been made by the highway agency that placement underground is not feasible.

(c) Utility installations on freeway right-of-way shall conform to the provisions of the AASHTO publication, "A Policy on the Accommodation of Utilities Within Freeway Right-Of-Way," 1982, (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO Publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) However, the provisions of this subpart shall not be constructed to prohibit the installation on Federal-aid freeway rights-of-way of utility transmission facilities or justified utility installations warranted under the provisions of 23 U.S.C. 109(l)(1) (B) and (C) to mitigate damage to agricultural lands, provided (1) there is adequate right-of-way available which is not needed for planned highway expansion, and (2) such use does not adversely affect highway safety, highway operations or otherwise impair the highway, its aesthetic quality, or its maintenance, and (3) it can be shown that the installation on the freeway right-of-way is the most feasible and prudent location available. Where such installations are proposed, the access control line shall be relocated inward to create a utility strip precluding access to the utility facilities from the main traveled ways or ramps. Access to such installations shall conform to the aforementioned AASHTO policy.

(d) For a highway agency to fulfill its responsibilities to control utility use of Federal-aid highway rights-of-way within the State and its political subdivisions, it must exercise or cause to be exercised, adequate regulation over such use and occupancy through the establishment and enforcement of reasonably uniform policies and procedures for utility accomodation.

(e) Because there are circumstances where private lines may be allowed on the rights-of-way of Federal-aid projects, highway agencies shall establish uniform policies for properly controlling such permitted use.

(f) On direct Federal highway projects, the FWHA will apply, or cause to be applied, utility and private line accommodation policies similar to those required on Federal-aid highway projects. Where appropriate, agreements will be entered into between the FHWA and the highway agency or other government agencies to ensure adequate control and regulation of use by utilities and private lines of the rights-of-way on direct Federal highway projects.

(g) Where the State highway agency does not have legal authority to regulate highway use by utilities and private lines, the State highway agency must enter into formal agreements with those local officials who have such authority. The agreements must provide for a degree of protection to the highway at least equal to the protection provided by the State highway agency's utility accommodation policy approved under the provisions of § 645.215(b) of this part. The project agreement between the State highway agency and the FHWA on all such Federal-aid highway projects shall contain a special provision incorporating the formal agreements with the responsible local officials.

(h) New utility installations, including those needed for a highway purpose, such as for highway lighting or to serve a weigh station, rest area or recreation area, are not permitted to be installed on highway rights-of-way or other lands acquired or improved with federal-aid or direct Federal highway funds which are located within or adjacent to areas of scenic enhancement and natural beauty. Such areas include public park and recreational lands, wildlife and waterfowl refuges, historic sites as described in 23 U.S.C. 138, scenic strips, overlooks, rest areas and landscaped areas. The State highway agency may permit exceptions as follows:

(1) New underground or aerial installations may be permitted where they do not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.

(2) In addition, aerial installations may be permitted only where:

(i) Other locations:

(A) Are not available or are usually difficult and unreasonably costly.

(B) Are less desirable from the standpoint of aesthetic quality.

(ii) Placement underground is not technically feasible or is unreasonably costly.

(iii) The proposed installation will be made at a location and will employ suitable designs and materials which give the greatest weight to the aesthetic qualities of the area being traversed. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable.

(i) Where the utility has a compensable interest in the land occupied by its facilities and such land is to be jointly occupied and used for highway and utility purposes, the highway agency and utility shall agree in writing as to the obligations and responsibilities of each party. Such joint-use agreements shall incorporate the conditions of occupancy for each party, including the rights vested in the highway agency and the rights and privileges retained by the utility. In any event, the interest to be acquired by or vested in the highway agency in any portion of the rights-of-way of a Federal-aid or direct Federal highway project to be vacated, used or occupied by utilities or private lines, shall be adequate for the construction, safe operation, and maintenance of the highway project.

(j) Whenever a utility installation, adjustment or maintenance activity will affect the movement of traffic, the utility shall implement a traffic control plan and utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around the work site and the safety of the utility work force in accordance with procedures established by the highway agency. The traffic control plan and the application of traffic control devices shall conform to the standards set forth in the "Manual on Uniform Traffic Control Devices" (MUTCD) (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D.) and 23 CFR Part 630, Subpart J.

(k) Where the highway agency determines that existing utility facilities are likely to be associated with injury or accident to the highway user, as indicated by accident history or safety studies, the highway agency shall initiate or cause to be initiated in

consultation with the affected utilities, corrective measures to provide for a safer traffic environment. The corrective measure should be prioritized to maximize safety benefits in the most cost effective manner. The scheduling of utility safety improvements should take into consideration planned utility replacement or upgrading schedules, accident potential, and the availability of resources. It is expected that the requirements of this paragraph will result in an orderly and positive process to address the identified utility hazard problems in a timely and reasonable manner with due regard to the effect of the corrective measures on both the utility consumer and the road user. The type of corrective measures are not prescribed. Any requests received involving Federal participation in the cost of adjusting or relocating utility facilities pursuant to the paragraph shall be subject to the provisions of 23 CFR Part 645, Subpart A, Utility Relocation and Adjustments, and 23 CFR Part 924, Highway Safety Improvement Program.

(l) The installation of privately owned lines or conduits on the rights-or-way of Federal-aid or direct Federal highway projects for the purpose of draining adjacent wetlands onto the highway rights-of-way is considered to be inconsistent with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, and shall be prohibited.

§ 645.211 State highway agency accommodation policies.

The FHWA shall use the AASHTO publications, "A Guide for Accommodating Utilities Within Highway Right-of Way," 1981, and "Guide for Selecting, Locating and Designing Traffic Barriers," 1977. (These publications are incorporated by reference and are on file at the Office of the Federal Register in Washington, D.C. They are available for inspection from FHWA Washington Headquarters and all FWHA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) to assist in the evaluation of adequacy of State highway agency utility accommodation policies. As a minimum, such policies shall make adequate provisions with respect to the following:

(a) Utilities must be accommodated and maintained in a manner which will not impair the highway or adversely affect highway or traffic safety.

(b) Consideration shall be given to the effect of utility installations in regard to safety, aesthetic quality, and the costs or difficulty of highway and utility construction and maintenance.

(c) The State highway agency's standards for regulating the use and occupancy of highway rights-of-way by utilities must include, but are not limited to, the following:

(1) The horizontal and vertical location requirements and clearances for the various types of utilities must be clearly stated. These must be adequate to ensure compliance with the clear roadside policies for the particular highway involved.

(2) The applicable provisions of government or industry codes required by law or regulation must be set forth or appropriately referenced, including highway design standards or other measures which the State highway agency deems necessary to provide adequate protection to the highway, its safe operation, aesthetic quality, and maintenance.

(3) Specification for and methods of installation; requirements for preservation and restoration of highway facilities, appurtenances, and natural features and vegetation on the rights-of-way; and limitations on the utility's activities within the rights-of-way including installation within areas set forth by § 645.209(h) of this part should be prescribed as necessary to protect highway interests.

(4) Measures necessary to protect traffic and its safe operation during and after installation of facilities, including control-of-access restrictions, provisions for rerouting or detouring traffic, traffic control measures to be employed, procedures for utility traffic control plans; limitations on vehicle parking and materials storage, protection of open excavations, and the like must be provided.

(5) In any case where the provisions of this part may result in the disapproval of a utility's request to use and occupy highway rights-of-way, measures must be provided to evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productively of any agricultural land that would result from the disapproval. The environmental and economic effects on productive agricultural land together with the possible interference with or impairment of the use of the highway and the effect on highway safety must be considered in the decision to disapprove any proposal by a utility to use such highways rights-of-way.

(d) Compliance with applicable State laws and approved State highway agency utility accommodation policies must be assured. The responsible State highway agency's file must contain evidence of the written arrangements which set forth the terms under which utility facilities are to cross or otherwise occupy highway rights-of-way. All utility installations made on highway rights-of-way shall be subject to written approval by the State Highway agency. However, such approval will not be required where so provided in the use and occupancy agreement for such matters as utility facility maintenance, installation of service connections on highways other than freeways, or emergency operations.

§ 645.213 Use and occupancy agreements (permits).

The written arrangements, generally in the form of use and occupancy agreements setting forth the terms under which the utility is to cross or otherwise occupy the highway rights-of-way, must include or incorporate by reference:

(a) The highway agency standards for accommodating utilities. Since all of the standards will not be applicable to each individual utility installation, the use and occupancy agreement must, as a minimum, describe the requirements for location, construction, protection of traffic, maintenance, access restriction, and any special conditions applicable to each installation.

(b) A general description of the size, type, nature, and extent of the utility facilities being located within the highway rights-of-way.

(c) Adequate drawings or sketches showing the existing and/or proposed location of the utility facilities within the highway rights-of-way with respect to the existing and/or planned highway improvements, the traveled way, the rights-of-way lines and, where applicable, the control of access lines and approved access points.

(d) The extent of liability and responsibilities associated with future adjustment of the utilities to accommodate highway improvements.

(e) The action to be taken in case of noncompliance with the highway agencies requirements.

(f) Other provisions as deemed necessary to comply with laws and regulations

§ 645.215 Approvals.

(a) Each State highway agency shall submit a statement to the FHWA on the authority of utilities to use and occupy the rights-of-way of State highways, the State highway agency's power to regulate such use, and the policies the State highway agency employs or proposes to employ for accommodating utilities within the rights-of-way of

Federal-aid highways under its jurisdiction. Statements previously submitted and approved by the FHWA need not be resubmitted provided the statement adequately addresses the requirements of this part. Where revisions are deemed necessary the changes to the previously approved statement may be submitted separately to the FHWA for approval. The State highway agency shall include similar information on the use and occupancy of such highways by private lines where permitted. The State shall identify those areas, if any, of the Federal-aid highway system within its borders where the State highway agency is without legal authority to regulate use by utilities. The statement shall address the nature of the formal agreements with local officials required by § 645.209(g) of this part. It is expected that the statements required by this part or necessary revisions to previously submitted and approved statements will be submitted to FHWA within 1 year of the effective date of this regulation.

(b) Upon determination by the FHWA that a State highway agency's policies satisfy the provisions of 23 U.S.C. 109 and 116, and 23 CFR 1.23 and 1.27, and meet the requirements of this regulation, the FHWA may approve their use on Federal-aid highway projects in that State.

(c) Any changes, additions or deletions the State highway agency proposes to the approved policies are subject to FHWA approval.

(d) When a utility files a notice or makes an individual application or request a State highway agency to use or occupy the rights-of-way of a Federal-aid highway project, the State highway agency is not required to submit the matter to the FHWA for prior concurrence, except under the following circumstances:

(1) The proposed installation is not in accordance with this regulation or the State highway agency's utility accommodation policy approved by the FHWA for use on Federal-aid highway projects.

(2) Installations on Federal-aid freeways involving special case exceptions, as described in AASHTO publication, "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way," 1982, and § 645.209(c) of this part.

(e) The State highway agency's practices under the policies or agreements approved under § 645.215(b) of this part shall be periodically reviewed by the FHWA.

[FR Doc. 84-559 Filed 1-9-84; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-130-76]

Simultaneous Liquidation of Parent and Subsidiary Corporations; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the nonrecognition of gain or loss in the case of certain sales that are followed by a corporate liquidation. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. These regulations would provide the public with guidance needed to comply with the changes and would affect certain sales of corporate property when a parent and one or more subsidiary corporations liquidate within 12 months after the adoption of a plan of complete liquidation.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 12, 1984. The amendments are proposed to be effective for sales or exchanges made purusuant to a plan of complete liquidation adopted after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-130-76), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift 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 (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 337 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2118 of the Tax Reform Act of 1976 (90 Stat. 1912) and section 701 (i) of the Revenue Act of 1978 (92 Stat. 2904) and to clarify certain filing requirements under existing regulation § 1.337-6. 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).

Section 337 generally allows a corporation (the selling corporation) that adopts a plan of complete liquidation to recognize no gain or loss from the sale or exchange of certain of its property occurring within a 12-month period beginning on the date of the plan's adoption if the selling corporation liquidates completely within the 12-month period. In general, the rule does not apply (or is subject to certain limitations) if section 332 applies to the liquidation (that is, if the liquidating corporation is an 80-percent-or-more controlled subsidiary whose parent corporation recognizes no gain or loss on the liquidation.)

The Tax Reform Act of 1976 amended section 337 to permit the general nonrecognition rule of section 337(a) to apply to a selling corporation that is a controlled subsidiary in an affiliated chain of corporations. In order to obtain this nonrecognition treatment, the selling corporation and each member of the chain which received, within the 12-month period beginning on the date upon which the plan of liquidation is adopted by the selling corporation, a distribution in complete liquidation from another member of the chain must also liquidate within the 12-month period. The rule added by the amendment applies only if section 32 would apply to any distribution by the selling corporation. Under the proposed regulations, all distributee corporations are required to liquidate regardless of whether section 332 applies to the subsequent liquidations. The proposed regulations also provide that in determining whether a corporation is a member of the chain, ownership of stock is measured on the date on which any liquidating distribution is made to that corporation by its immediate transferor liquidating corporation, and not on the date upon which the plan of liquidation is adopted by the selling or transferor corporation, the date assets are sold, or the date on which the liquidating distribution is received. Changes in ownership of stock prior to the date of distribution will not affect this determination.

The Revenue Act of 1978 made technical corrections to the amendment made by the 1976 Act. Under the 1978 Act amendments, all of the liquidations required by the provisions of the 1976 Act must be liquidations to which section 333 does not apply. The 1978 Act also specified that the only corporations

required to liquidate are the selling corporation and any corporation in the chain which received distributions in complete liquidation from either the selling corporation or a corporation above the selling corporation in the chain of includible corporations. The proposed regulations provide that a corporation is a distributee corporation and, therefore, required to liquidate if it indirectly receives a liquidating distribution from the selling corporation. An indirect distribution occurs when any corporation in the chain receives a liquidating distribution from any other member of the chain that is required to liquidate under the provisions of section 337(c)(3).

Regulation § 1.337–6 requires corporations to which the nonrecognition provisions of section 337 apply to file certain information with "the return" but it does not specify to which return the required information must be attached. The clarifying amendment to the regulation provides that the information must be filed with either the return for the taxable year in which the 12-month period ends or for the last taxable year in which the corporation remains in existence, whichever is earlier.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven 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 request 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.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Carolyn Swift 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 proposed regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1—1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.337–1 is amended by removing the next to the last sentence and inserting in lieu thereof:

§ 1.337–1 General.

* * * Likewise, section 337 does not apply to sales or exchanges made by a corporation (the selling corporation) if the selling corporation is liquidated in a transaction to which section 333 is applicable in any way. Moreover, section 337 generally does not apply if the selling corporation is liquidated in a transaction to which section 332 applies. There are two exceptions, however, to this general rule relating to liquidations to which section 332 applies. The first applies in certain cases in which the basis of the property distributed by the selling corporation in the hands of the corporation to which the distribution is made is determined under section 334(b)(2) (as in effect before the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)). See section 337(c)(2)(B) (as in effect before TEFRA) and § 1.337–4. The second exception applies in certain cases involving affiliated corporations. See section 337(c)(3) and § 1.337–6. * * *

§ 1.337–6 [Redesignated as § 1.337–7]

Par. 2. Section 1.337–6 is redesignated § 1.337–7 and a new § 1.337–6 is to be added where appropriate to read as follows:

§ 1.337–6 Special rule for affiliated groups.

(a) *In general.* Section 337 (c)(2) does not apply to a sale or exchange of property by a corporation (the selling corporation) occurring within the 12-month period beginning on the date on which the selling corporation adopts a plan of complete liquidation (the 12-month period) if—

(1) The selling corporation and each distributee corporation (as defined in paragraph (b)(1) of this section) are completely liquidated within the 12-month period and

(2) None of the complete liquidations referred to in paragraph (a)(1) of this section is a liquidation to which section 333 is applicable in any way.

(b) *Distributee corporation.* (1)(i) For purposes of this section, the term "distributee corporation" means a corporation in the chain of includible corporations as defined in section 337(c)(3)(B)(ii) to which the selling corporation or a corporation above the selling corporation in the chain makes a direct or indirect distribution in complete liquidation within the 12-month period, whether or not section 332 applies to the distribution.

(ii) An indirect distribution occurs when a corporation in the chain of includible corporations receives a liquidating distribution from another member of the chain that is required to liquidate under the provisions of this section, regardless of whether the distributee corporation is above or below the selling corporation in the chain. See example (5) of paragraph (d) of this section.

(2) For purposes of determining whether a corporation is a member of the chain of includible corporations, as defined in section 337(c)(3)(B)(ii), ownership of stock is measured on the date on which any liquidating distribution is made to this corporation by the liquidating corporation and not on the date on which the plan of liquidation is adopted by the selling corporation, the date the assets are sold, or the date on which the liquidating distribution is received. Ownership of stock is measured on the date on which the liquidating distribution is made by the transferor whether or not changes in ownership of the stock have occurred before that date.

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

Example (1). Corporation P, all of whose stock is owned by individual shareholders, owns 100 percent of the stock of corporation S. On January 1, 1979, S adopts a plan of complete liquidation and sells all of its property on the same day. On March 1, 1979, S distributes all its property to its sole shareholder, P. To determine whether P is a member of the chain of includible corporations, its ownership of stock in S is measured on the date on which S made a distribution in complete liquidation (March 1, 1979). On March 1, 1979, P owned 100 percent of the stock in S. P is, therefore, a member of

the chain of includible corporations. Since S, the selling corporation, made a distribution in complete liquidation to P within the 12-month period and since on the date of the distribution, P and S are members of a chain of includible corporations, P is a distributee corporation. P adopts a plan of complete liquidation on April 1, 1979, and liquidates completely on June 15, 1979. Since both S and P liquidated within the 12-month period, S will recognize no gain or loss on the sale of its property.

Example (2). A group of individual shareholders owns 100 percent of the stock in S corporation which owns 100 percent of the stock in T corporation. On January 1, 1979, T adopts a plan of complete liquidation and sells all of its property on the same day. On March 3, 1979, T makes a distribution in complete liquidation to S. On April 9, 1979, corporation P, an unrelated corporation, buys for cash all of the stock in S from the individual shareholders. On May 15, 1979, S adopts a plan of complete liquidation. On June 11, 1979, S makes a distribution in complete liquidation to P. P is a distributee corporation even though P was not a member of the chain of includible corporations when T adopted its plan nor when T made its distribution in complete liquidation. P must, therefore, liquidate completely within the 12-month period in order for T not to recognize gain or loss on the sale of its property.

Example (3). The facts are the same as in Example (2) except that P purchases all of the stock of S on May 30, 1979. Section 332 will not apply to the liquidation of S into P because P did not own 80 percent of S when S adopted its plan. P is, nevertheless, a distributee corporation because it is a member of the chain of affiliated corporations when S, also a member of the chain and higher than the selling corporation in the chain, makes a liquidating distribution to P. P, therefore, must liquidate in order for T to avoid recognition of gain or loss on its sale of assets.

Example (4). P corporation, all of whose stock is owned by individual shareholders, owns 100% of the stock in S corporation. S owns 100% of the stock in T corporation. T owns 100% of the stock in U corporation. On March 9, 1979, T adopts a plan of complete liquidation and sells all of its assets except its stock in U on the same day. On March 25, 1979, T transfers all of its property (including all of its stock in U) as a distribution in complete liquidation to S. On March 30, 1979, S adopts a plan of liquidation, and, on the same day, transfers all of its property (including all of its stock in U corporation) to P as a distribution in complete must liquidation. P is a distributee corporation and must liquidate completely within the 12-month period. U, however, is not a distributee corporation since neither the selling corporation nor any corporation in the chain of includible corporations made a distribution in complete liquidation to U. U, therefore, need not liquidate in order for T not to recognize gain or loss on the sale of its property.

Example (5). Corporation P, all of whose stock is owned by individual shareholders, owns 80% of the only class of stock in corporation S. Corporation S owns 100% of the stock in corporation T. Corporation T owns 100% of the stock in corporation U. Corporation U owns 20% of the only class of stock in S. On February 13, 1979, S adopts a plan of complete liquidation and sells all its assets on February 15, 1979. On March 1, 1979, S makes a distribution in complete liquidation to P and U. On April 20, 1979, U makes a distribution in complete liquidation to T. T is a corporation below the selling corporation, S, in the chain of includible corporations. Since T received a liquidating distribution from U and U was required to liquidate under the provisions of this section, T is an indirect distributee corporation and must also liquidate within the 12-month period in order for S not to recognize gain or loss on the sale of its property.

(d) *Effective date.* This section applies to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

Par. 3. Redesignated § 1.337-7 is amended by adding a new paragraph (d) to read as follows:

§ 1.337-7 Information to be filed.

* * * * *

(d) *Return to which information must be attached.* For taxable years ending after [30 days after this notice is published as a Treasury decision in the Federal Register], the return referred to in paragraph (a) of this section is the return for either the taxable year in which the 12-month period ends or for the last taxable year in which the taxpayer filing the return is in existence, whichever is earlier.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 84-491 Filed 1-9-84; 8:45 am]
BILLING CODE 4830-01-M

---

26 CFR Part 1

[LR-4-78]

Investment Credit for Cooperatives

Correction

In FR Doc. 83-34265 beginning on page 56965 in the issue of Tuesday, December 27, 1983, make the following corrections:

1. On page 56965, third column, under "DATES", sixth line, in place of "January 27, 1984" insert "[THE DATE THAT IS 30 DAYS AFTER PUBLICATION OF THESE PROPOSED AMENDMENTS AS A FINAL REGULATION]".

2. On page 56967, third column, in § 1.46-10(c)(3)(i), the fifth line should read "allocation as described in this".

3. On page 56967, same column, same paragraph, sixth line, "methid" should read "method".

BILLING CODE 1505-01-M

[LR-194-82]

26 CFR Part 1

Possessions Tax Credit: Definition of Product, Significant Business Presence Test, and Cost Sharing and Profit Split Elections

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations are being issued to conform to changes made by the Tax Equity and Fiscal Responsibility Act of 1982 involving possessions corporations. The regulations provide rules for determining whether a possessions corporation has significant business presence in a possession with respect to a product. These regulations also provide rules which implement the cost sharing and profit split elections with respect to the possessions tax credit. A notice of a public hearing concerning these proposed regulations appears elsewhere in this issue of the Federal Register.

DATES: Written comments must be delivered or mailed by March 12, 1984. The regulations generally would be effective for taxable years of possessions corporations beginning on or after January 1, 1983.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-194-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-194-82), 202-566-3289, concerning intangible property income in the absence of an election under section 936(h)(5), the cost sharing and profit split elections, and covered intangibles (§§ 1.936-4, 1.936-6, and 1.936-7); or Carol T. Doran of the same office concerning the definition of product, the significant business presence test, and contract manufacturing (§ 1.936-5).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 936(h) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes made to the Internal Revenue Code by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982 (the Act) (Pub. L. 97-248, 96 Stat. 452)

and are to be issued under the authority contained in section 936(h) (96 Stat. 452) and section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805). These regulations apply to taxable years beginning on or after January 1, 1983. Therefore, in particular, the rules concerning the definition of a product, the significant business presence test, and the attribution of income to a possessions corporation have no application for taxable years beginning before January 1, 1983.

Explanation of Provisions

Section 936(h) of the Code provides that the intangible property income of a possessions corporation generally is treated as income of the corporation's U.S. shareholders, with proration of income on the basis of shareholdings. If a shareholder is a foreign person or is not subject to U.S. tax on such income, the possessions corporation is taxable on that shareholder's pro rata amount of the intangible property income. Income attributable to intangible assets is defined in section 936(h)(3).

However, the taxpayer may elect out of the general rule and treat certain income attributable to intangible property as income of the possessions corporation eligible for the possessions tax credit if the possessions corporation has a significant business presence in a possession with respect to a product or type of service. The election out may be made under one of two options: the cost sharing option or the profit split option.

Section 936 provides that a possessions corporation has a significant business presence in a possession if it satisfies either the value added test or the direct labor test. The value added test is satisfied if total production costs incurred in a possession with respect to a product in a taxable year are not less than 25 percent of the difference between gross receipts from sales of the product by members of the affiliated group to third parties, and the direct material costs of the affiliated group for materials purchased for that product from third parties. The direct labor test is satisfied if no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced or services rendered during the taxable year in whole or in part by the possessions corporation is incurred by the possessions corporation and is compensation for services performed in the possession.

The proposed regulations would provide an additional significant business presence test. A possessions corporation would satisfy this test if 50 percent of the direct labor costs of the affiliated group for units of the product produced, in whole or in part, during the taxable year by the possessions corporation is incurred by the possessions corporation as compensation for services performed in the possession; and if the sum of the direct labor costs incurred in the possession plus the base period construction costs incurred in the possession is no less than 70 percent of the sum of base period construction costs incurred in the possession and the direct labor costs of the affiliated group.

The proposed regulations would define the term "product." A product is any item of property which is the result of a manufacturing process. The term includes a component product, an integrated product, or an end-product form. A component product is a product which is subject to further transformation before sale to unrelated parties. An integrated product is a product which is not subject to further transformation before sale to unrelated parties and which includes all component products from which it is manufactured. An end-product form is a product which is not subject to futher transformation before sale to unrelated parties, which includes component products, but which is treated as not including certain of its component products for all purposes of section 936(h)(5).

The term "product" will have the same meaning for all purposes of section 936(h). Once the specific product is identified and the significant business presence test is satisfied with respect thereto, then it is that item with respect to which the possessions corporation will compute its return, if it uses the cost sharing option, or combined taxable income, if it uses the profit split option. Products whose manufacturing processes are similar may be grouped, provided that any grouping which materially distorts a taxpayer's income or the application of the significant business presence test may be disallowed.

Under the cost sharing option, the possessions corporation is requried to make a cost sharing payment with respect to manufacturing intangibles equal to a fraction of the current year's worldwide direct and indirect product area research expenditures of the affiliated group. The fraction is equal to the ratio of third party sales of units of the product produced or services rendered in whole or in part in the possession, to third party sales of all products produced or services rendered in the product area by the possessions corporation and all its U.S. and foreign affiliates. The cost sharing payment determined under the formula will reduce the amount of deductions otherwise allowable to the U.S. affiliates. The possessions corporation will be treated as the owner of manufacturing intangibles related to the units of the product produced or services rendered, in whole or in part, in the possession by the possessions corporation. Section 482 will be used for purposes of intercompany pricing.

If the profit split option is elected, 50 percent of the combined taxable income of the possessions corporation and its U.S. affiliates derived from units of the product produced or services rendered in whole or in part in the possession and sold to foreign affiliates or unrelated third parties will be allocated to the possessions corporation, and the remainder will be allocated to the U.S. affiliates. This method avoids section 482 uncertainties and permits the possessions corporation to obtain a return on both manufacturing and marketing intangibles.

Section 936(h) provides that an election to use the cost sharing or profit split method must cover all products within a broad product area, except that a different election may be made for export sales than domestic sales. Under this provision, a taxpayer may thus elect the cost sharing option for export sales even if it elects the profit split option for domestic sales. Export sales are defined as sales of a product or type of service for ultimate use or consumption outside the United States.

The proposed regulations are being issued in the form of questions and answers.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted [preferably seven copies] to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on a date announced in the notice of public hearing appearing elsewhere in this issue of the Federal Register. Notwithstanding these proposed regulations, we invite additional submissions for our consideration with respect to possible inclusion in subsequent regulations; see 48 FR 34569.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the

Office of information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6), and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291, and therefore a regulatory impact analysis is not required.

Drafting Information

The principal authors of these proposed regulations are Jacob Feldman and Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.861 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investment abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

26 CFR Part 1 is proposed to be amended by addition of the following new §§ 1.936–4–1.936–7 immediately after § 1.936–1.

Income Tax Regulations

§ 1.936–4 Intangible property income in the absence of an election out.

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

Question 1: If a possessions corporation and its affiliates do not make an election under either the cost sharing or 50/50 profit split option, what rules will govern the treatment of income attributable to intangible property owned or leased by the possessions corporation?

Answer 1: Intangible property income will be allocated to the possessions corporation's U.S. shareholders with the proration of income based on shareholdings. If a shareholder of the possessions corporation is a foreign person or a tax-exempt person, the possessions corporation will be taxable on that shareholder's pro rata amount of the intangible property income. For these purposes, a United States shareholder includes any shareholder who is a United States person as described under section 7701(a)(30). The term "intangible property income" means the gross income of a possessions corporation attributable to any intangible property other than intangible property which has been licensed to such corporation since prior to 1948 and which was in use by such corporation on September 3, 1982.

Question 2: What is the source of the intangible property income described in question 1?

Answer 2: The intangible property income is U.S. source, whether taxed to U.S. shareholders or taxed to the possessions corporation. Such intangible property income, if treated as income of the possessions corporation, does not enter into the calculation of the 80-percent possession source test or the 65-percent active trade or business test of section 936(a)(2) (A) and (B).

Question 3: How will the amount of income attributable to intangible property be measured?

Answer 3: Income attributable to intangible property includes the amount received by a possessions corporation from the sale, exchange, or other disposition of any product or from the rendering of a service which is in excess of the reasonable costs it incurs in manufacturing the product or rendering the service (other than costs incurred in connection with intangibles) plus a reasonable profit margin. A reasonable profit margin shall be computed with respect to direct and indirect costs other than (i) costs incurred in connection with intangibles, (ii) interest expense, and (iii) the cost of materials which are subject to processing or which are components in a product manufactured by the possessions corporation. Notwithstanding the above, certain taxpayers who have been permitted by the Internal Revenue Service in taxable years beginning before January 1, 1983, to use the cost-plus method of pricing without reflecting a return from intangibles, but including the cost of materials in the cost base, will not be precluded from doing so. (Sec. 3.02(3), Rev. Proc. 65–10, 1965–1 C.B. 490.) Thus, the Internal Revenue Service may continue in appropriate cases to permit such taxpayers to continue to report their income as they have been under existing procedures described in the previous sentence if it is appropriate under all the facts and circumstances and does not distort the income of the taxpayer.

Question 4: If there is no intangible property related to a product produced in whole or in part by a possessions corporation, what method may the possessions corporation use to compute its income?

Answer 4: The taxpayer may use the method described in this section or may elect the cost sharing or profit split method. No other method will be permitted.

§ 1.936–5 Intangible property income when an election out is made: Product, business presence, and contract manufacturing.

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

(a) *Definition of product.*

Question 1: What does the term "product" mean?

Answer 1: The term "product" means an item of property which is the result of a manufacturing process. The term "product" includes component products, integrated products, and end-product forms. A component product is a product which is subject to further transformation before sale to an unrelated party. A component product may be manufactured from other items of property, and if it is so manufactured, may be treated as including or not including (at the choice of the possessions corporation) such other items of property for all purposes of section 936(h)(5). An integrated product is a product which is not subject to any further transformation before sale to an unrelated party and which includes all component products from which it is manufactured. An end-product form is a product which—

(1) Is not subject to any further transformation before sale to an unrelated party;

(2) Is manufactured from a component product or products; and

(3) Is treated as not including certain component products for all purposes of section 936(h)(5).

Question 2: If a possessions corporation manufactures both a

component product and an integrated product (which by definition includes the end-product form), may the possessions corporation use the options under section 936(h)(5) to compute its income with respect to either the component product, the integrated product or the end-product form?

Answer 2: Yes. The possessions corporation may choose to treat the component product, the integrated product, or the end-product form as the product for purposes of determining whether the possessions corporation satisfies the significant business presence test. The possessions corporation must specify its choice on a statement attached to its return (Schedule P of Form 5735). Once a possessions corporation has determined which item of property it will treat as its product (the possession product) for purposes of the significant business presence test, then the possessions corporation must treat that item of property as its product for all purposes of section 936(h)(5) for that taxable year, including the possessions sales calculation under section 936(h)(5)(C)(i)(I), the determination of income under section 936(h)(5)(C)(i)(II), and the combined taxable income computations under section 936(h)(5)(C)(ii). Although the possessions corporation must treat the same item of property as its product for all purposes of section 936(h)(5) in a particular taxable year, its choice of the component product, integrated product or end-product form may be different from year to year.

Example (1). A possessions corporation, S, manufactures a bulk pharmaceutical in a possession. S transfers the bulk pharmaceutical to its U.S. parent, P, for encapsulation and sale by P to customers. S satisfies the significant business presence test with respect to the bulk pharmaceutical (the component product) and the combination of the bulk pharmaceutical and the capsule (the integrated product). S may use the cost sharing or profit split method to compute its income with respect to either the component product or the integrated product.

Example (2). The facts are the same as in example (1) except that S does not satisfy the significant business presence test with respect to the integrated product. S may use the cost sharing or profit split method to compute its income only with respect to the component product. However, if in a later taxable year S satisfies the significant business presence test with respect to the integrated product, then S may use the cost sharing or profit split method to compute its income with respect to that integrated product for that later taxable year.

Example (3). P, a domestic corporation, produces in bulk form in the United States the active ingredient for a pharmaceutical product. P transfers the bulk form to S, a wholly owned possessions corporation. S uses the bulk form to produce in Puerto Rico the finished dosage form Drug. S transfers the drug in finished dosage form to P, which sells the drug to unrelated customers in the U.S. The direct labor costs incurred in Puerto Rico by S during its taxable year in formulating, filling and finishing the dosage form are at least 65 percent of the total direct labor costs incurred by the affiliated group in producing the bulk and finished forms during that period. S manufactures (within the meaning of section 954(d)(1)(A)) the finished dosage form. S has elected out under section 936(h)(5) under the profit split option for the drug product area (SIC 283). P and S may treat the bulk and finished dosage forms as parts of an integrated product. Since S satisfies the significant business presence requirement with respect to the integrated product, it is entitled to 50 percent of the combined taxable income on the integrated product.

Example (4). A possessions corporation, S, produces the keyboard of an electric typewriter and incorporates the keyboard with components acquired from a related corporation into finished typewriters. S does not satisfy the significant business presence test with respect to the typewriters (the integrated product). Therefore, S may use the cost sharing or profit split method to compute its income only with respect to a compontent product or end-product form. For taxable year 1983, S specifies on a statement attached to its return (Schedule P of Form 5735) that the possession product is the end-product form. The statement indentifies the components—for example, the keyboard structure and frame—which are included in the possession product. S's definition of the possession product will apply to all units of the electric Trypwriters which S produces in whole or in part in the possession and which are sold in 1983. Thus, all units of a given component incorporated into such typewriters will be treated in the same way. For example, all keyboards and all frames will be included in the possession product, and all electric drive mechanisms and rollers will be excluded from the possession product.

Question 3: May an affiliated group establish groupings of items of property and treat the groupings as single products?

Answer 3: An affiliated group may establish reasonable groupings of items of property based on similarities in the manufacturing processes of such items. Any grouping which materially distorts a taxpayer's income or the application of the significant business presence test may be disallowed by the Commissioner. In addition, the Commissioner may require grouping of items of property based on similarities in the manufacturing processes when necessary to prevent a material distortion of the taxpayer's income or the application of the significant business presence test. The mere fact that a grouping, or a failure to group, results in an increased allocation of income to the possessions corporation does not, of itself, necessarily create a material distortion of income. The implementation of the above rules is illustrated by the following examples.

Example (1). The following are examples of items of property the processes of manufacture of which are sufficiently similar that they may be grouped and treated as a single product:

(A) Beverage bases or concentrates for different soft drinks or soft drink syrups, regardless of whether some include sweeteners and some do not;

(B) Different styles of clothing;

(C) Different styles of shoes;

(D) Equipment which relies on gravity to deliver solutions to patients intravenously;

(E) Equipment which relies on machines to deliver solutions to patients intravenously;

(F) Video game cartridges, even though the concept and design of each game title is, in part, protected against infringement by separate copyrights;

(G) All integrated circuits;

(H) All printed circuit boards; and

(I) Hardware and software, if software is sold only with the hardware and a purchaser of the hardware ordinarily will not purchase alternative software. In all other cases, hardware and software may not be grouped and treated as a single product.

Groupings (D) and (E) do not include any solutions which are delivered through the equipment described therein.

Example (2). A possessions corporation produces in Puerto Rico non-programmable, interactive cathode ray tube computer terminals that vary in price. These terminals all interact with a computer or controller to perform their functions of data entry, graphics word processing, and program development. The terminals can be purchased with options that include a built-in printer, different language keyboards, specialized cathode ray tubes, and different power supply features. All terminals are produced in one integrated process requiring the same skills and operations. The differences in the production of the terminals include differences in the number of printed circuit boards incorporated in each terminal, the use of unique keyboards, and the installation and testing of the built-in printer. Some difference in direct labor time to manufacture the terminals occurs, primarily due to the differing number and complexity of printed circuit boards incorporated into each terminal. Different model numbers are assigned to various computer terminals. A grouping by the taxpayer of all of the terminals as one product will be respected by the Service, unless the Service establishes that substantial distortion results. This grouping is proper because the processes of producing each of the terminals are similar.

Example (3). A possessions corporation, S, and its U.S. affiliate produce several models of serial matrix impact printers and teleprinters. These products have differing performance standards based on such factors as speed (in characters per second), numbers of columns, and cost. The manufacturing process performed by S and its U.S. affiliate

for all types of printers involves production of three basic elements: electronic circuitry, the printing head, and the mechanical parts. The process of manufacturing all the printers is similar. Thus, all printers could be grouped and treated as a single product. S purchases electronic circuitry and mechanical parts from its U.S. affiliate. S performs manufacturing functions relative to the printing head and assembles and tests the finished printers. S does not satisfy the significant business presence test with respect to the intergrated products. S therefore specifies on a statement attached to its return (Schedule P of Form 5735) that the possession product for both the serial matrix printers and the teleprinters is the end-product form. The statement identifies the components which are included in each possession product. S may group and treat as a single product the serial matrix printers and the teleprinters if both end-product forms include and exclude the same components. Thus, if the end-product form for both the serial matrix printers and the teleprinters includes the mechanical parts and excludes the electronic circuitry, then S may group and treat as a single product the two end-product forms. If, however, the end-product forms for the two items of property contain different components and as a result of this definition of the end-product forms the manufacturing processes involved in producing the two end-product forms are not similar, then S may not group the end-product forms.

Question 4: What factors should be disregarded in determining whether a particular grouping of similar items of property is reasonable?

Answer 4: In general, differences in the following factors will be disregarded in determining whether a particular grouping of items of property is reasonable:

(1) Differences in testing requirements (*e.g.*, some products sold for military use may require more extensive or different testing than products sold for commercial use);

(2) Differences in the product specifications that are designed to accommodate the product to its area of use or for conditions under which used (*e.g.*, electrical products designed for ultimate use in the United States differ from electrical products designed for ultimate use in Europe);

(3) Differences in packaging or labeling (*e.g.*, differences in the number of units of the items shipped in one package); and

(4) Minor differences in the operations of the items of property.

Question 5: Is an affiliated group permitted to group and treat as a single product drugs or medicinal preparations based on the active ingredient contained in the drug or based on both the active ingredient contained in the drug and the delivery form of the drug?

Answer 5: An affiliated group is permitted to group and treat as a single product drugs and medicinal preparations which contain the same active ingredient or ingredients. Alternatively, the affilated group is permitted to group and treat as a single product drugs and medicinal preparations containing the same active ingredient or ingredients which are delivered in the same form if the manufacturing processes are similar. For purposes of the preceding sentence, each of the following groups of items shall be considered to be delivered in the same form:

(1) Capsules, tablets, and pills;

(2) Liquids, ointments, and creams; and

(3) Preparations for delivery through injection or intravenous equipment.

No distinctions should be based on packaging, list numbers, or size of dosage.

Question 6: Will the fact that a manufacturer of a drug must submit a New Drug Application ("NDA") or a supplemental NDA to the Food and Drug Administration have any effect on the definition or grouping of a product?

Answer 6: No.

Example (1). Company S manufactures pharmaceutical X in tablet form in Puerto Rico. The FDA has approved the tablet form of X. S subsequently plans to manufacture X in Puerto Rico in an injectable form. This will require an NDA. If S has elected to distinguish drugs on the basis of both the delivery form and the active ingredient, then the injectable form will be a separate product. If S has elected to distinguish drugs only on the basis of their containing the same active ingredient or ingredients, then the injectable form will not be a separate product. The fact that S must obtain an NDA for the injectable form is not relevant to the determination of whether the injectable constitutes a separate product.

Example (2). A possessions corporation, S, manufactures two active bulk chemicals, X and Y, and produces X in tablet and ointment form and Y in tablet and ointment form. S subsequently plans to manufacture X and Y separately in injectable form. This will require NDAs. If S has elected to distinguish separate products on the basis of both the delivery form of the end-product and the active ingredient, then the injectable forms of X and Y will each be separate products. If S has instead elected to distinguish separate products only on the basis of their containing the same active ingredient or ingredients, then the injectable forms of X and Y will not be separate products.

Question 7: A possessions corporation which produced a product or rendered a type of service in a possession on or before September 3, 1982, is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986 (the interim period). During such interim period, how will the term "product" be defined for purposes of allocating income under the cost sharing or profit split methods?

Answer 7: During the interim period the product will be determined based on the activities performed by the possessions corporation within a possession on September 3, 1982. During the interim period the possessions corporation may compute its income under the cost sharing or profit split method only with respect to the product that is produced or manufactured within the meaning of section 954(d)(1)(A) within the possession. If the product is manufactured from a component or components produced by an affiliated corporation or a contract manufacturer, then the product will not be treated as including such component or components for purposes of the computation of income under the cost sharing or profit split methods. Thus, the possessions corporation is not entitled to any return on the intangibles associated with the component or components. Notwithstanding the preceding sentences, for taxable years beginning before January 1, 1986, a possessions corporation may compute its income under the cost sharing or profit split method with respect to a product which includes a component or components produced by an affiliated corporation or contract manufacturer if the possessions corporation satisfies with respect to such product the significant business presence test described in section 936(h)(5)(B)(ii) and the regulations thereunder.

Example (1). A possessions corporation, S, was manufacturing (within the meaning of section 954(d)(1)(A)) integrated circuits in a possession on September 3, 1982. S transferred those integrated circuits to related corporation P. P incorporated the integrated circuits into central processing units (CPUs in the United States) and sold the CPUs to unrelated parties. S continued to manufacture integrated circuits in the possession through January 1, 1986. For taxable years beginning before January 1, 1986, S may compute its income under the cost sharing or profit split method with respect to the integrated circuits regardless of whether S satisfies the significant business presence test. However, unless S satisfies the significant business presence test with respect to the central processing units, S may not compute its income under the cost sharing or profit split methods with respect to the CPUs, and thus, S is not entitled to any return on manufacturing intangibles associated with CPUs to the extent that they are not related to the integrated circuits produced by S, nor (except as provided in the profit split method) to any return on marketing intangibles.

Example (2). A possessions corporation, S, was engaged on September 3, 1982, in the manufacture (within the meaning of section 954(d)(1)(A)) of a bulk pharmaceutical in Puerto Rico from raw materials. S sold the bulk pharmaceutical to its U.S. parent, P, for encapsulation and sale by P to customers as the product X. Because S was not engaged in the encapsulation of X, S is not considered to have manufactured the integrated product, X, in Puerto Rico. During the interim period, S may compute its income under the cost sharing or profit split methods with respect to the integrated product, X, only if S satisfies the significant business presence test with respect to X. S may compute its income under the cost sharing or profit split methods with respect to the component product (the bulk pharmaceutical).

Example (3). P is a domestic corporation that is not a possessions corporation. P manufactures a bulk pharmaceutical in the United States. P transfers the bulk pharmaceutical to its wholly owned subsidiary, S, a possessions corporation. On September 3, 1982, S was engaged in the encapsulation of the bulk pharmaceutical in Puerto Rico in a manner which satisfies the test of section 954(d)(1)(A). For taxable years beginning before January 1, 1986, S may compute its income under the cost sharing or profit split methods with respect to the end-product form (the encapsulated drug) regardless of whether S meets the significant business presence test. However, unless S satisfies the significant business presence test with respect to the integrated product, S may not compute its income under the cost sharing or profit split methods with respect to the integrated product, and thus, S is not entitled to any return on the intangibles associated with the bulk pharmaceutical.

Question 8: On September 3, 1982, a possessions corporation, S, was engaged in the manufacture (within the meaning of section 954(d)(1)(A)) of X in a possession. During the interim period, after September 3, 1982, but before January 1, 1986, S produced Y, which differs from X in terms of minor design features. S did not produce Y in a possession on September 3, 1982. Will S be considered to have commenced production of a new product after September 3, 1982, for purposes of the application of the significant business presence test for the interim period?

Answer 8: No. X and Y will be considered to be a single product, and therefore S will not be required to satisfy the business presence test with respect to Y during the interim period. In all cases in which the items of property produced on or before September 3, 1982 and the items of property produced after that date could have been grouped together under the guidelines provided in § 1.936–5(a) questions and answers 3 through 5, the possessions corporation will not be considered to manufacture a new product after September 3, 1982.

Question 9: May the term "product" be defined differently for export sales than for domestic sales?

Answer 9: No.

(b) *Requirement of significant business presence.*

Question 1: In general, a possessions corporation may compute its income under the cost sharing or profit split methods with respect to a product or type of service only if the possessions corporation has a significant business presence in a possession with respect to such product or service. For purposes of the cost sharing method, the significant business presence test is met if the possessions corporation satisfies either a value added test or a direct labor test. For purposes of the profit split method, the possessions corporation must satisfy either a value added test or a direct labor test, and must manufacture the product in a possession within the meaning of section 954(d)(1)(A). To determine whether a possessions corporation satisfies the value added or direct labor test, the corporation must compute its total production costs, direct material costs, and direct labor costs with respect to the product. How are these terms defined?

Answer 1: The terms "total production costs," "direct material costs," and "direct labor costs" are defined in § 1.471–11, inventories of manufacturers. Total production costs include direct production costs and fixed and variable indirect production costs. Direct material costs include the cost of those materials which become an integral part of the specific product and those materials which are consumed in the ordinary course of manufacturing and can be identified or associated with particular units or groups of units of that product. See § 1.471–3 for the elements of direct material costs. Direct labor costs, as defined in § 1.471–11(b)(2)(i), include the cost of labor which can be identified or associated with particular units or groups of units of a specific product. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d)), shift differential, payroll taxes, and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor. The possessions corporation must file a separate Schedule P for each product to which the cost sharing or profit split method is applied. The taxpayer must attach to such schedule detailed computations indicating how the significant business presence test is satisfied with respect to the possession product.

Question 2: For purposes of determining whether a possessions corporation satisfies the significant business presence test, how shall the possessions corporation treat the cost of components transferred to the possessions corporation by a member of the affiliated group?

Answer 2: The treatment of the cost of components transferred from an affiliate depends on whether the possession product is treated as including the component for purposes of section 936(h). If it is, then for purposes of the value added test, the production costs associated with the component shall be treated as production costs of the affiliated group that are not incurred by the possessions corporation. Production costs shall not be treated as a cost of materials. For purposes of the direct labor test, the direct labor costs associated with such component shall be treated as direct labor costs of the affiliated group that are not incurred by the possessions corporation. If the possession product is treated as not including such component for purposes of section 936(h), then for purposes of the value added test, the cost of the component shall be treated as a cost of materials. For purposes of the direct labor test, the direct labor costs associated with such component shall not be treated as direct labor costs of the affiliated group. If the possession product is treated as not including such component, then the possessions corporation shall not be entitled to any return on the intangibles associated with the manufacturing or marketing of the component.

Question 3: May the members of the affiliated group include as direct labor costs the labor element in indirect production costs?

Answer 3: No. The labor element of indirect production costs may not be considered as part of direct labor costs. In determining whether a possessions corporation satisfies the value added test, however, all production costs, direct and indirect, incurred in a possession shall be taken into account.

Question 4: When is the quality control and inspection of a product considered to be part of the manufacturing activity for that product?

Answer 4: Quality control and inspection of a manufactured product before its sale or other disposition by the manufacturer, or before its incorporation into other products are considered to be part of the indirect manufacturing activity for that initial product. Subsequent testing of a product

to ensure that the product is compatible with other products is not a part of the manufacturing activity for the initial product. When a component is incorporated into an end-product form and the end-product form is then tested, the latter testing will be considered to be a part of the indirect manufacturing activity for the end-product form and will not be considered to be a part of the manufacturing activity for the component.

Question 5: For purposes of the significant business presence test, do direct labor costs of the possessions corporation include only the costs which were actually incurred or do they take into account, in addition, any labor savings which result because the activities were performed in a possession rather than in the United States?

Answer 5: Direct labor costs include only the costs which were actually incurred.

Question 6: For purposes of the significant business presence test and the allocation of income to a possessions corporation, what is the treatment of the cost of installation of a product that is manufactured by a possessions corporation, sold or otherwise transferred to an affiliated corporation, and installed by the affiliated corporation for the customer?

Answer 6: For the purposes of the significant business presence test and the allocation of income to a possessions corporation, product installation costs that are incurred after the product is transferred to an affiliated corporation need not be taken into account as costs incurred in the manufacture of that product, provided that the taxpayer keeps such permanent books of account or records as are sufficient to establish the fair market price of the uninstalled product. In such a case, the cost of installation materials, the cost of the labor for installation, and a reasonable profit for installation will not be included in the costs and income associated with the product.

Question 7: What is the test for determining, within the meaning of section 954(d)(1)(A), whether a product is manufactured or produced by a possessions corporation in a possession?

Answer 7: A product is considered to have been manufactured or produced by a possessions corporation in a possession within the meaning of section 954(d)(1)(A) and § 1.954–3(a)(4) if—

(1) The property has been substantially transformed by the possessions corporation in the possession;

(2) The operations conducted by the possessions corporation in the possession in connection with the property are substantial in nature and are generally considered to constitute the manufacture or production of property; or

(3) The conversion costs sustained by the possessions corporation in the possession, including direct labor, factory burden, testing of components before incorporation into an end product or testing of the manufactured product before sales account for 20 percent or more of the total cost of goods sold by the possessions corporation.

In no event, however, will packaging, repackaging, labeling, or minor assembly operations constitute manufacture or production of property. See particularly examples (2) and (3) of § 1.954–3(a)(4)(iii).

Question 8: Does the requirement that a possession product be produced or manufactured in a possession within the meaning of section 954(d)(1)(A) apply to taxable years beginning before January 1, 1986?

Answer 8: A possessions corporation must satisfy this requirement if the possessions corporation makes a separate election under section 936(H)(6)(F)(iv)(II) with respect to export sales. In addition, for taxable years beginning before January 1, 1986, the possession product is defined with reference to the product produced within the meaning of section 954(d)(1)(A), unless the possessions corporation satisfies the significant business presence test (see § 1.936–5(a) question and answer (7). In the latter case, if the possessions corporation computes its income under the profit split method with respect to a product, the section 954(d)(1)(A) requirement must be satisfied.

Question 9: With respect to products not produced (and types of services not rendered) in the possession on or before September 3, 1982, when must a possessions corporation first satisfy the 25 percent value added test or the 65 percent direct labor test?

Answer 9: A transitional period is established such that a possessions corporation engaged in start-up operations with respect to a product or service need not satisfy the 25 percent value added test of the 65 percent labor test until the third taxable year following the taxable year in which such product or service is first sold by the possessions corporation. During the transitional period, the applicable percentages for these tests will be as follows:

	Year		
	1	2	3
Value added test	10	15	20
Labor test	35	45	55

A possessions corporation is engaged in start-up operations if it begins operations in a possession with respect to a product or type of service after September 3, 1982. A possessions corporation will be considered to begin operations with respect to a product only if, under the rules of § 1.936–5 (a) questions and answers 3 through 6, such product could not be grouped with any other item of property manufactured in whole or in part in the possessions by any member of the affiliated group in any preceding taxable year. If any member of an affiliated group actually groups two or more items of property then, solely for the purposes of determining whether any item of property in that group is a new product, that grouping shall be respected. However, the fact that an affiliated group does not actually group two or more items of property shall be disregarded in determining whether any item of property is a new product. Any improvement or other change in a possession product which does not substantially change the production process would not be deemed to create a new product. A change in the division of manufacturing activity between the possessions corporation and its affiliates with respect to an item of property will not give rise to a new product. Notwithstanding the above, if a possessions corporation is producing a possession product in one possession and such corporation or a member of its affiliated group begins operations in a different possession, regardless of whether the items of property could be grouped, the affiliated group may treat the units of the item of property produced at the new site of operations as a new product.

Question 10: Will the Secretary adopt a significant business presence test other than those set forth in section 936(h)(5)(ii)?

Answer 10: Yes. The following significant business presence test is adopted both for the transitional period and thereafter. A possessions corporation will have a significant business presence in a possession for a taxable year with respect to a product or type of service if—

(1) No less than 50 percent of the direct labor costs of the affiliated group for units of the product produced, in whole or in part, during the taxable year by the possessions corporation or for the

type of service rendered by the possessions corporation during the taxable year, is incurred by the possessions corporation as compensation for services performed in the possession; and

(2) The direct labor costs of the possessions corporation for units of the product produced or the type of service rendered plus the base period construction costs are no less than 70 percent of the sum of such base period construction costs and the direct labor costs of the affiliated group for such units of the product produced or the type of service rendered.

Notwithstanding satisfaction of the above test, for purposes of determining whether a possessions corporation may compute its income under the profit split method, a possessions corporation will not be treated as having a significant business presence in a possession with respect to a product unless the possessions corporation manufactures the product in the possession within the meaning of section 954(d)(1)(A).

Question 11: For purposes of the preceding question and answer, how is the term "base period construction costs" defined?

Answer 11: The term "base period construction costs" means the average construction costs incurred by or on behalf of the possessions corporation for service in the possession during the taxable year and the preceding four taxable years for section 1250 property (as defined in section 1250(c) and the regulations thereunder) that is used for the production of the product or the rendering of the service in the possession, and which represents the original use of the section 1250 property. For purposes of the preceding sentence, if the possessions corporation was not in existence during one or more of the four preceding taxable years, its construction costs for that year or years shall be deemed to be zero. Construction costs include architects' and engineers' fees, labor costs, and overhead and profit (if the construction is performed by a person that is not a member of the affiliated group).

Question 12: Must the significant business presence test be met with respect to all units of the product produced during the taxable year by the affiliated group?

Answer 12: No. The significant business presence test must be met with respect to only those units of the product produced during the taxable year in whole or in part by the possessions corporation in a possession.

(c) *Definition and treatment of contract manufacturing.*

Question 1: For purposes of determining whether a possessions corporation satisfies the significant business presence test with respect to a product, the costs incurred by the possessions corporation or by any of its affiliates in connection with contract manufacturing which is related to that product and is performed outside the possession shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs of the possessions corporation or as material costs. How is the term "contract manufacturing" to be defined?

Answer 1: The term "contract manufacturing" includes any arrangement between a possessions corporation (or another member of the affiliated group) and an unrelated person if the unrelated person:

(1) Performs work on inventory owned by a member of the affiliated group for a fee without the passage of title;

(2) Performs manufacturing activities under the direct supervision and control of a member of the affiliated group;

(3) Does not undertake any significant risks in manufacturing its product (e.g., it is paid by the hour); or

(4) Uses intangibles which are related to its product, and such intangibles are owned or licensed by a member of the affiliated group.

Question 2: For purposes of the significant business presence test, how shall a possessions corporation treat the cost of contract manufacturing performed within a possession?

Answer 2: If the possessions corporation uses the value added test, it will be permitted to treat the cost of the contract manufacturing performed in a possession, not including material costs, as a production cost of the possessions corporation. If it uses the direct labor test, it is permitted to treat the direct labor costs of the contract manufacturer associated with such contract manufacturing as a cost of direct labor of the possessions corporation (see question and answer 3, below).

Question 3: How are the amounts paid by a possessions corporation to a contract manufacturer for services rendered in a possession to be treated by the possessions corporation in computing the direct labor cost of the product to which such contract manufacturing relates?

Answer 3: If the possessions corporation can establish the contract manufacturer's direct labor cost which was incurred in the possession, such cost will be treated as incurred by the possessions corporation as compensation for services performed in the possession. If the possessions corporation cannot establish such cost, then 50 percent of the amount paid to such contract manufacturer may be treated as incurred by the possessions corporation as compensation for services performed in the possession; provided, that not more than 50 percent of the fair market value of the product manufactured by the contract manufacturer is attributable to articles shipped into the possession, and the possessions corporation receives a statement from the contract manufacturer that this test has been satisfied. If this fair market test is not satisfied, then the cost of contract manufacturing performed within a possession shall not be treated as a production cost or a direct labor cost of either the possessions corporation or the affiliated group.

Question 4: A possessions corporation, S, purchases raw materials and components from an unrelated corporation which conducts business outside of a possession. The unrelated corporation is not a contract manufacturer. What is the treatment of such raw materials and components for purposes of the significant business presence test?

Answer 4: Where Company S purchases raw materials or components from an unrelated corporation which is not a contract manufacturer, the raw materials and components are treated as materials, and the costs (including direct labor costs) related thereto are treated as a cost of materials.

Question 5: For purposes of the significant business presence test, what is the treatment of costs which are incurred by a member of the affiliated group for contract manufacturing performed outside of the possession with respect to an item of property which is a component of the possession product?

Answer 5: If the possession product is treated as including such component, then the cost of the contract manufacturing shall be treated as a direct labor cost of the affiliated group and shall not be treated as a direct labor cost incurred by the possessions corporation (see § 1.936-5(b) question and answer (2)). If the possession product is treated as not including such component, then the cost of the contract manufacturing shall be treated as a cost of materials of the affiliated group (see § 1.936-5(b) question and answer (2)).

§ 1.936-6 Intangible property income when an election out is made: cost sharing and profit split options; covered intangibles.

The rules in this section apply for purposes of section 936(h) and also for

purposes of section 934(e), where applicable.

(a) *Cost sharing option*—(1) *Product area research.*

Question 1: Cost sharing payments are based on research undertaken by the affiliated group in the "product area" which includes the possession product. The term "product area" is defined by reference to the three-digit classification under the Standard Industrial Classification (SIC) code. Which governmental agency has jurisdiction to decide the proper SIC category for any specific product?

Answer 1: Solely for the purpose of determining the tax consequences of operating in a possession, the Secretary or his delegate has exclusive jurisdiction to decide the proper SIC category under which a product is classified. For this purpose, the product area under which a product is classified will be determined according to the 1972 edition of the SIC code. From time to time and in appropriate cases, the Secretary may prescribe regulations or issue rulings determining the proper SIC category under which a particular product is to be classified, and may prescribe regulations for aggregating two or more three-digit classifications of the SIC code and for classifying product areas according to a system other than under the SIC code.

Question 2: How is the term "affiliated group" defined for purposes of the cost sharing option?

Answer 2: For purposes of the cost sharing option, the term "affiliated group" means the possessions corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

Question 3: Are research and development expenditures that are included in product area research limited to research and development expenditures that are deductible under section 174 or that are incurred by U.S. affiliates?

Answer 3: No, product area research is not limited to product area research expenditures deductible under section 174 or to expenses incurred by U.S. affiliates. Product area research also includes deductions permitted under section 168 with respect to research property which are not deductible under section 174; qualified research expenses within the meaning of section 44(F)(b); payments (such as royalties) for the use of, or right to use, a patent, invention, formula, process, design, pattern or know-how; and a proper allowance for amounts incurred in the acquisition of intangible property. In the case of an acquisition of depreciable or amortizable intangible property, the annual amount of product area research shall be equal to the allowable depreciation on the intangible property for the taxable year. In the case of an acquisition of nondepreciable or nonamortizable intangible property, the amount expended for the acquisition shall be included in product area research in the year of the acquisition.

Question 4: Does royalty income from a person outside the affiliated group with respect to manufacturing intangibles within a product area reduce the product area research pool within the same product area?

Answer 4: Yes.

Question 5: What is the treatment of product area research expenses attributable to a component where the component and the integrated product fall within different product areas?

Answer 5: For purposes of the computation of product area research and total sales in the product area by the affiliated group, the product area in which the component falls is aggregated with the product area in which the integrated product falls.

(2) *Possession sales and total sales.*

Question 1: The cost sharing payment is the same proportion of the total cost of product area research which the amount of "possession sales" of the affiliated group bears to the "total sales" of the affiliated group within the product area. How are "possession sales" defined for purposes of the cost sharing fraction?

Answer 1: The term "possession sales" means the aggregate sales or other dispositions of the possession product, less returns and allowances and less indirect taxes imposed on the production of the product, for the taxable year to persons who are not members of the affiliated group. The sales price to be used is the sales price received by the affiliated group from persons who are not members of the affiliated group.

Question 2: For purposes of the numerator of the cost sharing fraction, how are possession sales computed where the possession product is a component product or an end-product form?

Answer 2: The sales price of the component product or end-product form is determined as follows. An independent sales price from comparable uncontrolled transactions must be used if such price can be determined in accordance with § 1.482-2(e)(2). If an independent sales price from comparable uncontrolled transactions cannot be determined, then the sales price for the component product or end-product form will be the same proportion of the sales price for the integrated product which the production costs attributable to the component product or end-product form bears to the total production costs for the integrated product. Production costs will be the sum of direct and indirect production costs as defined for inventory accounting purposes under § 1.471-11 (b), (c), and (d), expect that such costs will not include costs of materials.

Example. The production costs for a component produced by a possessions corporation and its affiliated corporations are $300. The total production costs of the integrated product are $900. The sales price for the integrated product is $1500. The sales price for the component product would be $1000 ($300/$900 × $1500).

Question 3: For purposes of determining possessions sales in the numerator of the cost sharing fraction, will the replacement part price of the product be treated as a price from comparable uncontrolled transactions?

Answer 3: Prices for replacement parts are generally higher than prices for equipment sold as part of an original system. Thus, prices for replacement parts cannot generally be used directly as prices for comparable uncontrolled transactions. However, replacement part prices may be used for estimating comparable uncontrolled prices where the price differential can be reasonably determined and taken into acount under § 1.482-2(e)(2).

Question 4: For purposes of determining possession sales in the cost sharing fraction, what is the treatment of components that are purchased by one possessions corporation from a second possessions corporation and which are incorporated into a possession product?

Answer 4: When one possessions corporation purchases components from a second possessions corporation, the purchase price of the components paid to the second possessions corporation is subtracted from the sales proceeds of the product produced in the possession by the first possessions corporation, and only the remainder is included in the numerator of the cost sharing formula for the first corporation. For example, assume that N corporation manufactures a component for sale to O corporation for $100 (a price which reflects prices in comparable uncontrolled transactions). Both N and O are possessions corporations. O then incorporates that product into a second product which is sold to customers for $200. N and O

must make separate cost sharing payments. The cost sharing payment of N corporation is determined by including $100 as possession sales, and the payment of O is determined by subtracting that $100 purchase price from the $300 received from customers. Thus, the possessions sales amount of O is $200. This rule is intended to prevent the double counting of the sales of a component produced by one possessions corporation and incorporated into another product by an affiliated possessions corporation.

Question 5: How are "possession sales" determined under the cost sharing formula if members of the affiliated group (other than the possessions corporation) include purchases of the possession product, X, in a dollar-value LIFO inventory pool (as provided under § 1.472–8)?

Answer 5: With respect to each affiliate, "possession sales" are determined by multiplying total sales of X by the affiliate (regardless of where the units of X were obtained) during the taxable year by a fraction. The numerator of the fraction is the dollar-value amount of units of X or components of X purchased from the possessions corporation by the affiliate during the taxable year. The dollar-value amount will be determined on the basis of the possessions corporation's cost for its inventory purposes, plus any production costs (as defined in section 1.471–11 (b), (c), and (d) but not including costs of materials) incurred by the affiliate during the same period. The denominator of the fraction is the dollar-value amount of units of X purchased by the affiliate in the same period from all sources, with purchases of units of X and any value added by the affiliate in production during the same period, valued as described above.

Question 6: How are "total sales" defined for purposes of the cost sharing fraction?

Answer 6: The term "total sales" means aggregate sales or other dispositions of products in the same product area as the possession product, less returns and allowances and less indirect taxes imposed on the production of the product, for the taxable year to persons who are not members of the affiliated group. The sales price to be used is the sales price received by the affiliated group from persons who are not members of the affiliated group.

Question 7: In computing the cost sharing payment, how are "total sales" computed if the dollar-value LIFO inventory pool includes some products which are not included in the product area (determind under the 3-digit SIC code) on which the denominator of the cost sharing fraction is based?

Answer 7: In such case, the amount of the total sales within the product area to persons who are not members of the affiliated group by persons who are members of the affiliated group is determined by multiplying the total sales of the products within the dollar-value LIFO inventory pool by a fraction. The numerator of the fraction includes the dollar-value of purchases by members of the affiliated group (including the possessions corporation) of products within the product area made during the year, plus and added production costs (as defined in § 1.471–11 (b), (c), and (d) but not including the costs of materials) incurred by the affiliates during the same period. The denominator of the fraction includes the dollar-value of purchases by members of the affiliated group (including the possessions corporation) of products within the dollar-value LIFO inventory pool made during the same period (including any production costs, as described above, incurred by the affiliate during the same period). For these purposes, purchases of a possession product are determined on the basis of the possessions corporation's cost for its inventory purposes.

(3) *Credits against cost sharing payments.*

Question 1: Is the cost of product area research paid or accured by the possessions corporation in a taxable year creditable against the cost sharing payment?

Answer 1: Yes, if the cost of the product area research is paid or accured solely by the possessions corporation. Thus, payments by the possessions corporation under cost sharing arrangements with, or royalties paid to, unrelated persons are so creditable. However, amounts (such as royalties) paid directly or indirectly to, or on behalf of, related persons and amounts paid under any cost sharing agreements with related persons are not creditable against the cost sharing payment.

Question 2: Do royalties or other payments made by an affiliate of the possessions corporation to another member of the affiliated group reduce the costs sharing payment if such royalties or other payments are based, in part, on activity of the possessions corporation?

Answer 2: No. Payments made between affiliated corporations do not reduce the cost sharing payment. Thus, for example, if a possessions corporation sells a component to a foreign affiliate for incorporation by the foreign affiliate into an integrated product sold to unrelated persons, and the foreign affiliate pays a royalty to the U.S. parent of the possessions corporation based on the total value of the integrated product, the cost sharing payment of the possessions corporation is not reduced.

(4) *Computation of cost sharing payment.*

Question 1: S is a possessions corporation engaged in the maufacture and sale of four products (A, B, C, and D) all of which are classified under the same three-digit SIC code. S sells its production to a U.S. affiliate, P, which resells it to unrelated parties in the United States. P's third party sales of each of these products produced in whole or in part by S (computed as provided under paragraph (a)(2) of § 1.936–6) are $1 million; P's other sales of products in the same SIC code are $3,000,000; and the defined worldwide product area research of the affiliated group is $350,000. How should S compute the costs sharing amount for products A, B, C, and D?

Answer 1: The cost sharing amount is computed separately for each product on Schedule P of Form 5735. S should use the following formula for each of the products A, B, C, and D:

$$\frac{\text{Sales to unrelated persons of possession product}}{\text{Total sales of products in SIC code}} \times \text{Worldwide product area research}$$

$$\frac{\$1{,}000{,}000}{\$7{,}000{,}000} \times \$350{,}000 = \$50{,}000$$

Question 2: The facts are the same as in question 1 except that S manufactures product D under a license from an unrelated person. S pays the unrelated party an annual license fee of $20,000. Thus, the worldwide product area research expense of the affiliated group is $370,000. How should the cost sharing payment be adjusted?

Answer 2: The cost sharing fee should be reduced by the $20,000 license fee made as a direct annual payment to a third party on account of product D. The cost sharing payment with respect to product D in this example will be adjusted as follows:

$$\frac{\text{Sales to unrelated persons of possession product}}{\text{Total sales of products in SIC code}} \times \text{Worldwide product area research} - \text{Amount paid by the possessions corporation to an unrelated party}$$

$$\frac{(\$1,000,000}{\$7,000,000} \times \$370,000) - \$20,000 = \$32,857$$

Question 3: The facts are the same as in question 1 except that S also manufactures and exports product E to a foreign affiliate, which resells it to unrelated persons for $1 million. S makes a separate election for its export sales. How should S compute the cost sharing amount for product E?

Answer 3: The numerator of the cost sharing fraction is the aggregate sales or other dispositions by members of the affiliated group of the units of product E produced in whole or in part in the possession to persons who are not members of the affiliated group. The cost sharing amount for *product E* would be computed as follows:

$$\frac{\text{Export sales of E}}{\text{Total sales of products in SIC code (in this example, U.S. Sales of A, B, C, and D+export sales of E)}} \times \text{Worldwide product area research}$$

or

$$\frac{\$1,000,000}{(\$7,000,000+\$1,000,000)} \times \$350,000 = \$43,750$$

Question 4: The facts are the same as in question 1, except that S also receives $10,000 in royalty income from unrelated persons for the licensing of certain manufacturing intangible property rights. What is the amount of the product area research that must be allocated in determining the cost sharing amount?

Answer 4: If the affiliated group receives royalty income from unrelated persons with respect to manufacturing intangibles in the same product area, then the product area research to be considered shall be first reduced by such royalty income. In this case, the amount of product area research to be used in determining S's cost sharing payment should be reduced by the $10,000 royalty payment received to $340,000.

(5) *Effect of election under the cost sharing method.*

Question 1: What is the effect of the cost sharing method?

Answer 1: The cost sharing payment reduces the amount of deductions (and the amount of reductions in earnings and profits) otherwise allowable to the U.S. affiliates (other than tax-exempt affiliates) within the affiliated group as determined under section 936(h)(5)(C)(i)(I)(*b*) which have incurred research expenditures (as defined in § 1.936–6(a)(1), question and answer 3) in the same production area for which the cost sharing option is elected, during the taxable year in which the cost sharing payment accrues. If there are no such U.S. affiliates, the reductions with respect to deductions and earnings and profits, as the case may be, are made with respect to foreign affiliates within the same affiliated group which have incurred product research expenditures in such product area attributable to a U.S. trade or business. If there are no affiliates which have incurred research expenditures in such product area, the reductions are then made with respect to any other U.S. affiliate and, if there is no such U.S. affiliate, then to any other foreign affiliate. The allocations of these reductions in each case shall be made in proportion to the gross income of the affiliates. In the case of foreign affiliates, the allocation shall be made in proportion to gross income attributable to the U.S. trade or business or worldwide gross income, as the case may be. With respect to each group above, the reduction of deductions shall be applied first to deductions under section 174, then to deductions under section 162, and finally to any other deductions on a pro rata basis.

Question 2: For purposes of estimated tax payments, when is the cost sharing amount deemed to accrue?

Answer 2: The cost sharing amount is deemed to accrue to the appropriate affiliated corporations on the last day of the taxable year of each such corporation.

Question 3: If the cost sharing method is elected and the year of accrual of the cost sharing payment to the appropriate affiliated corporations (described in question and answer 1 of this paragraph (a)(5)) differs from the year of actual payment by the possessions corporation, in what year are the deductions of the recipients reduced?

Answer 3: In the year the cost sharing payment has accrued.

Question 4: What is the treatment of income from intangibles under the cost sharing method?

Answer 4: Under the cost sharing method, a possessions corporation is treated as the owner, for purposes of obtaining a return thereon, of manufacturing intangibles related to a possession product. The term "manufacturing intangible" means any patent, invention, formula, process, design, pattern, or know-how. The possessions corporation will not be treated as the owner, for purposes of obtaining a return thereon, of any manufacturing intangibles related to a component product produced by an affiliated corporation and transferred to the possessions corporation for incorporation into the possession product, except in the case that the possession product is treated as including such component product for all purposes of section 936(h)(5). Further, the possessions corporation will not be treated as the owner, for purposes of obtaining a return thereon, of any marketing intangibles except "covered intangibles." (See § 1.936–6(c).)

Question 5: If the cost sharing option is elected, is it necessary for the possessions corporation to be the legal owner of the manufacturing intangibles related to the possession product in order for the possessions corporation to receive a full return with respect to such intangibles?

Answer 5: No. There is no requirement that manufacturing intangibles be owned by the possessions corporation.

Question 6: How is income attributable to marketing intangibles treated under the cost sharing method?

Answer 6: Except in the case of "covered intangibles" (see § 1.936–6(c)), the possessions corporation is not treated as the owner of any marketing intangibles, and income attributable to marketing intangibles will be allocated to the possessions corporation's U.S. shareholders with the proration of income based on shareholdings. If a shareholder of the possessions corporation is a foreign person or is otherwise tax exempt, the possessions corporation is taxable on that shareholder's pro rata amount of the intangible property income.

Question 7: What is the source of the intangible property income described in question and answer 6?

Answer 7: The intangible property income is U.S. source whether taxed to the U.S. shareholder or taxed to the possessions corporation. Such intangible property income, if treated as income of the possessions corporation, does not enter into the calculation of the 80-percent possession source test or the 65-percent active trade or business test.

Question 8: May marketing intangible income, if any, be allocated to the possessions corporation with respect to custom-made products?

Answer 8: No. If the cost sharing option is elected, then income attributable to marketing intangibles (other than "covered intangibles" described in § 1.936–6(c)) will be taxed as discussed in questions and answers 6 and 7 of paragraph (a)(5) of this section. It is immaterial whether the product is custom-made.

Question 9: In order to sell a pharmaceutical product in the United States, a New Drug Application ("NDA") for the product must be approved by the U.S. Food and Drug Administration. Is an NDA considered a manufacturing or marketing intangible for purposes of the allocation of income under the cost sharing method?

Answer 9: A manufacturing intangible.

Question 10: Can a copyright be, in whole or in part, a manufacturing intangible for purposes of the allocation of income under the cost sharing method?

Answer 10: In general, a copyright is a marketing intangible. See section 936(h)(3)(B)(ii). However, copyrights may be treated either as manufacturing intangibles or nonmanufacturing intangibles (or as partly each) depending upon the function or the use of the copyright. If the copyright is used in manufacturing, it will be treated as a manufacturing intangible; but if it is used in marketing, even if it is also classified as know-how, it will be treated as a marketing intangible.

Question 11: If the cost sharing option is elected and a patent is related to the product produced by the possessions corporation, does the return to the possessions corporation with respect to the manufacturing intangible include the make, use, and sell elements of the patent?

Answer 11: Yes. A patent confers an exclusive right for 17 years to sell a product covered by the patent. During this period, the return to the possessions corporation includes the make, use and sell elements of the patent.

Question 12: For purposes of the cost sharing option, may a safe haven rule be applied to determine the amount of marketing intangible income?

Answer 12: No. The amount of marketing intangible income is determined on the basis of all relevant facts and circumstances. The section 482 regulations will continue to apply except to the extent modified by the election. Rev. Proc. 63–10 and Rev. Proc. 68–22 do not apply for this purpose.

Question 13: If a product covered by the cost sharing election is sold by a possessions corporation to an affiliated corporation for resale to an unrelated party, may the resale price method be used to determine the intercompany price of the possessions corporation?

Answer 13: In general, the resale price method may be used if (a) no comparable uncontrolled price for the product exists, and (b) the affiliated corporation does not add a substantial amount of value to the product by manufacturing or by the provision of services which are reflected in the sales price of the product to the customer. The possessions corporation will not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

Question 14: If a possessions corporation makes the cost sharing election and uses the cost-plus method under section 482 to determine the arm's-length price of a possession product, will the cost base include the cost of materials which are subject to processing or which are components in the possession product?

Answer 14: A taxpayer may include the cost of materials in the cost base if it is appropriate under the regulations under § 1.482–2(e)(4).

Question 15: If the possessions corporation computes its income with respect to a product under the cost sharing method, and the price of the product is determined under the cost-plus method under section 482, does the cost base used in computing cost-plus under section 482 include the amount of the cost sharing payment?

Answer 15: No.

Question 16: If a member of the affiliated group transfers to a possessions corporation a component which is incorporated into a possession product, how will the transfer price for the component be determined?

Answer 16: the transfer price for the component will be determined under section 482, and as follows. If the possession product is treated as not including such component for purposes of section 936(h)(5), the transfer price paid for the component will include a return on all intangibles related to the component product. If the possession product is treated as including such component for purposes of section 936(H)(5), then the transfer price paid for the component by the possessions corporation will not include a return on any manufacturing intangible related to the component product, and the possessions corporation will obtain the return on the manufacturing intangibles associated with the component.

(b) *Profit split option*—(1) *Computation of combined taxable income.*

Question 1: In determining combined taxable income from sales of a possession product, how are the allocations and apportionments of expenses, losses, and other deductions to be determined?

Answer 1: Expenses, losses, and other deductions are to be allocated and apportioned on a "fully-loaded" basis under § 1.861–8 on a separate company basis to combined gross income of the possessions corporation and other members of the affiliated group (other than foreign affiliates). The amount of research, development, and experimental expenses allocated and apportioned to combined gross income is to be determined under § 1.861–8(e)(3), but shall in no event be less than the amount of the cost sharing payment that would have been required under the rules set forth in section 936(h)(C)(ii)(II) and paragraph (a) of this section if the cost sharing option had been elected. Other expenses which are the subject to § 1.861–8(e) are to be allocated and apportioned in accordance with that section. For example, interest expense (including payments made with respect to bonds issued by the Puerto Rico Industrial, Medical and Environmental Control Facilities Authority (AFICA)) is to be allocated and apportioned under § 1.861–8(e)(2). The class of gross income to which marketing and distribution expenses relate and shall be allocated is generally to be defined by the same "product area" as is determined for the relevant research, development, and experimental expenses (*i.e.*, the appropriate 3-digit SIC code) but shall include only gross income generated or reasonably expected to be generated from the geographic area or areas to which the expenses relate. Marketing and distribution expenses shall be apportioned on a fully-loaded basis which reflects, to a reasonably close extent, the factual relationship between these deductions and the statutory and residual groupings of gross income. Apportionment methods based upon comparisons of amounts incurred before ultimate sale of a product (including apportionment on a basis of comparison of costs of goods sold, other expenses incurred, or other comparisons set forth in § 1.861–8(c)(1)(v), such as time spent) are not on a fully-loaded basis and do not reflect this required factual relationship. A comparison of units sold may be used only where the units are of the same or similar value and are, thus, in fact comparable. These deductions shall be apportioned on a basis of comparison of the amount of gross sales or receipts or another method which

similarly reflects the required factual relationship.

The rules for allocation and apportionment of marketing and distribution expenses may be illustrated by the following example:

Example. Assume that possessions corporation A manufactures pharmaceutical product #1 for resale by B, its U.S. parent corporation, in the United States, that B manufactures pharmaceutical products #2 and #3 in the United States for sale there, that all three products are within the same product area, and that marketing and distribution expenses are internally divided by B among the three products on the basis of time spent by sales persons of B on marketing of the three products, as follows:

Product #1	50x
Product #2	80x
Product #3	110x
Total	240x

These expenses of 240x are allocated to gross income generated by all three products and shall be apportioned on the basis of gross sales or receipts of product #1 as compared to products #2 and #3 or another method which similarly reflects the factual relationship between these expenses and gross income derived from product #1 and products #2 and #3. Thus, if a sales method were used and sales of product #1 accounted for one-third of sales receipts from the three products, 80x (240÷3) of marketing and distribution expenses would be apportioned to the combined gross income from product #1.

The allocation of the remaining expenses, definitely related to a class of gross income, shall be made to the class of gross income to which they are definitely related. These expenses are apportioned on the basis of any reasonable method, as described § 1.861–8 (b)(3) and (c)(1). Examples of such methods may include, but are not limited to, those specified in § 1.861–8(c)(1) (i) through (vi).

Question 2: How may the allocation and apportionment of expenses to combined gross income be verified?

Answer 2: Substantiation of the allocation and apportionment of expenses will be required upon audit of the possessions corporation and affiliates. Detailed substantiation may be necessary, particularly where the entities are engaged in multiple lines of business involving distinct product areas. Sources of substantiation may include certified financial reports, Form 10-K's, annual reports, internal production reports, product line assembly work papers, and other relevant materials. In this regard, see § 1.861–8(f)(5).

Question 3: Does section 936(h) override the moratorium provided by section 223 of the Economic Recovery Tax Act of 1981?

Answer 3: Yes. Thus, the allocation and apportionment of product area research described in question and answer 1 must be made without regard to the moratorium.

Question 4: If a possessions corporation uses the profit split method to determine its taxable income from sales of a product, how does it determine its gross income for purposes of the 80-percent possession source test and the 65-percent active trade or business test of section 936(a)(2)?

Answer 4: One-half of the deductions of the affiliated group (other than foreign affiliates) which are used in determining the combined taxable income from sales of the product are added to the portion of the combined taxable income allocated to the possessions corporation in order to determine the possessions corporation's gross income from sales of such product.

Question 5: How will income from intangibles related to a possession product be treated under the profit split method?

Answer 5: Combined taxable income of the possessions corporation and affiliated corporations from the sale of the possession product will include income attributable to all intangibles, including both manufacturing and marketing intangibles, associated with the product.

Question 6: Can a possessions corporation apply the profit split option to a possession product if no U.S. affiliates derive income from the sale of the possession product?

Answer 6: Yes.

Question 7: With respect to the factual situation discussed in question and answer 6, how is combined taxable income computed?

Answer 7: The profit split option is applied to the taxable income of the possessions corporation from sales of the possession product to foreign affiliates and unrelated persons. Fifty percent of that income is allocated to the possessions corporation, and the remainder is allocated to the appropriate affiliates as described in question and answer 11 of this paragraph (b)(1).

Question 8: Does combined taxable income under the profit split option include amounts received from the sale of a possession product to other members of the affiliated group (other than foreign affiliates) if the possession product is not resold to a foreign affiliate or unrelated person?

Answer 8. No. Combined taxable income is computed only with respect to sales by members of the affiliated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates. See section 936(h)(5)(C)(ii)(IV).

Question 9: If the possession product is a component product, how is combined taxable income for such product to be determined?

Answer 9: The combined taxable income for the component product may be determined by actual prices from comparable uncontrolled transactions under § 1.482–2(e)(2). If no comparable uncontrolled price for the possession product exists, then the gross receipts from sales of the possession product will be deemed to be the same proportion of the gross receipts from sales of the integrated product which the production costs for the possession product bear to the total production costs for the integrated product. The possessions corporation will determine its costs (other than costs incurred for materials purchased from a U.S. affiliate) attributable to the possession product and its expenses allocable and apportionable to the possession product under § 1.861–8, as described in question and answer 1 of this paragraph (b)(1). Each member of the affiliated group that is a United States person, other than the possessions corporation, shall determine its costs (other than costs incurred for materials purchased from a U.S. affiliate) attributable to the possession product, and its expenses allocable and apportionable to the integrated product under § 1.861–8, as described in question and answer 1 of this paragraph (b)(1). Each such United States person (other than the possessions corporation) shall apportion to the possession product, on the basis of the ratio of the production costs for the possession product to the total production costs for the integrated product, the expenses that such affiliate allocated and apportioned to the integrated product. Production costs will be the sum of direct and indirect production costs as defined for inventory accounting purposes under section 1.471–11 (b), (c), and (d), except that they will not include the costs of materials.

Example. A possessions corporation, S, is engaged in the manufacture of microprocessors. S obtains a component from a U.S. affiliate, O. S sells its production to another U.S. affiliate, P, which incorporates the microprocessors into central processing units (CPUs). P transfers the CPUs to a U.S. affiliate, Q, which incorporates them into computers for sale to unrelated customers. S chooses to define the possession product as

the CPUs. The combined taxable income for the CPUs is computed below on the basis of the given production, sales, and cost data:

Production costs (excluding costs of materials):	
1. O's costs for the component	75
2. S's costs for the microprocessors	400
3. P's costs for the CPUs	125
4. Q's costs for the computers	150
5. Total (add lines 1 through 4)	750
6. Combined production costs for the CPUs (add lines 1 through 3)	600
7. Ratio of production costs for the CPUs (the possession product) to the production costs for the computers (the integrated product)	0.8
Sales:	
8. Total sales by Q to unrelated customers and foreign affiliates of computers containing microprocessors produced by S	5,000
9. Sales value of the CPUs (line 8 multiplied by line 7)	4,000
Total costs of S (excluding costs of materials obtained from U.S. affiliates):	
10. Production costs of S (enter from line 2)	400
11. Materials costs (excluding materials obtained from U.S. affiliates)	100
12. Research expenses	0
13. Other expenses (general and administrative, interest, etc.)	500
14. Total (add lines 10 through 13)	1,000
Research expenses of the affiliated group allocable and apportionable to the CPUs:	
15. Total sales in the 3-digit SIC code	8,000
16. Possession sales (enter from line 9)	4,000
17. Cost sharing fraction (divide line 16 by line 15)	0.5
18. Research expenses incurred by the affiliated group in the 3-digit SIC code	600
19. Cost sharing amount (multiply line 17 by line 18)	300
20. Research of the affiliated group (other than foreign affiliates) allocable and apportionable under § 1.861-8(e)(3) to the computers (the integrated product)	350
21. Research apportionable to the CPUs (multiply line 20 by line 7)	280
22. Enter the greater of line 19 or line 21	300
Other expenses of the affiliated group (other than S and foreign affiliates) allocable or apportionable to the CPUs:	
23. Marketing, general and administrative, interest and other expenses of the affiliated group (other than S and foreign affiliates) which are allocable and apportionable to the computers or to any components thereof	500
24. Expenses apportionable to the CPUs (multiply line 23 by line 7)	400
Combined taxable income attributable to the CPUs:	
25. Combined taxable income (line 9 minus lines 1, 3, 14, 22 and 24)	2,100
26. Share of combined taxable income apportioned to S (50% of line 25)	1,050
Share of combined taxable income apportioned to U.S. affiliates of S:	
27. Adjustment to research expense (Enter the greater of zero or line 19 minus line 21)	20
28. Adjusted combined taxable income (line 27 plus line 25)	2,120
29. Share of combined taxable income apportioned to U.S. affiliates of S (line 28 less line 26)	1,070

Question 10: If the possession product is an end-product form, how is the combined taxable income from the product determined?

Answer 10: Assume that the possessions corporation purchases components from a U.S. affiliate and incorporates them into a product X which is sold without further transformation to unrelated customers and foreign affiliates. The combined taxable income for the end-product form shall be determined by substracting from the third party sales price or comparable uncontrolled sales price of X the following amounts: (1) The comparable uncontrolled sales price of the components and (2) all other costs allocable or apportionable to the end-product form. If no comparable uncontrolled prices for the components exist, then the combined taxable income for the possession product will be computed under the rules described in question and answer 9 of this § 1.936-5(b)(1).

Question 11: If the profit split option is elected, how is the portion of combined taxable income not allocated to the possessions corporation to be treated?

Answer 11: The income shall be allocated (1) to U.S. affiliates (other than tax-exempt affiliates) within the group (as determined under section 482) which derive income from the active conduct of a trade or business in the same product area as the possession product; or (2) if there are no such affiliates, to other U.S. affiliates (other than tax-exempt affiliates); or (3) if there are no U.S. affiliates (other than tax-exempt affiliates), to foreign affiliates which derives income from the active conduct of a trade or business in the same product area as the possession product (or, if the foreign members are resident in a country with which the U.S. has an income tax convention, then to those foreign members which have a permanent establishment in the U.S. which derives income in the same product area as the possession product); or (4) if there are no affiliates described in (1) through (3) above, then to all other affiliates. The allocations made under (1) and (3) above shall be made on the basis of the relative gross income derived by each such affiliate from the active conduct of the trade or business in the same product area, and allocations made under (2) and (4) above shall be made on the basis of the relative total gross income of each such affiliate. Income allocated to foreign affiliates shall be treated as effectively connected with the conduct of a trade or business in the Unites States. For purposes of determining a corporation's estimated tax liability with respect to income thus allocated, the general rules applicable to estimated tax payments shall apply.

Question 12: How is the profit split option to be applied to properly account for costs incurred in a year with respect to products which are sold by the possessions corporation to a U.S. affiliates during such year, but are not resold by the U.S. affiliate to persons who are not members of the affiliated group or to foreign affiliates until a later year?

Answer 12: The rules under § 1.994-1(c)(5) are to be applied. Incomplete transactions will not be taken into consideration in computing combined taxable income. Thus, for example, if in 1983, A, a possessions corporation, sells units of a product with a cost to A of $5000 to B corporation, its U.S. affiliate, which uses the dollar-value LIFO method of costing inventory, and B sells units with a cost of $4000 (representing A's cost) to C corporation, a foreign affiliate, only $4000 of such costs shall be taken into consideration in computing the combined taxable income of the possessions corporation and U.S. affiliates for 1983. If a specific goods LIFO inventory method is used by B, the determination of whether A's goods remain in B's inventory shall be based on whether B's specific goods LIFO grouping has experienced an increment or decrement for the year on the specific LIFO cost of such units, rather than on an average unit cost of such units. If the FIFO method of costing inventory is used by B, transfers may be based on the cost of the specific units transferred or on the average unit production cost of the units transferred, but in each case a FIFO flow assumption shall be used to identify the units transferred. For a determination of which goods are sold by taxpayers using the LIFO method, see question and answer 15.

Question 13: If a possessions corporation purchases materials from and affiliate and computes combined taxable income for the possession product including such materials, how are those materials to be valued in the possessions corporation's inventory?

Answer 13: The cost of those materials is considered to be equal to the affiliate's FIFO cost, regardless of its inventory method.

Question 14: If the possessions corporation uses the FIFO method of costing inventory and the U.S. affiliate uses the LIFO method of costing inventory, or *vice versa*, what method of costing inventory should be used in computing combined taxable income?

Answer 14: The possessions corporation's method of costing inventory determines the cost of the inventory for purposes of computing combined taxable income. However, the affiliate's method of costing determines when the possession product purchased by such affiliate is sold to a foreign affiliate or unrelated person. Thus, if the possessions corporation uses the dollar-value LIFO method, the cost of its inventory for purposes of computing combined taxable income will depend on whether its LIFO pool or pools experienced an increment or decrement

in the year in which sales of its products are made to its U.S. affiliate. Appropriate ratios must be used in years where the sales of the possessions corporation come out of both current year's production and LIFO layers built up in prior years.

Question 15: How are sales of a possession product by a U.S. affiliate determined for purposes of the profit split option if the U.S. affiliate includes purchases of the possession product in a dollar-value LIFO inventory pool (as provided under § 1.472–8))?

Answer 15: The determination of whether the product acquired from the possessions corporation is sold by the U.S. affiliate is based on the U.S. affiliate's dollar-value LIFO pool. Thus, if there is no change in the level of the U.S. affiliate's pool which includes the possession product, or if any layers of the U.S. affiliate's pool are liquidated, then all units of the product acquired from the possessions corporation during that taxable year, as well as units of the product acquired from the possessions corporation in prior years based on any layers of the U.S. affiliate that are liquidated, are presumed to have been sold by the U.S. affiliate. If the inventory pool of the U.S. affiliate has an increment, the increment attributable to the possession product is determined by multiplying the increment by a fraction. The numerator of the fraction includes the purchases of the product made by the U.S. affiliate during the taxable year from the possessions corporation (determined on the basis of the possessions corporation's cost for its inventory purposes) plus any production costs (as defined in § 1.471–11 (b), (c), and (d), but not including costs of materials) incurred by the U.S. affiliate during the same period. The denominator of the fraction is the total purchases of the product made by the U.S. affiliate for the same period from all sources, with purchases of units of the possession product and any value added by the affiliate in production during the same period, valued as described above. Sales of a possession product are then determined by multiplying the total sales of the product by the U.S. affiliate by a fraction, the numerator of which is the increment in the U.S. affiliate's pool attributable to the possession product and the denominator of which is the increment in the U.S. affiliate's pool attributable to purchases from all sources.

(2) *Pre-TEFRA inventory.*

Question 1: How is pre-TEFRA inventory to be determined if the profit split option is elected and the FIFO method of costing inventory is used by the U.S. affiliate?

Answer 1: Pre-TEFRA inventory is inventory which was produced by the possessions corporation and transferred to a U.S. affiliate prior to the possessions corporation's first taxable year beginning after December 31, 1982. Pre-TEFRA inventory will not be included for purposes of the profit split option. If the U.S. affiliate uses the FIFO method of costing inventory, the pre-TEFRA inventory will be treated as the first inventory sold by the U.S. affiliate during the first year in which section 936(h) applies and will not be included in the computation of combined taxable income for purposes of the profit split option. The treatment of pre-TEFRA inventory when FIFO costing is used by both the U.S. affiliate and the possessions corporation is illustrated by the following example in which FIFO unit costing is used:

Example. Assume the following:

	X		Y	
	Possessions corporation		U.S. affiliate	
	Number of units	Cost per unit	Number of units	Cost per unit
Beginning inventory	500	$150	200	$225
Units produced during 1983	1,000	200		
Ending inventory	400	200	300	

In 1983, the beginning inventory of X, a possessions corporation, is 500 units with a unit cost of $150 and the beginning inventory of Y, the U.S. affiliate, is 200 units with a unit cost of $225, which represents the section 482 price paid by Y. Y's beginning inventory in 1983 represents purchases made in 1982 of products produced by X in that year. Y sells all the units it purchases from X to Z, a foreign affiliate. In 1983, X produces 1000 units at a unit cost of $200 and sells 1100 units to Y (the difference between 1500 units representing X's 1983 beginning inventory (500) and the units produced by X in 1983 (1000) less X's ending inventory of 400 units). Of the 1100 units sold by X to Y in 1983, only 800 units (and not 1000 units) which were sold by Y to Z are taken into consideration in computing combined taxable income for 1983. Since FIFO costing by the possessions corporation is used, the cost is $150 per unit for the first 500 units and $200 per unit for the remaining 300 units. The 200 units sold by X to Y in 1982 are pre-TEFRA inventory and are not included in the computation of combined taxable income for 1983. They are also treated as the first units sold by Y to Z in 1983. This inventory has a unit cost of $225, which reflects the section 482 transfer price from X to Y in 1982. Y's 1983 ending inventory of 300 units will not be taken into consideration in computing the combined taxable income of X and Y for 1983 because the units have not been sold to a foreign affiliate or to persons who are not members of the affiliated group. In a subsequent year when the units are sold to Z, the cost to X and selling price to Z of these units will enter into the computation of combined taxable income for that year.

Question 2: How is pre-TEFRA inventory to be determined if the profit split option is elected and the LIFO method of costing inventory is used by the U.S. affiliate?

Answer 2: Pre-TEFRA inventory will not be included for purposes of the profit split option. If the U.S. affiliate uses the LIFO method (either dollar-value or specific goods LIFO), pre-TEFRA inventory will be treated as inventory sold by the U.S. affiliate in the year in which the U.S. affiliate's LIFO layer containing pre-TEFRA LIFO inventory is liquidated, and shall not be included in the computation of combined taxable income for such years for purposes of the profit split option. The treatment of pre-TEFRA inventory where the dollar-value LIFO method is used by both the U.S. affiliate and the possessions corporation is illustrated by the following example:

Example. Assume the following for 1983:

	X	Y
	Possessions corporation	U.S. affiliate
	dollar-value LIFO cost of inventory	dollar-value LIFO cost of inventory
Beginning inventory	*$5,000	*$4,000
Dollar-value LIFO cost of inventory produced during 1983	20,000	5,000
Ending inventory	4,000	3,000

* Assume that there is no layer of increment and that this represents the base layer.

At the beginning of 1983, X, a possessions corporation, has a dollar-value LIFO pool containing a possession product with a single base layer of $5,000. The beginning inventory of Y, its U.S. affiliate, in the preceding year consists of a single pool containing such possession product in a single base layer in the amount of $4,000, which represents the section 482 price paid by Y. Y sells all its purchases of the possession product to Z, a foreign affiliate. In 1983, X produces additional inventory of the product with a cost of $20,000 and sells inventory with a dollar-value LIFO cost of $21,000 to Y. X's inventory at the end of 1983 has a dollar-value LIFO cost of $4,000. In 1983, Y incurs $5,000 of production costs and sells inventory with a dollar-value LIFO cost of $27,000 to Z, of which $26,000 of inventory is taken into consideration in computing combined taxable income. $1,000 of inventory represents pre-TEFRA inventory resulting from the liquidation of a LIFO layer and is not included in the computation of combined taxable income for 1983. Instead, any income associated with the sale of the pre-TEFRA

inventory is taxed to the U.S. affiliate in the year of sale (in this case, 1983).

(c) *Covered Intangibles.*

Question 1: What are "covered intangibles" under section 936(h)(5)(C)(i)(II)?

Answer 1: The term "covered intangibles" means (1) intangible properly developed in a possession solely by the possessions corporation and owned by it (2) manufacturing intangible property (described in section 936(h)(3)(B)(i)) which is acquired by the possessions corporation from unrelated persons, and (3) any other intangible property (described in section 936(h)(3)(B)(ii) through (v), to the extent not described in section 936(h)(3)(B)(i)) which relates to sales of products or services to unrelated persons for ultimate consumption or use in the possession in which the possessions corporation conducts its business. The possessions corporation is treated as the owner of covered intangibles for purposes of obtaining a return thereon.

Question 2: Do covered intangibles include manufacturing intangible property which is acquired by a U.S. affiliate and subsequently transferred to the possessions corporation?

Answer 2: No. In order for a manufacturing intangible to be treated as a covered intangible, the intangible property must be acquired directly by the possessions corporation from an unrelated person.

Question 3: If a possessions corporation licenses a manufacturing intangible from an unrelated party, will the licensed intangible be treated as a covered intangible?

Answer 3: No.

Question 4: How is ultimate consumption or use determined for purposes of the definition of covered intangibles?

Answer 4: A product will be treated as having its ultimate use or consumption in a possession if it is sold by the possessions corporation to an unrelated person in a possession and is not resold or used or consumed outside of the possession within one year after the date of the sale.

Question 5: Are sales of products that relate to covered intangibles excluded from the cost sharing fraction?

Answer 5: If no intangibles other than covered intangibles are associated with the possession product, then sales of such product will be excluded from the cost sharing fraction. If both covered and non-covered intangibles are associated with the possession product, then sales of such product will be included in the cost sharing fraction.

Question 6: If the cost sharing option is elected, is it necessary for the possessions corporation to be the legal owner of covered intangibles described in section 936(h)(5)(C)(i)(II(*c*) related to the product in order for the possessions corporation to receive a full return with respect to such intangibles?

Answer 6: No. For purposes of section 936(h), it is immaterial whether such covered intangibles are owned by the possessions corporation or by another member of the affiliated group. Moreover, if the legal owner of such covered intangibles which are subject to section 936(h)(5) is an affiliate of the possessions corporation, such person will not be required to charge an arm's-length royalty under section 482 to its possessions corporation.

§ 1.936-7 Manner of making election under section 936(h)(5); special election for export sales; revocation of election under section 936(a).

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

(a) *Manner of making election.*

Question 1: How does a possessions corporation make an election to use the cost sharing method or profit split method?

Answer 1: A possessions corporation makes an election to use the cost sharing or profit split method by filing Form 5712-A and attaching it to its tax return. Form 5712-A must be filed on or before the due date (including extensions) of the tax return of the possessions corporation for its first taxable year beginning after December 31, 1982. The electing corporation must set forth on the form the name and the taxpayer identification number or address of all members of the affiliated group (including foreign affiliates not required to file a U.S. tax return). All members of the affiliated group must consent to the election. An authorized officer of the electing corporation must sign the statement of election and must declare that he has received a signed statement of consent from an authorized officer of each member of the affiliated group. The election is not valid unless all affiliates consent, and unless an amended Form 5712-A is filed and attached to the timely filed possessions corporation's income tax return (including extensions) to reflect any changes in the names or number of corporations in the affiliated group.

Question 2: May the "election out" under section 936(h)(5) be made on a product-by-product basis, or must it be made on a wider basis?

Answer 2: An electing corporation is required to treat products in the same product area in the same manner. Similarly, all possessions corporations in the same affiliated group that produce any products or render any services in the same product area must make the same election for all products that fall within the same product area. However, § 1.936-7(b) provides that the electing corporation may make a different election for export sales than for domestic sales. The electing corporation or corporations may also make different elections for products that fall within different product areas.

Question 3: May the possessions corporation elect to define product area more narrowly than the 3-digit SIC code?

Answer 3: No. Certain alternatives, such as the 4-digit SIC code, would not be permitted under the statute. However, other methods for defining product area may be considered by the Commissioner in the future.

Question 4: May a possessions corporation make an election out under the cost sharing method with respect to a product area if the affiliated group incurs no research, development or experimental costs in that product area?

Answer 4: Yes. In that case the cost sharing payment will be zero.

Question 5: If the significant business presence test is not satisfied for a product or type of service within the product area covered by the election, what rules will apply with respect to that product?

Answer 5: If a cost sharing election has been made with respect to the product area, the cost sharing payment will not be reduced. However, with respect to the product which does not satisfy the significant business presence test, the provisions of section 936 (h)(1) through (h)(4) will apply to the allocation of income.

Question 6: Is a taxpayer permitted to make a change of election on a prospective basis with respect to the cost sharing and profit split methods?

Answer 6: In general, once the election is properly made, it is binding (including upon any later created affiliates), and revocation is only permitted with the consent of the Commissioner of Internal Revenue. However, a taxpayer will be permitted to change its election once from the cost sharing method to the profit split method, or *vice versa,* without consent of the Commissioner if the change is made before January 1, 1986, or within 90 days after [the date of publication of final regulations under section 936(h)(5)(C) (i) and (ii)], whichever is later. A change of election will be treated as an election subject to the procedures set forth above and to

section 481 of the Internal Revenue Code.

Question 7: If the Commissioner determines that a possessions corporation does not meet the 80-percent possession source test or the 65-percent active trade or business test (the "qualification tests") for any taxable year beginning after 1982, under what circumstances is the possessions corporation permitted to make a distribution of property after the close of its taxable year to meet the qualification tests?

Answer 7: A possessions corporation may make a pro rata distribution of property to its shareholders after the close of the taxable year if the Commissioner determines that the possessions corporation does not satisfy the qualification tests (a) by reason of the exclusion from gross income of intangible income under section 936(h)(1)(B) or section 936(h)(5)(C)(i)(II) or (b) by reason of the allocation to the shareholders of the possessions corporation of income under section 936(h)(5)(C)(ii)(III); provided, however, that the determination of the Commissioner does not contain a finding that the failure of such corporation to satisfy the qualification tests was due, in whole or in part, to fraud with intent to evade tax or willful neglect on the part of the possessions corporation. The possessions corporation must designate the distribution at the time the distribution is made as a distribution to meet qualification requirements, and it will be subject to the provisions of section 936(h)(4). Such distributions will not qualify for the dividends received deduction.

(b) *Separate election for export sales.*

Question 1: What methods of computing income can a possessions corporation use under the separate election for export sales?

Answer 1: The only two methods which are available under the separate election for export sales are the cost sharing method and the profit split method.

Question 2: What is the definition of export sales for purposes of the separate election for export sales?

Answer 2: The determination of export sales is based upon the destination of the product, *i.e.*, where it is to be used or consumed. If the product is sold to a U.S. affiliate, it will be treated as an export sale only if resold or otherwise transferred abroad to a foreign person (including a foreign affiliate or foreign branch of a U.S. affiliate) within one year from the date of sale to the U.S. affiliate for ultimate use or consumption outside the United States as provided under § 1.954-3(a)(3)(ii).

Question 3: Assume that a possessions corporation sells a product to both foreign affiliates and foreign branches of U.S. affiliates. In addition, it sells the product to its U.S. parent for resale in the U.S. The possessions corporation makes a profit split election for domestic sales and a cost sharing election for export sales. Will the sales to foreign branches of U.S. affiliates be treated as exports subject to the cost sharing method or as domestic sales subject the profit split method?

Answer 3: The sales to a foreign branch of a U.S. corporation are exports if for ultimate use or consumption outside of the United States as provided under § 1.954-3(a)(3)(ii).

Question 4: Under what circumstances may a possessions corporation make the separate election under section 936(h)(5)(F)(iv)(II) for computing its income from products exported to a foreign person when the income derived by such foreign person on the resale of such products is included in foreign base company income under section 954(a)?

Answer 4: If the income derived by a foreign person on the resale of products manufactured, in whole or in part, by a possessions corporation is included in foreign base company income under section 954(a), then the possessions corporation may make the separate export election under section 936(h)(5)(F)(iv)(II) for computing its income from such products only if such foreign person has been formed or is availed of for substantial business reasons that are unrelated to an affiliated corporation's U.S. tax liability. For purposes of the preceding sentence, a foreign person will be considered to be formed or availed of for such substantial business reasons if the foreign person in the normal course of business purchases substantial quantities of products from both the possessions corporation and its affiliates for resale, and, in addition provides support services for affiliated companies such as centralized testing, marketing of products, management of local currency exposures, or other similar services. However, a foreign person that purchases and resells products only from a possessions corporation is presumed to formed or availed of for other than such substantial business reasons, even if the foreign person provides additional services.

Question 5: When will the "manufacturing" test set forth in subsection (d)(1)(A) of section 954 be applicable to the export sales of a product of a possessions corporation which makes a separate election for export sales?

Answer 5: An electing corporation will be required to meet the "manufacturing" test set forth in subsection (d)(1)(A) of section 954 with respect to export sales of its product in each taxable year in which the separate election for export sales is in effect.

(c) *Revocation of election under section 936(a).*

Question 1: When may an election under section 936(a) be revoked?

Answer 1: An election under section 936(a) may be revoked during the first ten years of section 936 status only with the consent of the Commissioner, and without the Commissioner's consent after that time. The Commissioner hereby consents to all requests for revocation that are made with respect to the taxpayer's first taxable year beginning after December 31, 1982 provided that the section 936(a) election was in effect for the corporation's last taxable year beginning before January 1, 1983, if the taxpayer agrees not to re-elect section 936(a) prior to its first taxable year beginning after December 31, 1988. A taxpayer that wishes to revoke a section 936(a) election under the terms of the blanket revocation must attach a "Statement of Revocation—Section 936" to the taxpayer's timely filed return (including extensions) and must state that in revoking the election the taxpayer agrees to re-elect section 936(a) prior to its first taxable year beginning after December 31, 1988. Other requests to revoke not covered by the Commissioner's blanket consent should be addressed to the District Director having jurisdiction over the taxpayer's tax return.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-370 Filed 1-6-84; 4:41 pm]

BILLING CODE 4830-01-M

---

26 CFR Part 1

[LR-194-82]

Significant Business Presence Test and Cost Sharing and Profit Split Elections With Respect to the Possessions Tax Credit; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the satisfaction of the significant business presence test

and the cost sharing and profit split elections with respect to the possessions tax credit. These regulations are issued to conform to changes made by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982.

DATES: The public hearing will be held on Tuesday, April 3, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, March 20, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines or oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-194-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 936(h) of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the Federal Register (See FR Doc. 84-370).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Tuesday, March 20, 1984, an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-369 Filed 1-5-84; 4:41 pm]

BILLING CODE 4830-01-M

---

26 CFR Part 1

[EE-17-81]

Computation of "Income" of an Electric Cooperative Under Section 501(c)(12)

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations relating to electric cooperatives under section 501(c)(12) of the Internal Revenue Code of 1954. These proposed regulations will provide necessary guidance to those electric cooperatives making a determination of their exempt status under section 501(c)(12) and will affect such cooperatives and their members.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 12, 1984. The amendments are proposed to be effective for taxable years beginning after the date of publication of these regulations in the Federal Register as a final rule.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (EE-17-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Patricia K. Keesler of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3430, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations under section 501(c)(12) of the Internal Revenue Code of 1954. Section 501(c)(12) provides that local benevolent life insurance companies, mutual irrigation and telephone companies and like organizations are exempt from federal income tax if certain requirements are met. Rev. Rul. 67-265, 1967-2 C.B. 205, provides that a cooperative organization furnishing light and water to its members is a "like organization" within the meaning of section 501(c)(12). The proposed regulations amend the existing regulations to conform them to the current position of the Internal Revenue Service that cooperatives that furnish light, water, heat, gas, or electricity to their members are like organizations under 501(c)(12).

Computation of Income

Under section 501(c)(12) an organization must receive 85 percent or more of its income from members in order to be exempt from federal taxation. The existing regulations do not provide a method for electric cooperatives to compute income for purposes of the 85 percent member-income test. This lack of clarity has caused administrative difficulties for the Service as well as the public. The proposed amendments to the regulations provide that income is determined by subtracting cost of goods sold from gross sales and cost of goods sold is determined in accordance with the full absorption method of inventory costing under § 1.471-11 of the Income Tax Regulations. Comments are requested on alternative methods of computing cost of goods sold, in lieu of or in addition to the full absorption method.

Effective Date

The requirement that an electric cooperative's income be determined by subtracting the cost of goods sold from gross sales would be effective for taxable years beginning after the date on which final regulations are issued. For taxable years beginning before final regulations are issued, an electric cooperative may continue to determine its income for purposes of the 85 percent member-income test pursuant to the method consistently applied by the organization.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner has determined that this proposed regulation is not a major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven 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 request 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 principal author of these proposed regulations is Patricia K. Keesler of the Employee Plans and Exempt Organizations 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 regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.501(a)-1—1.528-10

Income taxes, exempt organizations, nonprofit organizations, cooperatives.

Proposed Amendments to the Regulations

PART 1—(AMENDED)

It is proposed to amend 26 CFR Part 1 by adding the following new § 1.501(c)(12)-2 immediately after § 1.501(c)(12)-1:

§ 1.501(c)(12)-2 Like Organizations.

(a) *In general.* For purposes of section 501(c)(12) and § 1.501(c)(12)-1, the term "like organization" includes an organization that furnishes light, water, heat, gas or electricity to its members on a cooperative basis. Thus, for example, a cooperative that provides electricity to its members may qualify for exemption from federal income taxes as a "like organization" under section 501(c)(12) provided 85 percent or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(b) *Electric cooperatives.* For taxable years of an electric cooperative beginning after [THE DATE ON WHICH THIS REGULATION IS PUBLISHED AS A TREASURY DECISION] income from the sale of electricity shall be determined for purposes of applying the 85 percent member-income test by subtracting the cost of producing or purchasing electricity (whichever is applicable) from the gross receipts derived from sales of electricity. The cost of producing or purchasing electricity shall be determined in the manner described in § 1.471-11, relating to the full absorption method of inventory. Section 1.471-11 shall apply as if the sale of electricity were an income producing factor, with inventories required at the beginning and end of each taxable year. However, notwithstanding any contrary provision in § 1.471-11, for purposes of this section, the cost of producing electricity shall not include patronage dividends (as defined in section 1388(a)) whether paid by way of cash or qualified or nonqualified written notice of allocation.

(c) *Example.* The following example illustrates the provisions of this section.

Example. For its most recently completed taxable year, an electric power cooperative had gross receipts of $105x: $170x from sales of electricity to its members, $10x from sales of electricity to nonmembers, and $5x from capital gains, dividends and interest. The cost of goods sold, determined in accordance with the provisions of § 1.471-11, was $102x for the sales to members and $6x for the sales to nonmembers. For purposes of the 85 percent member-income requirement of section 501(c)(12), the electric power cooperative's "income" from sales of electricity to its members is its gross income of $68x ($170x from sales to members minus $102x, cost of goods sold to members). Its "income" from sales of electricity to nonmembers is its gross income of $4x ($10x from sales to nonmembers minus $6x, cost of goods sold to nonmembers). Therefore, of the total gross income of $77x ($68x from sales to members plus $4x from sales to nonmembers plus $5x from capital gains, dividends and interest), the amount collected from members for the sole purpose of meeting losses and expenses is 88 percent ($68x gross income from members divided by total gross income of $77x). Thus, the cooperative meets the 85 percent test of section 501(c)(12).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-641 Filed 1-6-84; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 83-1347; FCC 83-596]

Accounting for Access Revenues and Expenses, and To Making Conforming Amendments to the Annual Report Form M and FCC Report 901

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has instituted a Notice of Proposed Rulemaking for the purpose of amending Part 31 of its Rules and Regulations regarding the accounting for access charges. These changes are designed to keep separate those revenues and expenses associated with access charge rules required in the Commission's decision in Docket 78-72. This Notice will also consider changes to the Annual Report Form M and FCC Form 901.

DATES: Comments are due on or before January 27, 1984 Reply comments are due on or before February 13, 1984.

ADDRESS: Comments in response to this Notice should be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., 20554, Telephone No. (202) 634-1865.

List of Subjects in 47 CFR Part 31

Communications common carriers, telephone, Uniform system of accounts.

Notice of Proposed Rulemaking

In the matter of notice of proposed rulemaking to amend Part 31 Uniform System of Accounts for Class A and Class B Telephone Carriers to account for access revenues and expenses, and to make conforming amendments to the Annual Report Form M and FCC Report 901 (CC Docket No. 83-1347; FCC 83-596).

Adopted: December 14, 1983.

Released: December 21, 1983.

By the Commission: Commissioner Patrick not participating.

I. Introduction

1. This Notice initiates a rulemaking proceeding to revise the accounting rules contained in Part 31, "Uniform System of Accounts for Class A and Class B Telephone Companies," (47 CFR 31.01). These accounting changes are being proposed to establish new accounts to record the carriers' interstate and intrastate access revenues and expenses. We are proposing these changes [1] because the present Part 31 does not have accounts in which carriers can properly record the access revenues and expenses that are required in our decision in the Third Report and Order in MTS and WATS Market Structure (Access Charge Order), CC Docket No. 78-72,[2] or may be required in various state proceedings. We are also proposing to make conforming amendments to the Annual Report Form M (Annual Report for Class A and Class B Telephone Companies) and FCC Report 901, "Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies," to add the new accounts resulting from changes in Part 31 of our Rules and Regulations.

II. Background

2. In our *Access Charge Order* we restructured the method by which local exchange carriers will charge subscribers and interexchange carriers for access to the local exchange carriers' facilities for interstate telecommunications services. In that decision we determined, among other things, that cost-based pricing rather than usage-based pricing for non-traffic sensitive plant was in the public interest. Further, we determined that a substantial portion of these interstate costs should be recovered through flat per line charges assessed upon the end users. However, based on our transitional plan, these charges will be phased in over a six year period beginning in 1984. Finally, we determined that other costs assigned to interstate services for accessing the local exchange carriers' facilities should be recovered through interexchange carriers' carrier charges.

3. In order to implement these changes, we have required exchange carriers to file access tariffs under two basic categories: (1) End user charges and (2) carriers' carrier charges. The tariff element for the end user charges is based on a flat rate for the cost of providing the local loop to the end user. The tariff elements for carrier's carrier charges cover the cost incurred by the exchange carriers for the facilities provided to the interexchange carriers and the cost of billing and collection services provided by the exchange carrier.

III. Discussion

Regulatory Objectives

4. As stated previously, the purpose of this Notice is to propose new accounts for Part 31 for recording carriers' access revenues and expenses and to provide for reporting the results in the Annual Report Form M and FCC Report 901. The objectives to be attained by the proposed new accounts and reporting requirements are:

(A) To provide detailed accounting support for the Commission's review function.

(B) To amend Part 31 to collate all like network access elements into specific accounts and to record carriers' interstate and intrastate access revenues and expenses resulting from access charge rules.

In this Notice, we are seeking comments on whether our proposed amendments to Part 31, Form M, and FCC Report 901 will adequately meet these objectives.

Proposed Accounting Amendments

5. We are proposing to establish separate revenue and expense accounts for federally tariffed access charges and state tariffed access charges. This separation will allow the Commission to identify and monitor access revenues and expenses relative to interstate telecommunications. Our proposed accounting changes to Part 31 would establish three new primary revenue accounts and three new primary expense accounts. The revenue accounts would be account 508, "Interstate access revenues," account 509, "Intrastate access revenues," and account 527, "Billing and collection revenue." The expense accounts would be account 647, "Billing and collection expenses," account 657, "Interstate carriers' carrier expenses," and account 658, "Intrastate carriers' carrier expenses."

6. The access revenue accounts would be used to record all charges assessed by the local exchange carriers on other exchange carriers, the interexchange carriers and the end users for access to the local exchange network. Furthermore, we propose to require the local exchange carriers to subdivide interstate revenues in account 508 into three (3) subaccounts: end user revenues, carriers' carrier facilities revenues, and special access revenues. This segregation of revenue is proposed to provide the staff with pertinent information that would assist in its review of the carriers' access charges. It would also provide the carriers with data that would aid them in determining when revised interstate access tariffs should be filed.

7. The end user subaccount would include all revenues collected by the exchange carriers under the interstate end user tariff element. This subaccount would record the monthly flat rate charge collected by the exchange carrier for each residential and business line that was initially set by the Commission at generally $2 and $6, respectively, except as otherwise provided to life line or centrex customers. The carriers' carrier facilities subaccount would include all revenues collected under the carriers' carrier interstate facilities tariff elements. The special access subaccount would include all revenues collected under the interstate special access tariff element.

8. Account 509, "Intrastate access revenues," would include all access revenues tariffed by state regulatory commissions. We do not propose to require the local exchange carriers to subdivide this account since tariff requirements for state access revenues will vary from state to state.

9. Account 527, "Billing and collection revenue," would include all revenues collected under the billing and collection tariff element.

10. The billing and collection expense account would be used to record expenses incurred by the interexchange carriers or other exchange carriers for having the local exchange carriers bill and collect from the interexchange customers for domestic or international telecommunications services. This account would include all expenses associated with billing and collection furnished under tariff.

11. The interstate carriers' carrier expense account would be used to record all federally tariffed charges assessed to the interexchange carriers for access to the local exchange carriers' facilities. The intrastate carriers' carrier expense account would be used to record all state tariffed charges assessed to the interexchange carriers for access to the local exchange carriers' facilities.

12. While we are not proposing to establish interstate access revenue subaccounts for each tariffed access element, we do propose to require exchange carriers to maintain supporting records that will enable them to identify revenues by federally tariffed access element. We are also proposing to require interexchange carriers to maintain supporting records that will

[1] The proposed accounting changes are interim changes and may be further revised in our rewrite of Part 31 in Docket 78-196, 88 FCC 2d 83 (1981).

[2] FCC 82-579, released February 28, 1983, modified, FCC 83-356, released August 22, 1983.

enable them to identify access expenses by federally tariffed access element. Appendix A contains a description of the proposed amendments to Part 31 for the new revenue and expense accounts.

Form M and FCC Report 901 Amendments

13. In conjunction with our proposed changes to Part 31, we also propose to make conforming amendments to the Annual Report Form M for Class A and Class B Telephone Companies to reflect the proposed accounts. We propose to amend Schedules 34, Operating Revenues, to add accounts 508, "Interstate access revenues," 509, "Intrastate access revenues," and 527, "Billing and collection revenue." We also propose to amend Schedule 35, Operating expenses, to add accounts 647, "Billing and collection expenses," 657, "Interstate carriers' carrier expenses," and 658, "Intrastate carriers' carrier expenses." Finally, we propose to amend FCC Report 901, "Monthly Report of Revenues, Expenses and Other Items—Telephone Companies," to reflect the proposed accounts.

V. Other Matter

14. We are proposing to make the accounting revisions effective six months after a final decision is issued in this proceeding. However, we are also proposing to permit carriers to voluntarily implement these revisions when the access tariffs are implemented. For carriers who do not choose to implement these revisions when their access tariffs are implemented, we propose to require those carriers to be able to identify their access charge data by access charge element. We propose to make the Form M revisions effective with the 1984 reporting year and the FCC Report 901 effective at such time carriers implement the accounting revisions.

15. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of the proposed amendments. We certify that the accounting changes can be readily implemented by all carriers subject to Part 31 without significant economic impact.

16. The collection of information requirements contained in the proposed rules have been submitted to OMB for review under Section 3504 of the Paperwork Reduction Act of 1980, 44 U.S.C 35. All comments concerning the collection requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Communications Commission." *See* 5 CFR 1320.13(a).

17. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff, which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each such *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state the docket number of the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

18. 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 providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

VI. Ordering Clauses

19. Accordingly it is ordered, That pursuant to the Provisions of Section 4(i) and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a), there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

20. It is further ordered, that interested persons may file comments on the specific proposals discussed in this Notice on or before January 27, 1984. Reply comments shall be filed on or before February 13, 1984. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, D.C.

21. It is further ordered, pursuant to Section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), that the Secretary shall serve a copy of this Notice on each state commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 31—[AMENDED]

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies is amended as follows:

§ 31.5-53 [Amended]

1. The table in § 31.5-53 is amended by adding the heading "Access Revenues" just after the last entry under "Local Service Revenues." Under "Access Revenues", add account "508 Interstate access revenues." and account "509 Intrastate access revenues." to the column for Class A company accounts.

2. The centerheading "Access Revenues" and §§ 31.508 and 31.509 are added to read as follows:

Access Revenues

§ 31.508 Interstate access revenues.

(a) This account shall include all charges assessed by local exchange carriers upon interexchange carriers and end users for access to the local exchange network for interstate or international telecommunications.

(b) This account shall be further subdivided into three (3) classifications: end user revenues, carriers' carrier facilities revenues, and special access revenues.

(c) End user revenues shall consist of a monthly flat rate charge for each residential or business line that was initially set by the Commission at generally $2 and $6, respectively, except as otherwise provided to life line and centrex customers.

(d) Carriers' carrier facilities revenues shall consist of tariffed charges assessed to interexchange carriers for access to local exchange facilities. The charges shall include:

(1) Limited pay telephone;
(2) Carrier common line;
(3) Line termination;
(4) Local switching;
(5) Intercept;
(6) Information;
(7) Common transport; and
(8) Dedicated transport.

(e) Special access revenues shall include all tariffed charges assessed for other than end user or carrier's carrier charges referred to in paragraphs (c) and (d) of this section.

Note: Carriers are required to maintain supporting documentation in such a manner as to be able to readily identify each tariffed element of the carriers' carrier facilities revenues and each surcharge element collected under special access charges.

§ 31.509 Intrastate access revenues.

This account shall include all charges assessed by local exchange carriers upon interexchange carriers and end users for access to the local exchange network for intrastate telecommunications.

3. Section 31.527 is added to read as follows:

§ 31.527 Billing and collection revenue.

This account shall include charges by local exchange carriers to interexchange carriers or other exchange carriers for billing and/or collecting carrier's revenues. The charges shall include the customer billing process, account collections, billing information services, account establishment and maintenance, and account investigation.

§ 31.6-65 [Amended]

4. The Table in § 31.6-65 is amended under the heading "Commercial Expenses" by adding account "647 Billing and collection expenses." to the column for class A company accounts, between the entries "645 and 648". The centerheading "Access expenses" is added to appear just after the entries for "Commercial Expenses". Under the centerheading "Access Expenses", add account "657 Interstate carriers' carrier expenses." and account "658 Intrastate carriers' carrier expenses." to the column for class A company accounts.

5. Part 31 is amended to add § 31.647.

§ 31.647 Billing and collection expenses. Billing and collection expenses.

This account shall include the expenses incurred by interexchange carriers or other exchange carriers for local exchange carrier billing and collection services related to domestic and international telecommunications services.

6. Part 31 is amended to add the centerheading "Access Expenses" and §§ 31.657 and 31.658 to read as follows:

Access Expenses

§ 31.657 Interstate carriers' carrier expenses.

This account shall include the expenses incurred by the interstate interexchange carriers for access to the local exchange carriers' facilities.

Note.—Carriers are required to maintain supporting documentation in such a manner as to be able to readily identify each tariffed element of this expense.

7. Part 31 is amended to add § 31.658.

§ 31.658 Intrastate carriers' carrier expenses.

This account shall include the expenses incurred by the intrastate interexchange carriers for access to the local exchange carrier's facilities.

[FR Doc. 84-335 Filed 1-9-84; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 64

[CC Docket No. 83-1375; FCC 83-604]

American Telephone and Telegraph Co.; Provision of Basic Services Via Resale by Separate Subsidiary

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This item proposes to authorize AT&T's separate subsidiary to provide basic services via limited or unlimited resale in order to reduce unnecessary regulatory burdens on AT&T, promote competition, and reduce costs to consumers.

DATES: Comments are due February 17, 1984. Reply comments are due March 26, 1984.

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

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632-6910.

List of Subjects in 47 CFR Part 64

Communications common carriers.

Proposed Rulemaking

In the matter of American Telephone and Telegraph Company; Provision of Basic Services Via Resale by Separate Subsidiary; CC Docket No. 83-1375.

Adopted: December 22, 1983.
Released: January 5, 1984.
By the Commission.

I. Introduction

1. Pursuant to the Commission's orders in the *Second Computer Inquiry*,[1] American Telephone and Telegraph Company (AT&T) established a fully-separated subsidiary to provide unregulated enhanced services and customer-premises equipment. This subsidiary was known initially as American Bell Inc. (ABI); its current name is AT&T Information Systems (ATTIS). We ordered that this subsidiary must not own transmission facilities or provide common carrier (basic) services via resale. ATTIS can resell any service of any carrier to provide enhanced services.

2. In September 1982, AT&T petitioned this Commission in the *Competitive Carrier Rulemaking*[2] to allow ABI to provide basic, resold services without Section 203 tariff-filing requirements and Section 214 entry-and-exit requirements. In January 1983, AT&T sought, via a letter for clarification of the *Second Computer Inquiry*,[3] to provide receive-only earth stations performing certain functions through its regulated interexchange carrier, AT&T Communications (ATCOM). The *Second Computer Inquiry* prohibited ATCOM from providing customer-premises equipment including receive-only earth stations,[4] except when a waiver is granted. AT&T claimed that there is a loss of efficiency when customers can acquire space-segment services from ATCOM but must turn to another supplier, including possibly ATTIS, for earth stations capable of receiving and performing network control or maintenance functions. ATCOM would have offered the receive-only earth stations under tariff, as opposed to their unregulated offering by ATTIS.[5] AT&T stated that consumers would benefit from allowing ATCOM to be a single-vendor supplier of "complete satellite network services." By order adopted today, we denied AT&T's request; we

---

[1] 77 FCC 2d 384, 474, *reconsid.*, 84 FCC 2d 50 (1980), *further reconsid.*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer & Communications Indus. Ass'n. v. Federal Communications Commission, 693 F. 2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[2] AT&T Petition for Reconsideration in CC Docket No. 79-252 (Sept. 27, 1982). *See* 77 FCC 2d 308 (1979) (Notice), 85 FCC 2d 1 (1980) (First Report), 84 FCC 2d 445 (1981), (Further Notice), 91 FCC 2d 59 (1982) (Second Report), *reconsid.*, FCC 83-69 (released March 21, 1983), 48 FR 46791 (October 14, 1983) (Third Report), 48 FR 52152 (November 18, 1983) (Fourth Report).

[3] Letter to Chief, Common Carrier Bureau from Alfred A. Green (January 19, 1983). We received comments from eleven parties on this letter and AT&T filed reply comments.

[4] *Supra* note 1, 84 FCC 2d at 70.

[5] Reply Comments of AT&T 3 (March 9, 1983).

found that the bar on ATCOM does not prevent a service from being offered or impose unreasonable costs on consumers.[6] Nevertheless, it may be in the public interest to grant AT&T some relief along these lines, albeit not by waiver of the *Second Computer Inquiry* rules for receive-only earth stations.

3. In this proceeding we seek comments on the benefits and costs of allowing ATTIS to provide some basic, resold services. We seek to allow ATTIS to provide efficient, innovative offerings of basic, resold services themselves or basic, resold services in conjunction with enhanced services or customer-premises equipment in a manner that does not promote the acquisition and abuse of market power, cross-subsidies, or discrimination. This Notice presents three alternative proposals to allow ATTIS to provide basic services via resale. ATTIS may be allowed to resell as a basic service (1) any service supplied by an unaffiliated carrier (e.g., a carrier other than ATCOM); (2) services of any unaffiliated carrier and any *satellite* service supplied by an affiliated carrier (including ATCOM) as long as that service is available on an unbundled, nondiscriminatory basis (on the same terms and conditions to other users for interconnection, resale, and other use); or (3) services of any unaffiliated carrier and any service supplied by an affiliated carrier on an unbundled, nondiscriminatory basis. These proposals cover interstate domestic, international, and intrastate services. We also seek comments on treating ATTIS by streamlined regulation or forbearance for its basic, resold, domestic, interstate, services.[7] Comments on a related proposal and other information helpful to this proceeding were sought by the Notice of Inquiry in Long-Run Regulation of AT&T's Basic Domestic Interstate Services.[8] We will incorporate comments from that proceeding in this one, and hereby seek additional comments on these specific proposals.

II. Costs and Benefits of ATTIS Providing Basic Services Via Resale

4. This section discusses possible costs and benefits from lifting the restriction on ATTIS providing basic services via resale. In the Second Computer Inquiry, we stated that AT&T's fully-separated subsidiary could not provide basic services because separation between regulated and unregulated activities would diminish opportunities for cross-subsidies and anticompetitive leverage.[9] We sought to reduce AT&T's ability to inflate the revenue requirements for its basic, regulated services with costs from enhanced services and customer-premises equipment. If rate regulation fails to detect such cost shifting and the carrier has market power, [10] customers of the carrier's basic services may pay unreasonably high rates. We also sought to reduce AT&T's ability to use market power in basic, regulated services to lessen competition in unregulated activities through tying, discriminatory interconnections, or other exclusionary practices (leverage).

5. We first consider the possible benefits of ATTIS providing basic, resold services. Unless such benefits appear substantial, we would be reluctant to alter the range of ATTIS's activities established in the Second Computer Inquiry. We will look to the comments in this proceeding to evaluate the possible consumer benefits of resale for basic services by ATTIS. Lifting this ban may give ATTIS the ability to develop innovative, efficient combinations of basic services, customer-premises equipment, and enhanced services. With basic, resold services, ATTIS may be able to improve the quality and prices of services and products available to consumers and stimulate competition. For example, AT&T's letter and reply comments[11] describe benefits to consumers from a single vendor supplying satellite space-segment services and receive-only earth stations with network control or maintenance features. Single-vendor supply may decrease the cost of obtaining telecommunications services and equipment and increase the quality of their design, performance, and maintenace.[12] ATTIS may also develop innovative, efficient rate structures for basic services alone.

6. We now recognize that allowing ATTIS to provide basic, resold services does not necessarily threaten to increase cross-subsidies or anticompetitive leverage. In Competitive Carrier Rulemaking, we found that resellers lack power in the market of interstate, domestic, interexchange telecommunications services.[13] We did not address the market power of a reseller affiliated with ATCOM in that rulemaking,[14] and seek comments on this point. If ATTIS lacks market power, it seems that ATTIS would be unable to attract customers for basic, resold services that are priced unreasonably high. Nor would it be profitable for ATTIS to charge unreasonably low (predatory) prices or discriminatory prices. Under these conditions, we would not expect to have to perform frequent checks on cost allocations across ATTIS's regulated and unregulated activities to ensure that ATTIS's rates for common carrier services are just and reasonable; market forces would constrain ATTIS's rates. Even if ATTIS could successfully disguise costs of its unregulated activities as costs of its regulated services, without market power ATTIS could not profitably charge supracompetitive rates reflecting its

[6] American Telephone and Telegraph Company: Request for Clarification of Computer II Requirements Concerning Earth Stations, ENF-83-15, FCC 83-603 (adopted December 22, 1983).

[7] Under forbearance as developed in the Competitive Carrier Rulemaking, supra note 2, basic, domestic, interstate resellers do not file tariffs, facilities applications, or reports on their facilities. Basic, domestic, interstate services supplied by resellers are subject to the other requirements of Title II of the Communications Act of 1934, including the requirement that rates charged be just, reasonable, and nondiscriminatory, and the complaint process. In the Fourth Report, we found that all domestic, interstate resellers not affiliated with AT&T should be treated by forbearance. Under streamlined regulation, carriers must file tariffs on fourteen-days notice, but do not have to file cost support with tariffs or requests for facilities authorization. As explained in Section III infra, we propose that basic, international, resold services supplied by ATTIS would be governed by full tariff and facilities regulation under Title II and would be subject to applicable provisions of the tariffs for the underlying services. We do not propose any unilateral action that would infringe on the sovereign prerogatives of our foreign partners in international telecommunications services. Basic, intrastate, resold services supplied by ATTIS would be subject to state regulation and applicable provisions of the tariffs for the underlying services.

[8] CC Docket No. 83-1147, 48 FR 51349 (November 8, 1983). In paragraph 44, 48 FR at 51349, we stated: "We need to consider whether we might authorize this subsidiary [ATTIS] to provide basic resale services treated by forbearance. If so, we might review AT&T's tariffs for the underlying services that are resold to ensure that the services are general and not tailored or with preferences for its subsidiary."

[9] Supra note 1, 77 FCC 2d at 493-94.

[10] The concept of market power is discussed in Competitive Carrier Rulemaking, supra note 2, 48 FR at 52454-56. We also discussed why a carrier lacking market power would find it unprofitable to engage in monopolistic, predatory, or discriminatory pricing.

[11] Supra notes 3 and 5.

[12] Under the Second Computer Inquiry, ATTIS and ATCOM cannot engage in joint marketing, installation, or maintenance. 47 CFR 64.702(c)(2), (d)(1). In our order adopted today on AT&T's request to allow ATCOM to provide certain receive-only earth stations, we determined that denial of AT&T's request would not make a service unavailable and that possible consumer benefits would not outweigh possible harm from cross-subsidization and anticompetitive conduct. We did not conclude that there were no possible benefits from single-vendor AT&T supply. We propose to enable consumers to obtain at least some such benefits, to the extent that they exist, via services and equipment supplied by ATTIS.

[13] Supra note 2, 48 FR at 52460.

[14] Supra note 2, 91 FCC 2d at 73 n.37; FCC 83-69, at 8 n. 17.

inflated rate base. Then, ATTIS could not obtain monopoly revenues from its basic services to cross-subsidize its unregulated activities. Also, in the absence of market power, it could not exclude competition in enhanced services or customer-premises equipment by forcing consumers to take an unattractive bundle of its basic services and its unregulated products or services.

7. It is unlikely that ATTIS could use resale of the services of any unaffiliated carrier (e.g., a carrier other than ATCOM) to gain market power and thereby engage in undesirable cross-subsidization and anticompetitive leverage. We found in *Competitive Carrier Rulemaking* that most domestic, interstate, interexchange carriers unaffiliated with ATTIS lack market power.[15] For example, we determined that domestic satellite carriers (domsats) cannot profitably charge unreasonable rates for their services. Reselling a domsat's service would not give ATTIS the ability to charge an unreasonable rate for its services; ATTIS's rate would be checked by the underlying carrier's services and rates, actual or potential competition from other resellers of that carrier's service, and services from other satellite and terrestrial carriers. Nor would such resale give ATTIS the ability to force customers who want satellite services to obtain receive-only earth stations from ATTIS; customers could obtain satellite services from other domsat resellers or domsats and obtain equipment from other suppliers. In addition, ATTIS may lack sufficient power in enhanced services or customer-premises equipment to decrease competition in basic services through leverage.[16] Nevertheless, we would be concerned if ATTIS acquired for resale a large share of the domestic, interstate, interexchange capacity of unaffiliated carriers. This conduct could decrease competition between AT&T and other common carriers. Finally, we do not believe that allowing ATTIS to resell the domestic, interstate services of an unaffiliated carrier will increase discrimination in that carrier's rates.[17]

8. Similarly, it is unlikely that ATTIS could obtain market power or promote discrimination through resale of exchange, intrastate, or international services supplies by an unaffiliated carrier. This includes services supplied by the Bell Operating Companies after divestiture (January 1, 1984). We have not analyzed relevant markets for these services and the power of resellers of these services in the *Competitive Carrier Rulemaking*. Yet ATTIS's share of any relevant market from resale of the exchange, intrastate, or international services of unaffiliated carriers will almost certainly be small. These carriers would not have an incentive to erect barriers to entry by other resellers competing with ATTIS, or to develop strategies by which ATTIS could acquire market power. Nor would they have an incentive to develop discriminatory rate structures favoring ATTIS.

9. We are more concerned abut ATTIS's provision of basic services by resale of services of an affiliate (e.g., ATCOM) because of two possible strategies by AT&T. While we cannot say that these practices probably would develop or that regulation probably would be unable to detect and control them, we recognize possible costs in allowing such resale and the benefits of caution. First, suppose that ATCOM structured its service offerings so that ATTIS resold a large share of ATCOM's services and ATCOM supplied relatively little of its services to end-users and other resellers. Then, if ATCOM erected barriers to resale by others which are not eliminated by regulatory scrutiny, ATTIS might have market power.[18] Under these conditions and imperfect regulation of the cost basis of rates, ATTIS might be able to shift costs from its unregulated activities and profitably inflate rates to customers of its basic services. Also, ATTIS might be able to exclude competition in its unregulated activities through leverage. This strategy could defeat the purposes of and benefits from the structural separation ordered by the *Second Computer Inquiry*. Second, we are concerned that ATCOM would target certain service offerings for resale by ATTIS, and erect barriers to their resale by other carriers.[19] The Commission may have difficulty detecting and controlling all instances of such practices through tariff review and the complaint process. ATCOM would have an incentive to discriminate against ATTIS's competitors. Also, this could lead to discrimination in AT&T's pricing for basic services, with some customers paying one rate for a service supplied by ATCOM and others paying another rate for the same service supplied by ATTIS.[20] Finally, we seek comments in this proceeding on the possible effects on ATTIS's power in international resale resulting from ATCOM's operating agreements with foreign carriers for international service.

III. Proposals for ATTIS To Provide Basic Services Via Limited Resale

10. We seek comments on the following three alternative proposals for ATTIS to provide basic services via resale. The proposals attempt to secure for consumers benefits from lifting this ban on ATTIS without substantial risk of undesirable cross-subsidization, exclusionary practices, and discrimination. If the Commission decides to give ATTIS authority to provide basic services via limited resale, we may subsequently propose broader resale in light of future market developments. We will rely on the record developed in this proceeding and in the Inquiry on AT&T to evaluate the costs and benefits of each proposal. We also seek comments on any conditions we should impose along with lifting the resale ban.

11. Under the most limited proposal, ATTIS would be able to provide basic services via resale only of any service supplied by an unaffiliated carrier (e.g., a carrier other than ATCOM). This

[15] *Supra* note 2, 48 FR at 52460. We have not yet considered whether some domestic, interstate, interexchange carriers are non-dominant in Competitive Carrier Rulemaking. *Id.* at 52463. We would not view the absence of such findings as a reason to bar ATTIS from providing basic service by reselling services of any unaffiliated carrier. It is unlikely that ATTIS would acquire market power through resale of these carriers' services.

[16] *See* Second Computer Inquiry, *supra* note 1, 77 FCC 2d at 433 (supply of enhanced services is "truly competitive"); *id.* at 440 (competition in customer-premises equipment). *See also* Western Union Telegraph Co. v. Federal Communications Commission, 674 F.2d 160, 166–67 (2d Cir. 1982).

[17] Our decisions which declared resale restrictions unlawful and prescribed unlimited resale and shared use looked to resale as a means of eliminating discrimination across services in a carrier's rate structure. *See* Resale and Shared Use of Common Carrier Domestic Public Switched Network Services, 83 FCC 2d 167, 174–77 (1980); Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), *reconsid.*, 62 FCC 2d 588 (1977), *aff'd sub nom.* American Telephone and Telegraph Co. v. Federal Communications Commission, 572 F.2d 17 (2d Cir.) *cert. denied*, 439 U.S. 875 (1978).

[18] We are inquiring into ATCOM's market power in Long-Run Regulation of AT&T's Basic Domestic Interstate Services, supra note 8, 48 FR at 51349–50.

[19] One AT&T service appeared to be targeted for use by ABI, with tariff provisions such as a twelve-month notice requirement for terminations and excessive minimum usage charges which could discourage potential users and competition. *See* AT&T: Basic (Bell) Packet Switching Service (BPSS), 91 FCC 2d 1 (1982), FCC 83–221 (released May 26, 1983).

[20] Suppose that a carrier has an affiliated reseller, can largely limit certain service offerings to that reseller, and wants to charge some customers discriminatorily high or low rates. The carrier can achieve discrimination by serving some customers itself and having its affiliate serve others at different rates. Such resale may result in more, not less, discrimination in the carrier's rates. *See* note 17 *supra*. This result would be contrary to section 202 of the Communications Act, 47 U.S.C. 202.

would include all domestic and international services of such carrier, subject to the applicable provisions of the tariffs for the underlying services and state regulation. ATTIS could not resell services of carriers that provide service by reselling services of an ATTIS-affiliate and do not own transmission facilities. We propose that ATTIS be required to report annually to the Commission the names of the carriers supplying it services used in the provision of its basic services, and the amounts paid to each carrier for these services.

12. A second proposal expands the range of services available for resale by ATTIS beyond those services covered by the first proposal. Under the second proposal, ATTIS also would be able to provide basic, resold services via any satellite service supplied by an affiliated carrier (including ATCOM) as long as that service is available on an unbundled, nondiscriminatory basis to other users for interconnection, resale, and other use. Satellite services are basic services utilizing no terrestrial transmission lines; they include space segments and related switching and network-control facilities for basic services. Limiting such resale by ATTIS to ATCOM's satellite services reduces the concern about AT&T developing a strategy whereby ATTIS would gain market power. As we found in Competitive Carrier Reulemaking, satellite and terrestrial services compete.[21] Even if ATTIS resold all of ATCOM's satellite capacity, ATTIS probably would lack market power.[22] This limitation also confines the range of services in which there would be concern about greater incentive for discrimination by ATCOM. Resale of satellite services by ATTIS may yield the purported consumer benefits of single-vendor AT&T supply of "complete satellite network services" described in AT&T's letter and reply comments. As for unbundled, nondiscriminatory offerings, our order in AT&T: *Satellite Television Service* [23] explained why such offerings promote the public interest in just, reasonable, and nondisciminatory rates and in competition. Under the *Second Computer Inquiry*, ATCOM must deal with ATTIS on a nondiscriminatory basis.[24] ATCOM must make its services available to ATTIS, other resellers, and other users on the same terms and conditions. Resale by ATTIS should not diminish the opportunities of other suppliers and users to interconnect customer-premises equipment with ATCOM's services or to use ATCOM's services in enhanced or basic services. In addition to the reporting described in para. 11, we propose that ATTIS be required to report annually to the Commission the services supplied by ATCOM to ATTIS used in the provision of ATTIS's basic services, and the amount paid to ATCOM by ATTIS for these services.

13. A third proposal would allow ATTIS to resell as a basic service any service of any carrier, including all of ATCOM's terrestrial and satellite services. ATCOM would make all its services available on an unbundled, nondiscriminatory basis. This proposal would eliminate possible inefficiencies caused by disparate treatment of ATCOM's terrestrial and satellite services, by disparate treatment of ATCOM's terrestrial services and services of other underlying carriers, and by restrictions on ATTIS's ability to offer interrelated products and services. There may be some benefits to consumers from unlimited resale compared with the range of resale allowed under the first or second proposal. However, this third proposal might be detrimental to consumers if ATTIS acquired market power, discrimination in common carrier services increased, or competition was impaired. We propose that ATTIS be required to file the same reports as described in the preceding paragraph.

14. We propose that ATTIS be subject to streamlined regulation or forbearance from tariff-filing and facilities-authorization requirements for its resold, domestic, interstate, basic services. Other obligations of Title II, including the requirement of just, reasonable, and nondiscriminatory rates and the complaint process, would apply to ATTIS's basic, resold services. Forbearance would be consistent with the treatment of non-dominant resellers in *Competitive Carrier Rulemaking*.[25] This treatment corresponds to our assumption that ATTIS will be unable to gain market power in basic services through the adopted proposal. On the other hand, streamlined regulation may be desirable because we lack experience with a provider of basic, resold services affiliated with ATCOM. We seek comments on the relative costs and benefits of streamlined regulation and forbearance applied to ATTIS's basic, resold services. ATTIS would be subject to full Title II tariff and facilities-authorization regulation for its basic, resold, international services, as well as applicable provisions of the tariffs for the underlying services. Finally, ATTIS would be subject to applicable state regulation for its basic, resold, intrastate services.

15. In conclusion, we here propose to lessen restrictions on AT&T, but seek to have no negative impact on the rates for common carrier services and competition. The major benefits are that consumers will have the option of procuring end-to-end service from an additional competitor, ATTIS, and that AT&T will be relieved of a burden not imposed on any of its competitors.[26]

IV. Ordering Clauses

16. This proceeding is instituted pursuant to the provisions contained in 47 U.S.C. 154(i) and 403.

17. Comments must be filed on or before February 17, 1984. Reply comments will be due on or before March 26, 1984.

18. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* persentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's

[21] *Supra*, Note 2, 48 FR at 52457–59.

[22] ATTIS would compete with ATCOM's terrestrial services and other providers of terrestrial and satellite services. We seek comments on ATTIS's prospective market power through such limited resale of ATCOM's services. *See* note 18 *supra*. In line with this second proposal, we would consider limiting resale by ATTIS to same set of ATCOM's services other than satellite services.

[23] 88 FCC 2d 18, 28 n.14 (1981). *See also* Long-Run Regulation of AT&T's Basic Domestic Interstate Services, *supra* note 8, 48 FR at 51344.

[24] *Supra* note 1, 77 FCC 2d at 474; 47 CFR 64.702(c), (d).

[25] *Supra* note 2, 48 FR 52461–62. In Competitive Carrier Rulemaking, *id.* at 52462, we discussed the application of tariff and facilities regulation to carriers with a mix of characteristics, some subject to forbearance (e.g., ATTIS's basic, domestic, interstate, resold services) and some subject to full or dominant regulation (e.g., ATTIS's basic, international, resold services). In the absence of two identifiable ATTIS carriers, if ATTIS chooses to provide both domestic-interstate and international basic, resold services, it would be treated by full regulation.

[26] The provisions of the Regulatory Flexibility Act do not apply to this rulemaking because AT&T is the only entity directly affected by our proposed action.

Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account 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.

19. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (room 239) at its headquarters in Washington, D.C. 1919 M Street NW.

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

William J. Tricarico,

Secretary.

Federal Communications Commission.

[FR Doc. 84-556 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1377; FCC 83-608]

Facilities of Television and FM Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to revise §§ 73.3571, 73.3572 and 73.3573 of the Commission's Rules concerning major changes in the facilities of television and FM stations. Specifically, changes in power, antenna height and/or antenna location would become minor changes. A change in the primary station of a translator station would merely require a notification. These revisions would also simplify the language in these sections with respect to a change in ownership on a pending AM, FM and television application.

DATE: Comments are due by February 13, 1984 and replies by February 28, 1984.

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

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 632-6485.

List of Subjects in 47 CFR Part 73

Radio broadcast, Television broadcast.

Notice of Proposed Rulemaking

In re Matter of Revision of §§ 73.3571, 73.3572 and 73.3573 of the Commission's Rules; MM Docket No. 83-1377; FCC 83-608.

Adopted: December 22, 1983.

Released: January 5, 1984.

By the Commission.

1. The Commission, on its own motion, is proposing to revise §§ 73.3572 and 73.3573 of the Rules concerning major changes in the facilities of authorized or proposed television and FM stations as well as television and FM translator stations.[1] Specifically, we are proposing to define any change in power, antenna location and/or height above average terrain as a minor change, while changes in frequency and station location would continue to be classified as major changes. In regard to FM translator stations, we are proposing to delete changes in primary station from the major change classifications.[2] These revisions will also affect the classifications of major and minor amendments to pending applications under § 73.3572(b) and § 73.3573(b) of the Rules.[3]

2. Presently, §§ 73.3572 and 73.3573 state that a change in facilities which results in a change of 50% or more in an FM or television station's service area is a major change. A major change application is subject to a variety of requirements, including our cut-off procedures, a 30-day holding period following Commission public notice of acceptance and publication of local notice by the applicant. In the same context, a major amendment to a pending application is also subject to these requirements. We must consider these requirements in conjunction with our ongoing review of application processing procedures. Consistent with our underlying statutory responsibilities processing procedures must be directed toward providing service to the public in the most expeditious and efficient manner possible.

3. In order to put these proposed revisions in perspective, we must consider our existing allocation scheme. Unlike AM and noncommercial educational FM stations, the allocation of television and commercial FM stations is on a predetermined channel

[1] Section 73.3572 of the Rules provides, in pertinent part, as follows:

". . . A major change for TV broadcast stations authorized under this part is any change in frequency or station location, or any change in power or antenna location or height above average terrain (or combination thereof) that would result in a change in 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area). In the case of low power TV and TV translator stations authorized under Part 74 of this chapter, it is any change in: (i) Frequency (output channel) assignment; (ii) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line; (iii) Antenna height; (iv) Antenna location exceeding 200 meters; (v) Authorized operating power; or (vi) Community or area to be served . . ."

Although changes to § 73.3573 have been adopted by the Commission in BC Docket 80-90, released June 14, 1983, they are not yet effective. Section 73.3573 of the Rules currently provides, in pertinent part, as follows:

". . . major change for FM stations authorized under this Part is any change in frequency, station location or class of station, or any change in power, antenna location or height above average terrain (or combination thereof) which would result in a change in 50% or more in area within the station's predicted 1 mV/m field strength contour. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area). In the case of FM translator stations authorized under Part 74, it is any change in frequency (output channel), primary stations, or authorized principal community or area . . ."

[2] A primary station is the broadcast station which provides the programs and signals being retransmitted by the translator station. In regard to television translator stations, we have already amended § 74.732(e) of the Rules to substitute a notification requirement for a change in the primary station for both a television translator and a low power television station. Therefore, we are deleting the reference to primary station from § 73.3572(a)(1) of the Rules to reflect this earlier action. It should also be noted that in a recent Notice of Proposed Rule Making with respect to low power television and the television translator service, MM Docket No. 83-1350, released December 23, 1983, we requested comments on making television translators a priority class for processing purposes We noted that if such a priority were given, a change from a television translator station to a low power televison station would be a major change under Section 73.3572 of the Rules.

[3] These sections specifically refer to the respective §§ 73.3572(a)(1) and 73.3573(a)(1) when determining whether an amendment to a pending application is major or minor. As a consequence, only amendments reflecting changes in frequency, station location, and/or controlling ownership interest would be classified as major.

basis in which specific channels are assigned to specific communities—the respective Tables of Assignments set forth in Part 73 of our Rules. These tables are based upon maximum power and antenna height limitations as well as minimum spacing requirements. These assignments presume the stations will operate at maximum facilities. In fact, many construction permits for new stations do not propose maximum facilities. Instead, subsequent applications (both major and minor changes) improve facilities—usually an increase in power and/or height above average terrain. An application to relocate a transmitter site may or may not involve an increase in facilities. In any event, all applications and amendments to pending applications must be within maximum power and antenna height limitations as well as comply with minimum spacing requirements. For these reasons, an application from an authorized station merely looking toward maximizing its facilities appears to be more logically classified as a minor change. Furthermore, the staff engineering review required for most major and minor change applications is the same.

4. Although there is no table of assignments, the maximum power and antenna height limitations are applicable to noncommercial educational FM stations. In addition, the applicant must protect the 1mV/m contour of existing FM stations from objectionable interference. When a new noncommercial FM station is authorized, its 1mV/m contour will be afforded similar protection. Applicants for a change in facilities must also comply with these requirements. Again, the staff engineering review of a major or minor change application is essentially the same. Other processing procedures are also essentially the same for both the commercial and noncommercial FM service. At present, § 73.3573(a)(1) of the Rules does not distinguish between commercial and noncommercial FM for purposes of the definition of major change. Although we see no compelling reason to distinguish under the proposed revision, we invite comments on whether noncommercial educational FM applications and amendments should continue to be within the purview of § 73.3573(a)(1), and thus be classified as minor along with similar applications and amendments in the commercial service.[4]

5. In evaluating the effects of our present procedures, we are led to several conclusions. The most obvious is that once the applicant for a change in facilities crosses the 50% benchmark, additional burdens are placed upon both the applicant and the processing staff, and service to the public is delayed. The observation applies with equal force to both major change applications and major amendments to pending applications. In a secondary vein pertaining to application processing, it should be noted that, unlike major change applications, minor change applications are not subject to a legal review during processing. However, if we were to define and/or grant all such applications and amendments as minor, it would not affect or prejudice our ultimate disposition of an outstanding complaint, deferred renewal or other subject to scrutiny during the processing of its construction permit application for a new station as well as a review at renewal time. A full legal review in connection with an application merely to change facilities appears redundant. We do not feel that defining all such changes as minor changes would undermine the administration of any rule or policy. Interested parties may, of course, still bring any matter to our attention by filing an informal objection. In regard to the vast majority of applications to change facilities, we feel that it is in the public interest to expedite the processing of applications and the institution of service to the public. In view of the above and the fact that the engineering review of major and minor change facilities is essentially the same, we are proposing to revise §§ 73.3572 and 73.3573 in order to define these changes in facilities as minor changes.[5]

6. Somewhat similar considerations apply with respect to changes in the primary station of an FM translator station. We feel that such a change should not necessitate a major or minor change application. Rather, we propose to require merely a notification to reflect the current primary station. This would afford the translator station licensee maximum flexibility to change its programming service to a community as circumstances warrant. In regard to a television translator station, it should again be noted that we have already amended § 74.732(e) of the Rules to substitute a notification requirement regarding a change in primary station for both a television translator and low power station. As a consequence, deleting the reference to primary station from § 73.3572(a)(1) is merely an effort to have this section reflect the earlier action. Therefore, we propose to delete the reference to a change in primary station from the major change classifications contained in §§ 73.3572(a)(1) and 73.3573(a)(1) of the Rules.

7. We are also proposing revision of §§ 73.3571(b), 73.3571(j)(2), 73.3572(b) and 73.3573(b) of the Rules which, in regard to ownership changes in a pending application, require a new file number if such changes "in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315, 345 . . ." When reading these subsections, the applicant should be able to ascertain precisely what change in ownership is permissible in order to retain its file number and position in the processing line. In this connection, the applicant with a pending FCC Form 301 should not have to refer to other FCC Forms or rule sections. In the interest of simplicity and efficient application processing, we would merely require an original party (or parties) to retain more than a 50% ownership interest in the application as originally filed. This means that an amendment reporting any transfer in ownership interest in the applicant solely among the original parties to the application would be treated as a minor amendment. However, if 50% or more of the ownership interest in the applicant were to be transferred to a party or parties not in the original application, an amendment reporting such transfer to new parties would be considered major. If amendments are filed reflecting a series of less than 50% transfers to new parties, the amendment that results in new parties holding an aggregate of 50% or more of the ownership interest would be treated as a major amendment causing a new file number to be assigned to the application.

8. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA)

[4] At this time, we are not proposing a similar revision of Section 73.3571 with respect to applications to change AM facilities. The propagation characteristics of AM signals are more complex than FM and are highly dependent upon power and time of day. A change in hours of operations to add nighttime service in AM, for example, could cause substantial preclusion or have significant potential for interference. Changes in FM educational station's power or antenna height within the maximum allowed, or changes in site, may also be potentially preclusive, but less so.

[5] On June 14, 1983, we released a *Report and Order* in Docket 80-90 which revised § 73.3573(a)(1) of the Rules to the extent of excluding changes in power and antenna height from the FM major change classification. The present proposal would also make these minor change classifications applicable to the television and noncommercial educational FM services. Since the minimum separation standards and other technical requirements are applicable to both major and minor changes, the present proposal will further review §§ 73.3572(a)(1) and 73.3573(a)(1) to exclude changes in antenna location from the major change classification for both television and FM facilities.

of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

9. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

I. Reason for Action

1. The present classification of major and minor changes delays the processing of applications and service to the public.

II. The Objective

1. The Commission proposes to define as minor changes certain changes in FM or TV station facilities or ownership which were previously classified as major changes. The Commission also proposes to merely require a notification with respect to a change in primary station by a translator station.

III. Legal Basis

1. Action as proposed is pursuant to Section 303 of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations necessary to carry out the provisions of Act.

IV. Description, Potential Impact and Number of Small Entities Affected

1. Many FM and television stations can be classified as small businesses. These stations will benefit by the proposed rule change by lessening the burden in preparing an application and expediting its processing.

V. Recording; Record Keeping and Other Compliance Requirements

1. None.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

1. None.

VII. Significant Alternatives Minimizing Impact on Small Entities

1. The alternative would be to maintain the status quo. This would not accomplish the beneficial objective sought in this rulemaking.

10. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is a written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See Generally*, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

11. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to the procedures set forth in § 1.415 of Rules, 47 CFR 1.415, interested persons may file comments on or before February 13, 1984 and reply comments on or before February 28, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commisssion 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 provisions of § 1.419 of the Rules formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

13. For further information concerning this document, contact Robert Hayne, (202) 632-6485.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-553 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-1135; RM-4581]

TV Broadcast Station in Cullowhee, North Carolina; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in MM Docket No. 83-1135 concerning a proposal to assign UHF television Channel 31 to Cullowhee, North Carolina. Counsel for petitioner states that additional time will be needed to formulate a proper response.

DATE: Reply comments must be filed on or before December 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Cullowhee, North Carolina) MM Docket No. 83-1135, RM-4581.

Adopted: December 29, 1983.

Released: January 3, 1984.

By the Chief, Policy and Rules Division.

1. On October 6, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 50585, published November 2, 1983, in the above captioned proceeding. Comments have been filed and reply comments were due December 20, 1983.

2. We now have before us for consideration a request for extension of

time for filing reply comments, filed on December 20, 1983, by the University of North Carolina, a party to the captioned proceeding. Petitioner requests an extension to and including December 28, 1983. Petitioner states that it has just recently received a copy of a counterproposal for Roswell, Georgia, which raises several complex technical issues which will require additional time in order to prepare reply comments.

3. Section 1.46(b) of the Commission's rules states that extension requests for filing reply comments must be filed seven days in advance of the deadline. Although this request is late, the Commission is of the view that under the circumstances recited, and extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by the grant of the instant request and we are desirous of knowing the University of North Carolina's position with respect to the counterproposal in order to develop a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the time for filing reply comments in MM Docket No. 83–1135 (RM–4581) is extended to and including December 28, 1983.

5. This action is taken pursuant to the authority contained in Subsections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-534 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

[Docket No. 31220-243]

Northern Anchovy Fishery

Correction

In FR Doc. 83–34178 beginning on page 56806 in the issue of Friday, December 23, 1983, make the following corrections:

1. On page 56806 third column, in the "SUMMARY", eighteenth line, insert the following between the words "new" and "regulations", "scientific assessments. The intended effect of these".

2. Same page, same column, under "DATE", "February 31, 1984" should have read "February 3, 1984".

3. On page 56809, second column, in § 662.7(b)(3), seventh line, "equipment" should have read "equipped".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

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

Commodity Credit Corporation

1984 Wheat Program; Determinations Regarding the Proclamation of 1984-Crop Program Provisions for Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of the 1984 wheat loan and purchase rate, established (target) price, acreage reduction program, payment-in-kind program, and special grazing and haying program.

SUMMARY: The purpose of this notice is to affirm the following determinations which have been made by the Secretary of Agriculture on August 9, 1983 with respect to the 1984 crop of wheat: (1) The loan and purchase rate will be $3.30 per bushel; (2) the established (target) price will be $4.45 per bushel; (3) an acreage reduction program for wheat will be in effect with a uniform reduction of 30 percent; (4) a land diversion program, requiring a 10 to 20 percent reduction, in addition to the acreage reduction program of 30 percent with payment-in-kind equal to 75 percent of the established yield times the acres diverted; and (5) no set-aside or special haying and grazing program will be in effect. These determinations are made in accordance with sections 107B, 107C, 109 and 110 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: August 9, 1983.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447-4146. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applies to are: TITLE-Wheat Production Stabilization: Number 10.058 and TITLE-Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

A supplemental environmental impact statement has been completed and it has been determined that there will be no significant adverse environmental impacts.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. *The Loan and Purchase Level.* Section 107B(a) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for the 1984 crop of wheat at such level, not less than $3.55 per bushel, as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat. If the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $3.00 per bushel.

2. *The Established (Target) Price Level.* Section 107B(b)(1)(C) of the 1949 Act provides that the established (target) price for wheat shall not be less than $4.45 per bushel for the 1984 crop. Any such established (target) price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made.

3. *An Acreage Reduction Program (ARP).* Sections 107B(e) (1) and (2) of the 1949 Act provide that the Secretary may establish an acreage reduction program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such wheat acreage reduction program not later than August 15 prior to the calendar year in which the crop is harvested. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each wheat-producing farm. Producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. In addition, the number of acres on the farm determined

by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of wheat times the number of acres actually planted to wheat by (2) the number of acres authorized to be planted to wheat in accordance with the limitation established by the Secretary, shall be devoted to conservation uses in accordance with regulations issued by the Secretary.

4. *A Set-Aside Program.* Sections 107B(e) (1) and (3) of the 1949 Act provide that the Secretary may establish a set-aside program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a progrm, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency.

5. *Land Diversion Program.* Section 107B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of wheat, whether or not an acreage reduction or set-aside program for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals.

6. *The National Program Acreage (NPA).* Section 107B(c)(1) of the 1949 Act provides that the Secretary shall proclaim a NPA for the 1984 crop of wheat not later than August 15, 1983. The NPA shall be the number of harvested acres of wheat the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1984 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1984/85 marketing year. The NPA provision does not apply if an acreage reduction program is implemented for the 1984 crop of wheat.

7. *Voluntary Reduction Percentage.* Section 107B(c)(3) of the 1949 Act provides that the 1984 individual farm program acreage of wheat which is eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of wheat planted for harvest on the farm from the 1984-crop established wheat acreage base by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1984 program. If an acreage reduction program is implemented for the 1984 crop of wheat, the voluntary reduction percentage shall not be applicable to such crop.

8. *Grazing and Haying of Designated ARP Acreage.* Section 107B(e)(4) of the 1949 Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if it is determined that such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

9. *Special Grazing and Haying Program.* Section 109 of the 1949 Act provides that the Secretary is authorized to administer a special wheat acreage grazing and haying program. If a special grazing and haying program is implemented, a producer shall be permitted to designate a portion of the acreage on the farm which the producer intends to plant to wheat, feed grains, or upland cotton for harvest, but not in excess of 40 percent thereof, or 50 acres whichever is greater. Such designated acreage shall be planted to wheat (or some other commodity other than corn or grain sorghum) and must be used by the producer for grazing purposes or hay rather than for commercial grain production. The Secretary shall pay the producer participating in this special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. Acreage which is included in the special program shall be in addition to any acreage which is included in any set-aside, reduced acreage or land diversion program.

10. *Offsetting Compliance and Cross-Compliance.* Section 107B of the 1949 Act provides that the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to assure that all farms in which they have an interest were in compliance with program requirements which are specified with respect to the wheat program, such as planting within the established wheat acreage bases or the normal crop acreage established for such farms, in order to be eligible for program benefits. Cross-compliance requires owners and operators to be in compliance with the terms and conditions of any other commodity program on the same farm in order to be eligible for benefits under the wheat program.

11. *Payment-In-Kind Program.* The Payment-In-Kind Program for wheat is authorized by the Agricultural Act of 1949 and the Commodity Credit Corporation Charter Act. Section 107B(e)(5) of the 1949 Act authorizes the Secretary to make land diversion payments to producers of wheat if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

12. *Advance Deficiency Payments.* Section 107C of the 1949 Act provides that if the Secretary establishes an acreage reduction or acreage set-aside program for wheat and determines that deficiency payments will likely be made for such crop, the Secretary may make available advance deficiency payments to producers who agree to participate in such program.

13. *Farmer Owned Reserve Program.* Section 110 of the 1949 Act provides that the Secretary shall provide original or extended price support loan for wheat in accordance with terms and conditions designed to encourage producers to store wheat for extended periods of time in order to promote orderly marketing when wheat is in abundant supply. Loan under this program are required to be made at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the regular level of loans and purchases.

A notice that the Secretary was preparing to make determinations with respect to the 1984 crop of wheat was published in the Federal Register on May 6, 1983, (48 FR 20451) and provided for a 30-day comment period. The comment period was limited to 30 days to allow the Secretary sufficient time to properly consider the comments received before the final program determinations were made. A total of 155 comments were received. A majority of the comments addressed the following 10 issues: (1) The loan and purchase level; (2) the established (target) price; (3) an acreage reduction program (ARP); (4) a cash land diversion program; (5) a payment-in-kind land diversion program; (6) base acreage adjustments; (7) announcement of the program; (8) haying and grazing requirements for required conservation use acreage (CUA); (9) offsetting

compliance or cross compliance; and (10) the farmer-owned reserve program.

1. *Loan and Purchase Level:* With respect to the loan and purchase level, a total of 33 comments were received with 12 favoring a higher loan rate than in 1983, 8 favoring the same loan rate and 13 favoring a lower loan rate. Most of the comments favored a price support level in a range of $3.55 to $4.00 per bushel.

2. *Established (Target) Price:* With respect to the established (target) price, a total of 25 comments were received with 15 favoring a higher established (target) price than in 1983, 8 supporting the same established (target) price as in 1983 and 2 supporting a lower established (target) price. Most comments favored an established (target) price in the range of $4.30 to $4.45 per bushel.

3. *Acreage Reduction Program (ARP):* A total of 26 comments were received with only 1 comment opposed to an ARP. Those comments favored a reduction in the range of 15 to 25 percent with the majority favoring a 20 percent ARP.

4. *Cash Diversion Program:* A total of 17 comments were received with 9 favoring and 8 opposing a cash land diversion program. Most of those favoring a cash land diversion program supported a 5 to 10 percent diversion program with a $2.70 to $3.00 per bushel payment.

5. *Payment-In-Kind (PIK) Diversion Program:* A total of 79 comments were received with only 16 opposed to a PIK Program. The majority favored a PIK program similar to the one for the 1983 crop of wheat. Most comments supported a compensation ratio of 80 to 90 percent of a farm's established yield. Some comments also favored limiting a PIK Program to no more than 50 percent of the acreage base established for a farm.

6. *Farm Base Acreage Adjustments:* A total of 22 comments were received with 11 favoring the use of the same acreage base established for a farm for the 1983 wheat program, 7 favoring the use of an average of the previous two years' planted wheat acreage in order to determine the farm acreage base, and 2 favoring the use of a five or ten year history of planted wheat acreage in order to determine the farm acreage bases.

7. *Announcement of the 1984 Wheat Program:* A total of 27 comments were received concerning an early announcement of the 1984 wheat program with almost all of such comments favoring an announcement by July 1, 1983 or earlier.

8. *Haying and Grazing of Required Conservation Use Acreage:* A total of 29 comments were received with 13 favoring and 16 opposing year round haying and grazing.

9. *Offsetting and Cross Compliance:* A total of 18 comments were received regarding offsetting compliance with 9 favoring and 9 opposing it. In addition, a total of 17 comments were received concerning cross compliance with 8 favoring and 9 opposing it. Section 107B(k) provides that cross-compliance requirements may be imposed if a set-aside program is established for a crop of wheat, but not if an acreage reduction program is established.

10. *Farmer-Owned Reserve Program:* A total of 18 comments were received with regard to the farmer-owned reserve program with 9 favoring the program and 9 opposing it. Some of those favoring the reserve program also favored a loan premium for entering a commodity into the reserve which would be in excess of the regular loan rate. Others of those commenting favored no loan premium

A number of the determinations with respect to the wheat program are required to be made by section 107B(e)(1) of the 1949 Act not later than August 15 prior to the calendar year in which the crop is harvested. On August 9, 1983, the Secretary announced by press release the program provisions for the 1984 crop of wheat. Since the only purpose of this notice is to affirm the program determinations previously announced, it has been determined that no further public rulemaking is required which respect to the following determinations:

Determinations

1. *Loan and Purchase Level:* In accordance with section 107B(a) of the 1949 Act, it has been determined that the loan and purchase rate for 1983-crop wheat is $3.30 per bushel since this level will best maintain the competitive relationship of wheat to other grains in domestic and foreign markets after taking into consideration the cost of producing wheat, supply and demand conditions, and the world prices for wheat.

2. *Established (Target) Price:* In accordance with section 107B(1)(C) of the 1949 Act, it has been determined that the established (target) price for wheat is $4.45 per bushel, which is the minimum statutory level. It is felt that any increase in the established (target) price above the minimum statutory level will further increase production by U.S. and foreign wheat producers and result in an undesired increase of the supply level. Sufficient producer participation is anticipated without a higher level. In addition, a higher established (target) price would result in substantially higher Treasury costs without an improvement in the level of wheat supplies.

3. *Acreage Reduction Program (ARP):* In accordance with section 107B(e)(2) of the 1949 Act, it has been determined that a 30 percent reduction shall be applicable to the acreage planted to wheat in 1984. Producers will be required to reduce their acreage base by the announced reduction percentage in order to be eligible for loans, purchases, and payments for the 1984 crop of wheat. The Secretary has determined that the total supply of wheat, in the absence of such limitations, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The 30 percent reduction requirement was selected because it provides the best balance between the multiple objectives of providing adequate wheat supplies for domestic and foreign utilization, while maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

Acreage designated for conservation use must be cropland that was devoted to row crops or small grains in two of the last three years. However, in order for acreage which is in a summer fallow rotation to be designated as conservation use acreage, such land must be acreage that would have been planted to small grains or row crops in 1984 in the absence of the 1984 wheat program. Without such a requirement, acreage which has not been planted to such crops would be eligible to be utilized as conservation use acreage without any corresponding reduction in production.

The 1984 acreage base for wheat farms, other than those farms where there is an established crop rotation, shall be the average of the acreage planted and considered planted to wheat for harvest in 1982 and 1983. With respect to wheat farms where there is an established crop rotation, the acreage base shall be the acreage planted and considered planted to wheat for harvest in immediately prior years that correspond to the farm's rotation.

Contracts signed by program participants for either the acreage reduction or PIK program will be considered to be binding contracts at the end of the signup period and will provide for liquidated damages for

failure to comply with the terms and conditions of such contracts.

Eligible land on which permanent conservation practices were established in 1982 or a subsequent year will be eligible for designation as conservation use acreage under any acreage reduction, set-aside, or diversion program authorized by the 1949 Act as long as the practice is maintained. These conservation practices will be eligible for cost-sharing assistance under the Agricultural Conservation Program.

4. *Set-Aside Program.* In accordance with sections 107B(e) (1) and (3) of the 1949 Act, it has been determined that there will be no set-aside program for the 1984 crop of wheat since it was determined that an acreage reduction program will be applicable for the 1984 wheat program.

5. *Cash Land Diversion Program.* In accordance with section 107B(e)(5) of the 1949 Act, it has been determined that there will be no cash land diversion program for the 1984 crop of wheat. It has been determined that there will be sufficient producer participation in the ARP and PIK portions of the 1984 wheat program, which will result in the adjustment of the total supply of wheat to desirable goals without a further incentive such as a cash land diversion program.

6. *National Program Acreage.* In accordance with section 107B(d)(2) of the 1949 Act, it has been determined that the NPA will not be applicable for the 1984 crop of wheat since an acreage reduction program has been announced.

7. *Voluntary Reduction Percentage.* In accordance with section 107B(d)(2) of the 1949 Act, it has been determined that the voluntary reduction percentage will not be applicable for the 1984 crop of wheat since an acreage reduction program has been announced.

8. *Grazing and Haying of Designated ARP Acreage.* In accordance with section 107B(e)(4) of the Act, it has been determined that wheat producers shall not be permitted to harvest cover on the designated ARP acreage for hay or plant alternate production crops on the designated ARP acreage. Grazing of the conservation use acreage will be authorized during the six principal non-growing months as determined by the State ASC committees.

9. *Special Haying and Grazing Program.* In accordance with section 109 of the 1949 Act, it has been determined that there will be no special haying and grazing program for the 1984 crop of wheat since this program is not needed to assist in adjusting the supply of wheat to desirable goals.

10. *Offsetting Compliance and Cross-Compliance.* It has been determined that offsetting compliance is not necessary to assist in adjusting the production of wheat to desirable goals and will not be required as a condition of eligibility in order for a wheat producer to participate in the 1984 acreage reduction and land diversion programs. In addition, section 107B(k) of the 1949 Act precludes the imposition of any cross-compliance requirements as a condition of eligibility for participation in the 1984 wheat program since an acreage reduction program has been established.

11. *Payment-In-Kind (PIK) Diversion Program.* It has been determined that producers participating in the acreage reduction program may divert an additional 10 to 20 percent of their wheat acreage base and receive payment-in-kind equal to 75 percent of the established yield times the acres diverted. Producers enrolling in the wheat PIK program must agree to redeem any of their wheat which is pledged as collateral for an outstanding reserve or regular CCC price support loan. Producers who have no wheat pledged as collateral for outstanding price support loans and who desire to participate in the PIK program must agree to pledge a quantity of their 1984 wheat production as loan collateral, redeem such collateral, and sell it to CCC. Such quantity of wheat will then be made available to the producers as PIK compensation. The Secretary has determined that this program is necessary to assist in adjusting the total national acreage of wheat to desirable goals.

12. *Advance Deficiency Payments.* In accordancee with section 107C of the 1949 Act, it has been determined that there will be no advance deficiency payments for the 1984 crop of wheat. Advance deficiency payments are not necessary as an incentive for participation with respect to the 1984 Wheat Program because sufficient producer participation is anticipated without the use of such payments.

13. *Farmer Owned Reserve Program.* In accordance with section 110 of the 1949 Act, the Secretary has determined that there will be no immediate entry into the farmer owned reserve program for the 1984 crop of wheat. Further, the Secretary intends to review the size of the reserve before regular price support loans for the 1984 crop reach maturity. A determination whether to impose a limitation on the size of the reserve will be made accordingly.

Authority: Secs. 107B, 107C, 103, 110; 63 Stat. 1221, as amended 93 Stat. 709, 91 Stat. 950, as amended, 951, as amended, (U.S.C. 1445b–1, 1445b–2 1445d and 1445e); 1001, 91 Stat. 950, as amended, (7 U.S.C. 1309)

Signed in Washington, D.C., January 4, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Regional Foresters and Deputy Regional Foresters; Delegations of Authority

Pursuant to the delegations of authority to the Chief, Forest Service, at 7 CFR 2.60, the following authority is hereby delegated through the Deputy Chief for the National Forest System to the Regional Forester of each Forest Service Region:

(a) Execute all documents for acquisition and disposition of lands and interest in lands pursuant to the Act of January 12, 1933 (93 Stat. 2535) commonly known as the Small Tracts Act, and in accordance with regulations at 36 CFR 254 Subpart C. This authority may be further delegated to the Forest Supervisor of each National Forest by the Regional Forester.

(b) Execute all documents for the acquisition and disposition of lands and interest in lands pursuant to the following Acts:

(1) Adjustment of Land Titles Act of July 8, 1943 (Pub. L. 78–120; 57 Stat. 393; 7 U.S.C. 2253);

(2) Quitclaim Act of April 23, 1930 (46 Stat. 257; 43 U.S.C. 872); and

(3) National Forest Townsite Act of July 31, 1958 as amended (72 Stat. 483; 16 U.S.C. 478a).

F. Dale Robertson,

Associate Chief.

October 11, 1983.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

North Carolina Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on February 1, 1984, at the Greensboro/High Point Marriot, Salon A, Greensboro/High Point Regional Airport, Greensboro, North Carolina 27409. The purpose of this meeting is to discuss the New Commission on Civil Rights and possible program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson, Tommie Young at (919) 379-7803 or the Southern Regional Office at (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-543 Filed 1-9-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

President's Private Sector Survey on Cost Control; Availability of Report

AGENCY: Department of Commerce.

ACTION: Announcing Public Availability of the President's Private Sector Survey on Cost Control (PPSSCC) Final Reports.

SUMMARY: The PPSSCC Final Reports are being distributed by the Government Printing Office. The below listed reports are now available.

SUPPLEMENTARY INFORMATION: Seven PPSSCC reports have been announced previously. For further information, refer to Federal Register notice Volume 48, No. 246 dated Wednesday, December 21, 1983. The numbers below (i.e., 8-29) cannot be used to order the reports. The GPO stock number must be known.

Name of report	GPO stock No.	Price
8. The Department of Housing and Urban Development	003-000-00586-1	$8.50
9. The Department of Treasury	003-000-00596-8	7.00
10. The Department of Commerce and The Department of Labor	003-000-00600-0	8.50
11. EPA/SBA/FEMA	003-000-00604-2	7.00
12. The Department of Health and Human Services/PHS	003-000-00605-1	7.50
13. Boards/Commissions—Business Volume I	003-000-00610-7	9.50
14. Boards/Commissions—Business Volume II	003-000-00609-3	12.00
15. The Department of Navy	003-000-00611-5	7.50
16. The Department of Army	003-000-00587-9	8.00
17. The Department of Air Force	003-000-00588-7	11.00
18. The Department of Transportation	003-000-00589-5	11.00
19. State/AID/USIA	003-000-00597-6	8.50
20. The Department of Education	003-000-00598-4	10.00
21. Federal Feeding and Low Income Standards and Benefits	003-000-00599-2	7.50
22. The Department of Interior and The Department of Justice	003-000-00602-6	11.00
23. The Department of Energy	003-000-00603-4	7.50
24. The Department of Agriculture	003-000-00606-9	8.50
25. Management Office Selected Issues, Volumes I and II	003-000-00607-7	6.50
26. User Charges	003-000-00608-5	8.50
27. The Office of the Secretary of Defense	003-000-00612-3	8.00
28. Federal Management Systems	003-000-00613-1	6.00
29. Financial Asset Management	003-000-00614-0	7.50

Contact: To order the above reports, call (202) 783-3238.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis D. Lambry, U.S. Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-3271.

Dated: December 30, 1983.

Marilyn S. McLennan,

Chief, Information Management Division, Office of Information Resources Management.

[FR Doc. 84-574 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-CW-M

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and Place

Committee on Capital Resources (a subcommittee of the Commission), Monday, January 23, 1984, 8:00 am-4:30 pm., Westwood Marquis Hotel, The Marquessa Room, 930 Hilgard Avenue, Los Angeles, California 90025.

Public Participation

The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place, NW., Washington, DC 20503, telephone: 202-395-4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202-377-4217, on issues regarding administration of the Commission.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84-630 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-18-M

Foreign-Trade Zones Board

[Docket No. 2-84]

Proposed Foreign-Trade Zone—Jefferson County, New York, Ogdensburg Customs District; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Jefferson, State of New York, requesting authority to establish a general-purpose foreign-trade zone in Jefferson County, adjacent to the Alexandria Bay Customs port of entry on the U.S.-Canadian border. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1984. The applicant is authorized to make this proposal under Chapter 157, Laws of New York 1983.

The proposed zone will cover 130 acres at two sites in Watertown and Dexter, New York. Site 1 is at the Jefferson County Industrial Park, located on 115 acres at I-81 and Coffeen Street, Watertown. A 20,000 square foot existing building is available for zone activity. The facility is owned and operated by the Jefferson County Industrial Development Agency (JCIDA), which has been selected to operate the zone project.

Site 2 is at the former Dexter Sulphite Mill at Lakeview Drive and Stockton Avenue in the nearby Village of Dexter. The 15.5-acre facility has a 50,000 square foot building which is being renovated for commercial use. This site will be administered by JCIDA, and operated by F. W. Meyers and Company, Inc.

The application contains evidence of the need for zone services in the area. Several firms have indicated an interest in using zone procedures for the warehousing/distribution of products such as chemical and industrial engineering equipment, electric motors, brakes, pumps, cable, precision dies, security equipment, ice control equipment, medical equipment, and

paper products. Specific manufacturing approvals are not being requested at this time. Such requests would be made to the Board on a case-by-case basis.

Subsequent to the submission of this application, the County submitted a separate proposal on behalf of New York Air Brake Co., for a subzone at its Watertown plant. The formal filing of that proposal is expected shortly and will be the subject of a separate notice and invitation for public comment.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207.

As part of its investigation, the examiners committee will hold a public hearing on February 9, 1984, beginning at 10:00 a.m., in the Board of Supervisor's Chambers, Jefferson County Courthouse, 175 Arsenal Street, Watertown.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by February 3, 1984. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 10, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Wellesley Island, Alexandria Bay, New York 13607;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: January 4, 1984.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 84-624 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 1-84]

Proposed Foreign-Trade Zone—Monroe County, New York, Rochester Customs Port of Entry; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, State of New York, requesting authority to establish authority a general-purpose foreign-trade zone in Monroe County, adjacent to the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1984. The applicant is authorized to make this proposal under Chapter 574, Laws of New York 1976.

The proposed zone involves 2 sites totalling 47 acres. Site 1 is located in the Village of East Rochester and involves the Techniplex industrial complex covering 7 acres at Commercial and Main Streets, the adjacent 16,600 square foot Eyer Building, and a nearby industrial area covering 21 acres on Despatch Drive. Site 2 is a 19-acre site at 3800 Monroe Avenue in the Village of Pittsford. Two buildings offer a total 72,000 square feet of warehouse space at this facility. The project will be operated by Upstate Global Trade Corporation, which is engaged in a variety of international trade related activities.

The application contains evidence of the need for zone services in the Rochester area. A number of firms have indicated an interest in using the zone for warehousing/distribution of products such as machinery, instruments, electronic parts and products, hand tools and apparel. Specific manufacturing approvals are not being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, NY 14207.

As part of its investigation, the examiners committee will hold a public hearing on February 8, 1984, beginning at 9:00 a.m., at the Rochester Area Chamber of Commerce Building, 55 St. Paul Street, Rochester.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by February 2. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 9, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Rochester Branch, 121 East Avenue, Rochester, NY 14604;

Office of the Executive Secretary; Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: January 4, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-623 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A-428-009, A-485-010, A-461-011]

Pig Iron From Romania, U.S.S.R., and East Germany; Final Results of Administrative Review of Antidumping Findings

AGENCY: International Trade Administration Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Findings.

SUMMARY: On October 12, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping findings on pig iron from Romania, U.S.S.R., and East Germany. The review covers the three known exporters of this merchandise to the United States and the period October 1, 1981 throught September 30, 1982. There were no known shipment of this merchandise to the United States during the period and there are no known unliquidated entries.

We gave interested parties and opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results are unchanged

from those presented in the preliminary results of review.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Doug Shaddix, Office of Compliance International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 46408-09) the preliminary results of its administrative review of the antidumping findings on pig iron from Romania, U.S.S.R., and East Germany (33 FR 15904, October 29, 1968). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machine parts. Such merchandise is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated.

The review covers the three known exporters of Romanian, Soviet and East German pig iron to the United States and the period October 1, 1981 through September 30, 1982.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of review are the same as those presented in the preliminary results of the review, and we determine that a cash deposit of estimated antidumping duties, as provided for in §353.48(b) of the Commerce Regulations, equal to the following percentages of the entered value shall be rquired on all shipments of Romanian, Soviet, or East German pig iron entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Exporter (country)	Cash Deposit (percent)
Metalimport (Romania)	[1] 70
Promsyimport (U.S.S.R.)	[1] 70
Deutsch Stahl Metal (East Germany)	[1] 70

[1] No shipments during the period.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 715(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and §353.53 of the Commerce Regulations (19 CFR 353.35).

Alan F. Homer,

Deputy Assistant Secretary for Import Administration.

Dated: December 28, 1983.

[FR Doc. 84-620 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-25-M

[A-357-042]

Printed Vinyl Film From Argentina; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on printed vinyl film from Argentina. The review covers the one known manufacturer and/or exporter of this merchandise to the United States, Plavinil Argentina S.A.I.C., and the period August 1, 1982 through July 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for ten years. Interested parties are invited to comment on these prelminary results and tentative determination to revoke.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Wright on Rober J. Marenick, Office of compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 45140) the final results of its last adminsitrative review of the antidumping finding on printed vinyl film from Argentina (38 FR 22794, August 24, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of printed vinyl film, also know as printed polyvinyl chloride sheeting, currently classifiable under item 771.4312 of the Tariff Schedules of the Untied States Annotated.

The review covers the one known manufacturer and/or exporter of Argentinean printed vinyl film to the United States, Plavinil Argentina, S.A.I.C., and the period August 1, 1982 through July 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of Review and Tentative Determination to Revoke

Plavinil Argentina, S.A.I.C. requested revocation of the finding. As provided for in section 353.54(e) of the Commerce Regulations, Plavinil Argentina, S.A.I.C. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop whcih indicate that printed vinly film manufactured by Plavinil Argentina, S.A.I.C. and thereafter imported into the United States is being sold by Plavinil Argentina at less than fair value. There have been no shipments of this merchandise since the date of the finding, a period of ten years.

Therefore, we tentatively determine to revoke the finding on printed vinyl film from Argentina. If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45

days after the date of publication or the first workday thereafter. Any requests for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: December 21, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-619 Filed 1-9-84; 8:45 am]
BILLING CODE 3510-DS-M

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On May 17, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covers six of the seven known manufacturers and/or exporters of this merchandise to the United States and generally the period September 1, 1980 through August 31, 1983.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. At the request of one exporter, we held a public hearing on July 1, 1983.

As a result of our review of the comments received, we have changed the margin for that one exporter. We have made no changes in the final results of review for the other companies from those presented in our preliminary results.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Amy F. Dale or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On May 17, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 22177-8) the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada (42 FR 44811, September 7, 1977). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of replacement parts for self-propelled bituminous paving equipment. The review covers six of the seven known manufacturers and/or exporters of this merchandise to the United States and generally the period of September 1, 1980 through August 31, 1981. We are deferring review of the seventh firm, National Paver Parts, until our next review.

Analysis of Comments Received:

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of one respondent, Babcock Allatt, Ltd., we held a public hearing on July 1, 1983.

Comment 1: Allatt claims that the Department has found dumping margins solely due to the Department's refusal to allow an adequate ESP offset.

Department's Position: We disagree. Although our disallowance of Allatt's indirect selling expense claim for home market sales was the largest contributing factor, two changes in Allatt's selling practices also contributed to the resulting margin: (1) In January 1980 Allatt increased the markup on home market sales prices, and (2) in August 1980 Allatt decreased the markup on U.S. ESP sales of parts.

Comment 2: Allatt states that it provided the Department with sufficient data and with two reasonable methods for allocating home market indirect selling expenses. The first method involved dividing the total claimed offset expenses by the value of total home market sales of all products. The second method attempted to isolate selling expenses by product line and then to allocate them on a per order basis by dividing by the number of invoices involved.

Department's Position: The Department disagrees with both proposed methods. The Department has rejected the first method because the expense categories could not be clearly identified with specific product lines, in particular, home market sales of paver parts. We have not accepted Allatt's second method because we believe it is improper to allocate based on the number of transactions or, here, on the number of invoices. We maintain that Allatt has not adequately segregated and then quantified such expenses.

Comment 3: The Department, in calculating the ESP offset, only allowed salesmen salaries, payroll costs and commissions and then divided those expenses by Allatt's total sales revenue, regardless of whether the expenses or revenue were directly related to the sale of paver parts or to the sale of all products.

Allatt claims that the data given to the Department was sufficiently detailed to distinguish selling expenses and revenue associated with paver parts from those associated with the sale of other products. Therefore, Allatt claims the Department should recalculate the ESP offset by dividing the paver parts sales expenses by the paver parts sales revenue.

Department's Position: The Department agrees and has recalculated the ESP offset.

Comment 4: Allatt states that, if margins still exist in the final results of review, they should be separately stated for ESP and purchase price sales.

Department's Position: The Department's practice is to publish one weighted-average percent margin for determining estimated antidumping duties cash deposit rates. We see no reason to deviate from that practice here.

Comment 5: The petitioner, Blaw Knox Construction Equipment Inc., claims that the Department should determine whether Allatt failed to earn a profit on its sales of this merchandise in the domestic market. If so, Blaw Knox argues we should investigate whether Allatt made any sales at less than its cost of production.

Department's Position: The Department believes the petitioner's request to begin such an investigation is based on insufficient information.

Comment 6: Blaw Knox claims that the Department has failed to determine whether domestic discounts for trade-ins have affected the foreign market value.

Department's Position: We determined the foreign market value using Allatt's Canadian price list, which did not include trade-ins. Therefore, we need not examine the question of trade-ins.

Comment 7: Blaw Knox believes that the Department should disallow any claimed expenses that are not specifically identified.

Department's Position: We agree. See Comment 2.

Final Results of the Review

After analysis of the comments received, we have changed the margin for Babcock Allatt, Ltd. For the other companies the final results of review are the same as the preliminary results of review and we determine that the following weighted-average margins exist:

Manufacturer	Time period	Margin (percent)
Anvil Manufacturing Co.	9/1/80–8/31/81	[1] 20.12
Babcock Allatt, Ltd.	12/1/78–8/31/79	0
Barber-Greene Canada Ltd.	9/1/79–8/31/81	[1] 0
General Construction Equipment Manufacturing Ltd.	9/1/80–8/31/81	[1] 0
Parker Hannifin	9/1/80–8/31/81	[1] 20.12
S.F. Tubing Ltd.	9/1/80–8/31/81	[1] 0

[1] No shipments during the period.

The Department shall determine and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries during the periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian replacement parts for self-propelled bituminous paving equipment from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The deposit rate for National Paver Parts remains at 1.05 percent, based on our preliminary analysis of shipments made between February 1, 1981 and May 31, 1981. For any future shipments from a new exporter not covered in this or prior reviews, whose first shipments occurred after August 31, 1981, and who is unrelated to any covered firm, a cash deposit of 4.20 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department is beginning immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 28, 1983.

C. Christopher Parlin,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-621 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-044]

Stainless Steel Wire Rods From France; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on stainless steel wire rods from France. The review covers the one known exporter of this merchandise to the United States currently covered by the finding, Ugine Aciers, and the period July 1, 1981 through July 31, 1982. The review indicates the existence of dumping margins for the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of the sales during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 2808–9) the final results of its last administrative review of the antidumping finding on stainless steel wire rods from France (38 FR 9094, August 20, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated, or partly manufactured, currently classifiable under item 607.4300 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French stainless steel wire rods currently covered by the finding, Ugine Aciers, and the period July 1, 1981 through July 31, 1982.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as appropriate, in accordance with section 772 of the Tarriff Act. Purchase price and exporter's sales price were based, as appropriate, on the c.i.f., duty-paid price and the f.o.b. warehouse price to the first unrelated purchaser in the United States. Where applicable, deductions were made for U.S. Customs duties, U.S. entry and port charges, ocean freight, marine insurance, loading charges, foreign inland frieght, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department use home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered price, with adjustments for inland freight, insurance, and differences in the physical characteristics of the merchandise. We disallowed an adjustment claimed for differences in credit expenses because we could not quantify actual differences in credit expenses between the U.S. market and the home market. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that, for the period July 1, 1981 through July 31, 1982, a margin of 10.11% exists.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 10.11 percent shall be required on all shipments of stainless steel wire rods from Ugine Aciers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after July 31, 1982, a cash deposit of estimated antidumping duties of 10.11 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 3, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-622 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Intent To Conduct an OMB Circular No. A-76 Cost Comparison Study

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of intent to conduct comparison study.

Notice is hereby given pursuant to Office of Management and Budget Circular No. A-76 and Department of Commerce Administrative Order 201-41 that the National Bureau of Standards (NBS) intends to conduct a comparison study of the cost of the Government's operation of mail preparation and distribution performed at the NBS Gaithersburg site versus the cost of a private contractor performing the same tasks.

A contract may or may not result from the cost comparison study. Results of the study will be made available to bidders, offerors and all interested parties.

DATES: Solicitations for bids or proposals are scheduled for after August 31, 1984. The study is expected to end by April 30, 1985.

Anyone having any questions regarding this item is invited to contact Mrs. Paige L. Gilbert, Executive Officer, Office of the Director for Administration, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3567.

Dated: January 4, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-633 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-13-M

Announcing a Workshop for Local Area Network Implementors of the ISO/NBS Transport Class 4 Protocol

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces the fifth two-day workshop to continue discussing implementations for local area networks of the Transport Class 4 Protocol of the International Organization for Standardization according to the NBS design specification. The workshop will be held on March 8 and 9, 1984 at the Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Maryland, (301) 977-8900.

The workshop, geared specifically to the needs of local area networking vendors, will focus on Class 4 Transport techniques and implementation strategies leading to a multi-vendor protocol demonstration in 1984 utilizing IEEE 802.3 and 802.4 Local Area Network Technologies and will continue discussions on issues remaining from previous workshops.

Attendance at the workshop is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis. A nominal registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should send a request on company letterhead to: LAN/Transport Workshop, Attn: Vicki Howard, National Bureau of Standards, Building 225, Room B-218, Washington, D.C. 20234.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be post marked by February 21, 1984. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Vicki Howard (301) 921-3537.

Dated: January 5, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-630 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Modification No. 3 to Permit No. 351; California Department of Fish and Game

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 351 issued to the California Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814 (46 FR 43732), as modified on December 17, 1981 (46 FR 62634), and July 1, 1982 (47 FR 28730), is further modified to extend the period of authorized taking for two years.

Accordingly, Section B-4 is changed to read:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1986."

This modification is effective December 30, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 3, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-612 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Issuance of Permit; Marine Animal Productions Inc.

On August 29, 1983 Notice was published in the Federal Register (48 FR

39113), that an application had been filed with the National Marine Fisheries Service by Marine Animal Productions, Inc., 150 Debuys Road, Biloxi, Mississippi 39531 for permit to take four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on December 29, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Marine Animal Productions, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-611 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Modification of Permit; Minnesota Zoological Garden

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit No. 200, issued to the Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota, on August 3, 1977, is hereby modified by deleting Section B-6 and substituting therefore the following:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification is effective on the date of publication of this Notice in the Federal Register.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: January 4, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-613 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Modification No. 4 to Permit No. 288; Steven R. Morello

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 288 issued to Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070, on July 24, 1980 (45 FR 50627), and February 4, 1982 (47 FR 5283), is modified to extend the period of authorized taking for one year.

Accordingly, Section B-5 is deleted and replaced by:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1984."

This modification is effective upon publication in the Federal Register.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 84-614 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of the Arab Republic of Egypt to Review Trade in Categories 300/301 (Cotton Yarn) and 317 (Cotton Twill and Sateen)

January 5, 1984.

On December 29 and 30, 1983, the Government of the United States requested consultations with the Government of the Arab Republic of Egypt with respect to cotton textiles and cotton textile products in Categories 300/301 and 317. These requests were made on the basis of the Bilateral Cotton Textile Agreement of December 7 and December 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt, which provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments within 60 days of the receipt of these requests the Committee for the Implementation of Textile Agreements, pursuant to the terms of the agreement, may establish limits for the entry and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 300/301 and 317, produced or manufactured in Egypt and exported during 1984.

The Government of the United States reserves the right under the bilateral agreement to invoke import controls on these categories during the 60-day consultation period.

Any party wishing to comment or provide data or information regarding the treatment of Categories 300/301 and 317 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Arab Republic of Egypt, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Categories 300/301 and 317, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a

waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-520 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of India to Review Trade in Category 641 (Woven Blouses)

January 5, 1984.

On December 30, 1983, the Government of the United States requested consultations with the Government of India with respect to Category 641 (Woven Blouses of Man-Made Fiber). This request was made on the basis of Paragraph 16 of the Agreement between the Governments of the United States and India relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 21, 1982. Paragraph 16 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments within 90 days of the request for consultations, CITA, pursuant to paragraph 16 of the Agreement, may establish a specific limit of 1,074 dozen for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 641, produced or manufactured in India and exported to the United States during the two-day period beginning on December 30, 1983 and extending through December 31, 1983. If that limit is established, the specific limit for 1984 would be set at 209,754 dozen, according to paragraph 16 of the agreement.

The Government of the United States reserves the right under the Agreement to invoke import controls on this category during the 90-day consultation period (December 30, 1983–March 28, 1984) at 57,176 dozen, and at the 1984 level of 209,754 dozen.

Any party wishing to comment or provide data or information regarding the treatment of Category 641 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 641, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-523 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Thailand to Review Trade in Category 631 (Man-Made Fiber Gloves and Mittens)

January 5, 1984.

On December 30, 1983 the Government of the United States requested consultations with the Government of Thailand with respect to Category 631 (man-made fiber gloves and mittens). This request was made on the basis of the bilateral agreement of July 27 and August 8, 1983 between the Governments of the United States and Thailand relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments within 90 days of the request for consultations, CITA, pursuant to the terms of the bilateral agreement, may establish a specific limit of 961 dozen pairs for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 631, produced or manufactured in Thailand and exported to the United States during the two-day period beginning on December 30, 1983 and extending through December 31, 1983. If that limit is established, the specific limit for 1984 would be set at 187,734 dozen pairs, according to the terms of the agreement.

The Government of the United States reserves the right under the agreement to invoke imports controls on this category during the 90-day consultation period (December 30, 1983–March 28, 1984) at 51,174 dozen pairs and at the 1984 level of 187,734 dozen pairs.

Any party wishing to comment or provide data or information regarding the treatment of Category 631 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Thailand, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 631, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-522 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Turkey on Category 338 (Men's and Boys' Knit Shirts)

January 5, 1984.

On December 29, 1983 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Turkey to enter into consultations concerning exports to the United States in Category 338, produced or manufactured in Turkey.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of textile products in Category 338, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on December 29, 1983 may be restrained at 264,020 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 338, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a Foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-521 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Cost Technology Task Force will meet January 26, 1984, from 9:00 a.m. to 5:00 p.m. at 2000 North Beauregard Street, Alexandria, Va. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Va. 22311. Telephone (703) 756-1205.

Dated: January 6, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84-649 Filed 1-9-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Noncompeting Continuation Applications

AGENCY: Department of Education.

ACTION: Application notices establishing closing dates for transmittal of Fiscal Year 1984 noncompeting continuation applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for noncompeting continuation projects awarded by the Department of Education under Titles III and VI of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education that are expected to be funded in Fiscal Year 1984.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: In order to be assured of consideration for funding, applications for noncompeting continuation projects should be mailed or hand-delivered on or before the closing date given in the individual program announcements included in this document. If a noncompeting continuation application is late, the U.S. Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Except where specified otherwise immediately below and in the individual program announcements, applications for noncompeting continuation projects must be addressed to the Department of Education Application Control Center, Attention: (Appropriate CFDA No.), Washington, D.C. 20202.

Note.—Applicants for programs under 84.129 (Rehabilitation Long-Term Training Projects, except in the field of prosthetics-orthotics and projects of national scope), 84.129D (Rehabilitation Continuing Education) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training Program) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below:

Region I

RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Room E-400, Boston, Massachusetts 02203

Region II

RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278

Region III

RSA Regional Commissioner, Department of Education, OSERS, 3535 Market Street, Room 3550, Philadelphia, Pennsylvania 19101

Region IV

RSA Regional Commissioner, Department of Education, OSERS, 101 Marietta Street, N.W., Suite 821, Atlanta, Georgia 30323

Region V

RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606

Region VI

RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 1400, Dallas, Texas 75202

Region VII

RSA Regional Commissioner, Department of Education, OSERS, 324 E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106

Region VIII

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202

Region IX

RSA Regional Commissioner
Department of Education, OSERS
Federal Office Building, Rm 480
50 United Nations Plaza
San Francisco, California 94102

Region X

RSA Regional Commissioner
Department of Education, OSERS
2901 Third Avenue, Room 120
Seattle, Washington 98121

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Applications for noncompeting continuation grants must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.; or

To the appropriate Regional Office at the address given above.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

The Regional Offices will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

Part I—Programs Listed in Chronological Order

CFDA No. and program	Closing date
84.128A Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals.	Feb. 24, 1984
84.128B Projects With Industry	Do.
84.129 Rehabilitation Long-Term Training Projects.	Do.
84.129D Rehabilitation Training Continuing Education Projects.	May 1, 1984.
84.129Z State Vocational Rehabilitation Unit In-Service Training Program.	May 15, 1984.

Part II—Application Announcements for Each Program

84.128A—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777a(a)(1)).

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other services for severely handicapped individuals.

Available Funds: The total amount of funds awarded under this program in Fiscal Year 1983 (excluding spinal cord injury projects) was about $4,660,000; of this amount $1,305,000 was for noncompeting continuation projects and $3,355,000 was for new projects. Approximately $2,600,000 will be available for noncompeting continuation projects in Fiscal Year 1984. An estimated 24 noncompeting continuation projects will be awarded at an average project cost of about $117,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of the application not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Joseph Abrams, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3330, Mary E. Switzer Building, Washington, D.C. 20202. Telephone (202) 245-0918.

84.128B—Projects With Industry

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in section 621 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 795g).

Agreements are made under this program with employers and profitmaking and nonprofit organizations including any industrial, business or commercial enterprise; labor organization; community trade association; rehabilitation facility; or any other agency or organization with the capacity to arrange, coordinate or conduct training and other employment programs and provide supportive services and assistance to handicapped individuals in a realistic work setting.

The purpose of this program is to provide handicapped individuals with training, employment, and supportive services and assistance within business, industry, or other realistic work settings in order to prepare them for competitive employment and permit them to maintain their empolyment.

Available Funds: The total amount of funds available under this program in Fiscal Year 1983 was $13,000,000 of which $5,000,000 was provided under the Jobs Bill. Approximately $6,879,000 will be available in Fiscal Year 1984 for noncompeting continuations. An estimated 53 noncompeting continuation projects will be awarded with an average project totalling about $130,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Projects with Industry Program (34 CFR Parts 369 and 379); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Walter J. Devins, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, Room 3320, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-0554.

84.129—Rehabilitation Long-Term Training Projects

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public or private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Available Funds: The total amount of funds awarded for the support of Rehabilitation Long-Term Training projects in Fiscal Year 1983 was $12,758,000. Approximately $9,199,000 will be available for Rehabilitation Long-Term Training noncompeting continuation projects for Fiscal Year 1984. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office, except for projects in the field of prosthetics-orthotics and projects of national scope, which will be submitted to the Application Control Center.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0084.

84.129D—Rehabilitation Continuing Education Projects

Closing Date: May 1, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals.

Available Funds: The total amount of funds awarded under this program for Fiscal Year 1983 was $2,000,000. Approximately $1,952,999 of the $2.2 million available for Rehabilitation Continuing Education in Fiscal Year 1984 will be distributed within each Federal Region for noncompeting continuation projects as follows:

Region I	$188,346
Region II	214,850
Region III	254,404
Region IV	305,090
Region V	

Region VI	250,738
Region VII	184,045
Region VIII	170,439
Region IX	212,588
Region X	172,483

In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, the balance of $247,001 available under this program is expected to be used to support new projects in Region V. The availability of these funds will be announced in the Federal Register under a separate application notice.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0084.

84.129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing Date: May 15, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,800,000 is available for new and noncompeting continuation projects under the State Vocational Rehabilitation Unit In-Service Training program in Fiscal Year 1984.

Noncompeting continuation funds totalling $1,933,012 are expected to be distributed to the following Federal Regions:

Region I	$0
Region II	297,169
Region III	370,917
Region IV	550,053
Region V	72,755
Region VI	339,932
Region VII	197,051
Region VIII	159,035
Region IX	44,030
Region X	[illegible]

In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, the balance of $866,988 is expected to be used to support new projects in the following Federal Regions:

Region I	$224,400
Region II	23,193
Region V	297,220
Region IX	159,231
Region X	140,[illegible]
Total	866,988

The availability of these funds will be announced in the Federal Register under a separate application notice.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length.

The Secretary further urges that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further Information: Martin W. Spickler, Ph. D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0075.

Dated: January 6, 1984.

Madeleine Will,

Assistant Secretary, Special Education and Rehabilitative Services.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

Institutional Aid Programs; Technical Assistance Workshop

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of Technical Assistance Workshop for Fiscal Year 1984 New Awards for the Strengthening and Special Needs Programs.

SUMMARY: The Department of Education, Division of Institutional Development, will conduct a technical assistance workshop to assist prospective applicants in developing applications for new awards for the Fiscal Year 1984 competitions under the Strengthening and Special Needs Programs. The workshop will *not* address concerns about the Endowment Grant Program *nor* about non-competing continuation applications under the Strengthening, Special Needs and Challenge Grant Programs.

The workshop will last one day. The presentation will focus on answering the following questions:

(1) How are applications reviewed by the field readers, by Program Officers and by the Grants Officer?

(2) How should an applicant address the selection criteria in relation to the instructions and forms within the application form?

(3) What should the institutional long-range plan contain?

(4) What should the plan of operation contain?

(5) How does an applicant show that it is using the Federal funds to supplement, not supplant, local resources?

(6) How does an applicant show that it is using the Federal funds for development purposes, not for operation and maintenance expenses?

(7) How does an applicant show what will happen after the Federal grant period expires?

(8) How does an applicant choose costs which are justified, allowable and reasonable?

(9) What are some samples of applications which in the past were highly ranked?

(10) How does an applicant prepare for the negotiation phone call and the writing of a revised final plan of operation?

The workshop will begin with registration at 8:00 a.m. Presentations are scheduled from 8:30 a.m. to 4:30 p.m. There is no registration fee for the workshops.

The date and location is as follows: January 27, 1984, Washington, D.C., Department of Health and Human Services, North Building Auditorium, 300 Independence Avenue, SW., Washington, D.C.

Further information: For further information, contact: Dr. John R. Jones, Program Development Branch, Division of Institutional Development, U.S. Department of Education (Room 3045, Regional Office Building #3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2384.

(20 U.S.C. 1057-1063 and 1066-1069c)

(Catalog of Federal Domestic Assistance Numbers: 84.031A-Strengthening Program; and 84.031B-Special Needs Program)

Dated: January 6, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-577 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

Special Needs Program; Application Notice for New Awards in Fiscal Year 1984

Applications are invited for new planning grants or development grants under the Special Needs Program.

Authority for the Special Needs Program is contained in sections 321-324 and 341-347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1060-1063, and 1066-1069c).

The Special Needs Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and non-renewable development grants to eligible two-year and four-year, public and private institutions of higher education. The purpose of a planning grant is to assist an institution to develop its long-range plan.

The purpose of a development grant is to assist an institution to implement portions of its long-range plan, thereby becoming self-sufficient.

Closing Date for Transmittal of Applications: An application for a planning or development grant must be mailed or hand-delivered by March 14, 1984.

Application Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.013B, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

The Congress has appropriated $134,416,000 for the Institutional Aid Programs in Fiscal Year 1984. Of that amount, $62,408,000 was appropriated for the Special Needs Program.

The Secretary is reserving approximately $5,200,000 of this $62,408,000 for the Endowment Grant Program, in accordance with section 347(f) of the HEA. The Secretary anticipates using the remaining $57,208,000 to fund 174 non-competing continuation grants under the Special Needs Program.

While no funds are anticipated to remain available for new awards, the Secretary invites applications for new plannng grants or development grants under the Special Needs Program just in case any funds remain after the non-competing continuation grants are awarded.

Applicants are advised of the following possible limitations regarding the awarding of this money:

In accordance with section 347(c)(2) of the HEA, the Secretary intends to award to eligible junior or community colleges with special needs, for both non-competing continuation and new grants, not less than 30 percent of the $62,408,000 reserved for the Special Needs Program or transferred to the Endowment Grant Program.

In accordance with sections 347 (e) and (f) of the HEA, the Secretary also intends to make available to eligible historically black institutions of higher education, for both non-competing continuation and new grants, $27,035,000

of the $62,408,000 reserved for the Special Needs Program or transferred to the Endowment Grant Program.

These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics." (34 CFR 626.31(b)).

In addition, the Department of Education Appropriation Act, 1984 reserves $45,741,000 of the $134,416,000 appropriated for the Institutional Aid Programs for awards to historically black colleges and universities.

Grants-General. In general, the Secretary will accept an application for a planning or a development grant from any institution designated eligible for the Special Needs Program for Fiscal Year 1984.

In accordance with § 626.31(c)(2) of the Special Needs Program regulations (34 CFR 626.31(c)(2)), the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for non-renewable grants to $800,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. THE SECRETARY WILL NOT ACCEPT ANY APPLICATION CONTAINING A REQUEST IN EXCESS OF THESE MAXIMUMS; SUCH APPLICATIONS WILL BE RETURNED TO THE APPLICANT.

Planning Grants

1. The Secretary will not accept an application for a planning grant from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

2. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Requests for Designation as an Eligible Institution: Potential applicants—including those currently grantees under one or more of the Institutional Aid Programs—are advised that a notice was published in the Federal Register on September 13, 1983 (FR 48, 41067–41077), explaining how an institution becomes eligible for the Special Needs Program. Institutions were required to submit eligibility requests by October 14, 1983. Any institution that was designated eligible to apply for a new award under the Special Needs Program in Fiscal Year 1983 but failed to submit a letter by the October 14, 1983 closing date requesting that it be maintained as eligible for the Special Needs Program in FY 1984 may submit such a letter as part of its application for a new award under the Special Needs Program. The letter must include the institution's Fall 1983 full-time equivalent enrollment.

Those institutions that are not designated by the Secretary as eligible to apply for a grant in FY 1984 will not be considered for funding.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 18, 1984. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR part 626; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Further Information: For further information, contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715.

(20 U.S.C. 1060–1063 and 1066–1069c)

(Catalog of Federal Domestic Assistance No. 84.031B—Special Needs Program)

Dated: January 4, 1984.

[FR Doc. 84-579 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

Strengthening Program; Application Notice for Planning Grants and Renewable Development Grants in Fiscal Year 1984

Applications are invited for new planning grants or renewable development grants under the Strengthening Program.

Authority for this program is contained in sections 311–313 and 341–347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1057–1059, and 1066–1069c).

The Strengthening Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and renewable development grants to eligible two-year and four-year public and private institutions of higher education. The purpose of a planning grant is to assist an institution to develop an institutional long-range plan or an application for a development grant. The purpose of a renewable development grant is to assist an institution to implement portions of its long-range plan to enable it to move toward self-sufficiency.

Closing Date for Transmittal of Applications: An application for a planning or a renewable development grant must be mailed or hand-delivered by March 14, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Department of Education Appropriations Act, 1984 appropriated $134,416,000 for the Institutional Aid Programs in Fiscal Year 1984. Of that amount, $62,408,000 was appropriated for the Strengthening Program.

The Secretary anticipates that he will use approximately $57,408,000 to $58,908,000 for non-competing continuation grants. Thus, approximately $3,500,000 to $5,000,000 is anticipated to be available for new awards. Of that amount, the Secretary will set aside a minimum of $150,000 for planning grants. If the Secretary does not receive enough qualifying applications for these funds, he will use the remainder of that money for renewable development grants.

(34 CFR 625.31(b)(1))

The Secretary anticipates awarding approximately 6 planning grants and approximately 20 to 30 renewable development grants.

The Department of Education Appropriations Act, 1984 reserves $45,741,000 of the $134,416,000 appropriated for the Institutional Aid Programs for awards to historically black colleges and universities. This requirement may limit funds available for this competition.

In order to ensure a reasonable number of grants for new projects and in accordance with § 625.31(b)(2) of the Strengthening Program regulations, the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for renewable grants to $200,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned to the applicant.

General. The Secretary will accept an application for a planning grant or a one-to-three-year renewable development grant from any institution designated as an eligible institution under the Strengthening Program for Fiscal Year 1984. Because of the anticipated limited amount of Fiscal Year 1984 funds available for new projects, the Secretary will not accept applications for four-to-seven-year non-renewable development grants in Fiscal year 1984.

The Secretary calls attention to § 625.20(b)(2) of the Strengthening Program regulations (34 CFR 625.20(b)(2)) which prohibits an institution which has received a non-renewable development grant under the Special Needs or Challenge Grant Program from applying either individually or as part of a cooperative arrangement, for a renewable grant under the Strengthening Program. The Secretary will not accept any such application and the application will be returned to the applicant.

Planning Grants

1. The Secretary will not accept an application for a planning grant solely to develop an application for a development grant unless the applicant submits, as part of its application, its long-range plan containing all the elements required in § 624.22 of the Institutional Aid Programs regulations (34 CFR 624.22).

2. The Secretary will not accept an application for a planning grant to develop a long-range plan from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

3. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Development Grants

The application will only accept applications for renewable development grants for Fiscal Year 1984. In accordance with § 6256.10 of the Strengthening Program regulations (34 CFR 625.10), renewable development grants are awarded for a period of one to three years.

In general, administration costs for renewable development grants should not exceed 20 per centum of the total amount of funds requested. Applications containing requests in excess of this amount must include thorough justification of the need for additional funds.

Institutions should note that budget requests for the second and/or third years of multi-year renewable development grants will be limited to the amounts projected for these years in the *original* application for funds minus any amounts which have been projected for *disallowed* activities. In order to better plan funding requests for future years of the grant, institutions receiving awards under this competition will be notified of any disallowed activities at the time their award is negotiated.

Requests for Designation as an Eligible Institution: Potential applications—even if they currently are a grantee under one or more of the Institutional Aid Programs—are advised that a notice was published in the Federal Register on September 13, 1983 (FR 48, 41067–41077), explaining how an institution becomes eligible for the Strengthening Program. Any institution that was designated eligible to apply for a new award under the Strengthening Program in Fiscal Year 1983, but that failed to submit a letter by the October 14, 1983 closing date requesting that it be maintained as eligible for the Strengthening Program in Fiscal year 1984, may submit such a letter as part of its application for a new award under the Strengthening Program.

Those institutions that are not designated by the Secretary as eligible to apply for a grant in FY 1984 will not be considered for funding.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 18, 1984. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 625; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Further Information: For further information, contact Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2715).

(20 U.S.C. 1057-1059, and 1066-1069c).)

(Catalog of Federal Domestic Assistance No. 84.031A—Strengthening Program)

Dated: January 4, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-578 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

List of Nationally Recognized Accrediting Agencies and Associations

SUMMARY: The Secretary of Education lists the nationally recognized accrediting agencies and associations that the Secretary determines to be reliable authorities as to the quality of training offered by the educational institutions or programs they accredit. The Secretary publishes this list for the purpose of determining institutional eligibility under the Higher Education Act and other Federal legislation. The list includes the general scope of recognition granted to each accrediting body.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. [Room 3522, ROB-3], U.S. Department of Education, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The Higher Education Act and other legislation, including the Veterans' Readjustment Assistance Act and the Public Health Service Act, require the Secretary to publish a list of nationally recognized accrediting agencies that the Secretary has determined to be reliable authorities concerning educational quality. The most recent list was published in the Federal Register on June 14, 1982, 47 FR 25563-25566. Revisions to this list were published in the Federal Register on June 28, 1982, 47 FR 27885; November 2, 1982, 47 FR 49699-49700; December 16, 1982, 47 FR 56385; and April 4, 1983, 48 FR 14434-14435.

A number of other changes have been made by the Secretary since publication of the revisions. Rather than publish a new list of revisions, the Secretary feels it appropriate, and less confusing to the public, to issue a comprehensive list of nationally recognized accrediting agencies and associations. This list supersedes the list published in the Federal Register on January 14, 1982, and the lists of revisions published between June 28, 1982, and April 4, 1983.

Nationally Recognized Accrediting Agencies and Associations

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges
- Commission on Independent Schools
- Commission on Institutions of Higher Education
- Commission on Public Schools
- Commission on Vocational, Technical, Career Institutions

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges

Accrediting Commission for Schools, Western Association of Schools and Colleges

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

Commission on Colleges, Northwest Association of Schools and Colleges

Commission on Colleges, Southern Association of Colleges and Schools

Commission on Higher Education, Middle States Association of Colleges and Schools

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools

Commission on Occupational Education Institutions, Southern Association of Colleges and Schools

Commission on Schools, North Central Association of Colleges and Schools

National Institutional and Specialized Accrediting Agencies and Associations

Allied Health Education
- Accrediting Bureau of Health Education Schools (private, postsecondary institutions offering allied health education)
- [Agencies recognized for accreditation of allied health *programs* are listed below under the specific fields.]

Architecture
- National Architectural Accrediting Board, Inc. (first professional degree programs)

Art
- National Association of Schools of Art and Design, Commission on Accreditation and Membership (degree-granting schools, departments, and non-degree-granting schools, that are predominantly organized to offer education in art, design, or art/design related disciplines)

Bible College Education
- American Association of Bible Colleges, Commission on Accrediting (Bible colleges and institutes offering undergraduate degree programs)

Blind and Visually Handicapped Education
- National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (specialized schools for the blind and visually handicapped)

Blood Bank Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the blood bank technologist)

Business
- American Assembly of Collegiate Schools of Business, Accreditation Council (baccalaureate and graduate degree programs in business administration and management, and baccalaureate and master's degree programs in accountancy)
- Association of Independent Colleges and Schools, Accrediting Commission (private postsecondary schools, junior colleges and senior colleges which are predominantly organized to educate students for business careers)

Chiropractic
- Council on Chiropractic Education, Commission on Accreditation (programs leading to the D.C. degree)

Clinical Pastoral Education
- Association for Clinical Pastoral Education, Inc., Accreditation Committee (basic, advanced, and supervisory clinical pastoral educational programs)

Continuing Education
- Council for Noncollegiate Continuing Education, Accrediting Commission (noncollegiate continuing education institutions and programs)

Cosmetology
- National Accrediting Commission of Cosmetology Arts and Sciences (postsecondary schools and departments of cosmetology arts and sciences)

Cytotechnology
- American Medical Assocation, Committee on Allied Health Education and Accreditation, in cooperation with the Cytotechnology Programs Review Committee, American Society of Cytology (programs for the cytotechnologist)

Dance
- Joint Commission on Dance and Theater Accreditation, sponsored by the National Association of Schools of Art and Design and the National Association of Schools of Music (independent dance schools)

Dental and Dental Auxiliary Education
- American Dental Association, Commission on Dental Accreditation (programs leading to the DDS or DMD degree, advanced dental specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology)

Dietetics
- American Dietetic Association, Commission on Accreditation

(coordinated undergraduate programs in dietetics, and post-baccalaureate dietetic internship programs)

Engineering
Accreditation Board for Engineering and Technology, Inc. (first professional degree programs in engineering, and associate and baccalaureate degree programs in engineering technology)

Forestry
Society of American Foresters (programs leading to a bachelor's or higher first professional degree and related resource-oriented programs)

Funeral Service Education
American Board of Funeral Service Education, Committee on Accreditation (independent schools and collegiate departments)

Health Services Administration
Accrediting Commission on Education for Health Services Administration (graduate programs in health services administration)

Histologic Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (programs for the histologic technician)

Home Study Education
National Home Study Council, Accrediting Commission (home study schools, including those granting associate degrees)

Interior Design
Foundation for Interior Design Education Research, Committee on Accreditation (programs of interior design in junior and community colleges, trade and technical schools, professional schools, baccalaureate level schools and colleges and graduate schools)

Journalism and Mass Communications
Accrediting Council on Education in Journalism and Mass Communications (professional baccalaureate and master's degree programs and units within institutions)

Landscape Architecture
American Society of Landscape Architects, Landscape Architectural Accreditation Board (undergraduate and graduate degree programs)

Law
American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools)

Librarianship
American Library Association, Committee on Accreditation (graduate programs leading to the first professional degree)

Marriage and Family Therapy
American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (graduate degree programs and clinical training programs)

Medical Assistant Education
Accrediting Bureau of Health Education Schools (private medical assistant educational institutions and programs)
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Association of Medical Assistants Endowment (one- and two-year medical assistant programs)

Medical Laboratory Technician Education
Accrediting Bureau of Health Education Schools (schools and programs for the medical laboratory technician)
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (associate degree and certificate programs for the medical laboratory technician)

Medical Record Education
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Council on Education, American Medical Record Assocation (programs for the medical record administrator and medical record technician)

Medical Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (professional programs)

Medicine
Liaison Committee on Medical Education of the Council on Medical Education, American Medical Association, and the Executive Council, Association of American Medical Colleges (programs leading to the M.D. degree)

Microbiology
American Academy of Microbiology, Committee on Postdoctoral Education Programs (postdoctoral programs)

Music
National Association of Schools of Music (institutions and units within institutions offering degree-granting or non-degree-granting programs in music and music-related disciplines, including community/junior colleges and independent degree-granting institutions)

Nuclear Medicine Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, which is sponsored by the American College of Radiology, American Society for Medical Technology, American Society of Clinical Pathologists, American Society of Radiologic Technologists and the Society of Nuclear Medicine (programs for the nuclear medicine technologist)

Nursing
American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (professional schools/programs of nurse anesthesia)
American College of Nurse-Midwives, Division of Accreditation (basic nurse-midwifery education programs)
National Association for Practical Nurse Education and Service, Inc., Accrediting Review Board (practical nurse programs)
National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing Programs (professional, technical and practical nurse programs)

Occupational Therapy
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Accreditation Committee, American Occupational Therapy Association (professional programs)

Occupational, Trade and Technical Education
National Association of Trade and Technical Schools, Accrediting Commission (private schools primarily engaged in trade or technical training, including those offering associate and baccalaureate degrees)

Optometry
American Optometric Association, Council on Optometric Education (professional degree programs, optometric residency programs, and optometric technician programs)

Osteopathic Medicine
American Osteopathic Association (programs leading to the D.O. degree)

Pharmacy
American Council on Pharmaceutical Education (professional degree programs)

Physical Therapy
American Physical Therapy Association, Committee on Accreditation in Education (professional programs for the physical therapist and programs for the physical therapist assistant)

Physician's Assistant Education
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for Physician's Assistants, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician Assistants, American College of Physicians, American College of Surgeons, and the Association for Physician Assistant Programs (programs for the assistant to the primary care physician and the surgeon's assistant)

Podiatry
American Podiatry Association, Council on Podiatry Education (colleges of podiatric medicine, including first professional degree and graduate degree programs)

Psychology
American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, school,

and combined professional-scientific psychology, and predoctoral intership programs in professional psychology)

Public Health

Council on Education for Public Health (graduate schools of public health, and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)

Rabbinical and Talmudic Education

Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (advanced rabbinical and Talmudic schools)

Radiological Technology

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists (programs for the radiographer and radiation therapy technologist)

Respiratory Theraphy

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Respiratory Therapy Education, which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists, and the American Thoracic Society (programs for the respiratory therapist and respiratory theraphy technician)

Social Work

Council on Social Work Education, Commission on Accreditation (master's and baccalaureate degree programs)

Speech-Language Pathology and Audiology

American Speech-Language-Hearing Association, Council on Professional Standards in Speech-Language Pathology and Audiology (master's degree programs)

Surgical Technology

American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association and the Association of Surgical Technologists (programs for the surgical technologist)

Teacher Education

National Council for Accreditation of Teacher Education (baccalaureate and graduate degree programs)

Theater

National Association of Schools of Theatre, Commission on Accreditation (institutions and units within institutions offering degree-granting and/or non-degree-granting programs in theater and theater-related disciplines)

Theology

Association of Theological Schools in the United States and Canada, Commission on Accrediting (free-standing schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology)

Veterinary Medicine

American Veterinary Medical Association, Committee on Animal Technician Activities and Training (Two-year programs for animal technicians)

American Veterinary Medical Association, Council on Education (colleges of veterinary medicine offering programs leading to a professional degree)

Other

New York State Board of Regents (registration [accreditation] of collegiate degree-granting programs or curricula offered by institutions of higher education)

Accrediting Agencies and Associations Recognized for Their Preaccreditation Categories

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges (Candidate for Accreditation)

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (Candidate for Accreditation)

Accrediting Commission for Schools, Western Association of Schools and Colleges (Candidate for Accreditation)

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (Candidate for Accreditation)

Commission on Colleges, Northwest Association of Schools and Colleges (Candidate for Accreditation)

Commission on Colleges, Southern Association of Colleges and Schools (Candidate for Accreditation)

Commission on Higher Education, Middle States Association of Colleges and Schools (Candidate for Accreditation)

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools (Candidate for Accreditation)

Commission on Occupational Education Institutions, Southern Association of College and Schools (Candidate for Accreditation)

Commission on Schools, North Central Association of Colleges and Schools (Candidate for Accreditation)

National Institutional and Specialized Accrediting Agencies and Associations

Accreditation Board for Engineering and Technology, Inc., Engineering Technology Committee (Candidate for Accreditation [to be discontinued after 1983])

American Association of Bible Colleges, Commission on Accrediting (Candidate for Accreditation)

American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (Preaccreditation)

American Council on Pharmaceutical Education (Candidate)

American Dental Association, Commission on Dental Accreditation (Accreditation Eligible)

American Optometric Association, Council on Optometric Education (Reasonable Assurance, Preliminary Approval [for professional degree programs], and Provisional Assurance [for residency programs located in the facilities of the Veterans Administration])

American Osteopathic Association (Preaccreditation Status, Provisional Accreditation)

American Podiatry Association, Council on Podiatry Education (Reasonable Assurance, Preliminary Accreditation)

American Veterinary Medical Association, Council on Education (Reasonable Assurance of Accreditation)

Association for Clinical Pastoral Education, Inc., Accreditation Committee (Candidacy for Accredited Membership)

Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (Correspondent, Candidate)

Association of Independent Colleges and Schools, Accrediting Commission (Recognized Candidate for Junior College Accreditation, Recognized Candidate for Senior College Accreditation [for institutions already holding accredited status])

Association of Theological Schools in the United States and Canada, Commission on Accrediting (Candidate for Accredited Membership)

Council on Chiropractic Education, Commission on Accreditation (Recognized Candidate for Accreditation)

Council on Education for Public Health (Preaccreditation)

Council on Social Work Education (Candidacy)

Liaison Committee on Medical Education (Reasonable Assurance, Provisional Accreditation)

Reclassification of recognized preaccreditation status to category of accreditation: National Association of Schools of Art and Design (Candidacy Status)

Dated: January 6, 1984

T. H. Bell,

Secretary of Education.

[FR Doc. 84-607 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Japan Concerning

Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-JA-338, to the Geological Survey of Japan, 57.59 grams of natural uranium and 8.5 grams of thorium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 4, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-560 Filed 1-9-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Sweden Concerning Civil Uses of Atomic Energy, as amended.

The Subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-Sw-61, to ASEA-ATOM, Vasteras, Sweden, 269.672 grams of natural uranium and 78.907 grams of uranium, enriched to 2.66% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 4, 1984.

George J. Bradely, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-561 Filed 1-9-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-178-000]

Commonwealth Edison Co.; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Commonwealth Edison Company on December 28, 1983, tendered for filing a Letter Agreement dated December 12, 1983 between Commonwealth Edison Company and Wabash Valley Power Association, Incorporated.

The Letter Agreement provides for Commonwealth Edison Company to stand ready to supply (at Commonwealth Edison Company's existing points of interconnection) Wabash Valley Power Association, Incorporated with 45,000 kW of Standby Power from January 1, 1984 through December 31, 1984.

Copies of the filing were served upon Wabash Valley Power Association, Incorporated, Indianapolis, Indiana and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-567 Filed 1-9-84; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER84-183-000]

The Detroit Edison Co.; Tariff Changes

January 5, 1984.

The filing Company submits the following:

Take notice that the The Detroit Edison Company (DEC), December 29, 1983, tendered for filing the following revised tariff sheet:

FERC Electric Tariff Original Volume No. 1

First Revised Sheet No. 16

This revised tariff sheet contains a proposed modification of the fuel adjusment clause presently on file with the Commission. The proposed change would modify the fuel adjustment clause so that the fuel adjustment charges will not be affected by energy produced by facilities undergoing test operation.

The proposed modification is required to ensure that the value of test power produced by the Company's Enrico Fermi Unit No. 2 and Belle River Unit Nos. 1 and 2 power plants during their respective test operations in 1984 and 1985 will be accounted for properly.

Detroit Edison states that copies of the filing were served upon the public utility's jurisdictional customers and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-567 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM81-19, Docket No. ST80-009-002]

Dow Pipeline Co.; Extension Reports

January 5, 1984.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the

Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before January 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

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 party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
*ST80-009-002	Dow Pipeline Co., P.O. Box 4286, Houston, TX 77210	Tennessee Gas Pipeline Co	12-05-83	C	10-15-83
ST80-214-002	Rael Gas Co., 950 One Energy Square, Dallas, TX 75206	Michigan Wisconsin Pipe Line Co	12-13-83	C	04-23-84
ST82-203-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Columbia Gas Transmission Corp	12-01-83	G	03-01-84
*ST82-204-001	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	12-03-83	C	03-03-84
ST82-220-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	South Jersey Exploration Co	12-14-83	B	03-14-84
ST82-225-001	Oasis Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	12-03-83	C	03-10-84
ST82-229-001	Louisiana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71309	Mid Louisiana Gas Co	12-05-83	C	03-23-84
ST82-241-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78232	El Paso Natural Gas Co	12-12-83	C	03-29-84
ST82-256-001	Rael Gas Co., 950 One Energy Square, Dallas, TX 75206	Transwestern Pipeline Co	12-05-83	C	03-18-84
ST82-278-002	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Utah Gas Service Co	12-14-83	C	04-01-84
ST82-339-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	12-14-83	G	04-15-84
ST83-052-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001	Tennessee Gas Pipeline Co	12-15-83	G	03-25-84
*ST84-226-002	Mid Louisiana Gas Co., 300 Poydras St., New Orleans, LA 70130	Tennessee Gas Pipeline Co	12-13-83	G	01-13-83

* These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.

NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-559 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-177-000]

Duke Power Co.; Proposed Changes in Rates and Charges

January 5, 1984.

The filing Company submits the following:

Take notice that Duke Power Company (Duke) on December 28, 1983, tendered for filing proposed changes in its electric resale Rate Schedule No. 10 presently on file with the Commission which is applicable to Municipalities and Public Utility Companies. Based on the test period 12 months ending December 31, 1984 conditions, Duke estimates that the proposed changes in resale base rates will increase annual revenues by approximately $12,673,000. Of this amount, the Company states that approximately $12,431,000 is attributable to proposed increased rates under the Company's Rate Schedule No. 10 with the remaining $242,000 attributable to a proposed standby generation charge. The Company is proposing to implement the increase in two steps. The first step, or "interim" rates would increase rates by approximately $10.4 million. The second step, or "proposed" rates would provide additional revenues of $2,273,000 for a total increase of $12,673,000.

Duke states that the increase in wholesale rates is needed to compensate the Company for the increased cost of doing business and the impact of inflation and increasing regulatory requirements.

Copies of the filing were served upon all of Duke's jurisdictional Wholesale Customers, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Southeastern Power Administration.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-559 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01

[Docket No. ER83-656-002]

Kentucky Utilities Co.; Compliance Filing

January 5, 1984.

The filing company submits the following:

Take notice that on October 24, 1983, Kentucky Utilities Company ("KU") submitted for filing revised sets of the

"A" series of statements and revised cost of service studies pursuant to the Commission's order issued on September 23, 1983. KU states that the revised cost of service studies justify in full the rates which it previously filed in this docket, therefore, no rate revisions are necessary.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-591 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-182-000]

Missouri Public Service Co.; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Missouri Public Service Company (MPS), on December 28, 1983, tendered for filing proposed changes in its FERC Electric Service Tariffs applicable to the Cities of Odessa and Gilman City, Missouri effective April 1, 1984 by employing the rates and charges in its existing Municipalities-Resale Tariff for service to these communities in lieu of the presently applicable rate schedules. The proposed changes would increase revenues from jurisdictional sales and service by $314,069 for Odessa and $27,893 for Gilman City based on the 12-month period ending November, 1983.

MPS presently renders wholesale service to Odessa and Gilman City under fixed rate contracts which have precluded unilateral increases in rates and charges. The terms of these contracts expire at the end of March, 1984. MPS wishes to render service to these commodities under its municipal resale tariff applicable to six other municipalities effective April 1, 1984. This resale tariff was the subject matter of a rate increase in Docket No. ER82-99 which was permitted to go into effect without suspension by letter order dated January 15, 1982.

Copies of the filing were served on the Cities of Odessa and Gilman City and the Public Service Commission of the State of Missouri.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-592 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-171-000]

Pacific Power & Light Co.; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on December 21, 1983, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, a Letter Agreement dated October 17, 1983, between Pacific and the Public Utility District No. 1 of Cowlitz County (The District). The Letter Agreement provides for revised payment procedures for operation and maintenance of The District's Swift Hydroelectric Plant No. 2. The Letter Agreement also provides for a transfer charge to The District for the transfer of electric power.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective September 1, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to Washington Utilities and Transportation Commission and The District.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 20, 1984. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-593 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-179-000]

Public Service Company of Colorado, Western Systems Coordinating Council; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) and the Western Systems Coordinating Council (WSCC) on December 28, 1983, tendered for filing a proposed change in their FERC Electric Service Tariffs, FERC Rate Schedule No. 36 and FERC Rate Schedule No. 2 respectively. The applicants state that the proposed change is to the Transmission Service Charge assessed by the Western Area Power Administration-Salt Lake City Area (WAPA-SLC) to WSCC Broker System Participants.

PSCo and WSCC indicate that the proposed change is to reflect an increase in the rate charged by WAPA-SLC, from 1.0 to 2.0 mills/kWh, for service it provides to Broker Participants.

PSCo states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-594 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-180-000]

Public Service Company of Colorado; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (Company) on December 28, 1983, tendered for filing a proposed change in its Power Purchase and Interchange Agreement (Agreement) with Colorado-Ute Electric Association, Inc. (Ute). The Company states that the proposed change is a Supplement to Company's Agreement with Ute, dated April 30, 1982, on file with the Commission under Company's FERC Rate Schedule No. 37.

The Company states that the Supplement to the Agreement with Ute, eliminates the Basalt delivery point and provides for a reduction of load at several points of delivery.

The Company states that copies of the filing were served upon all parties to the Agreement and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests or petitions should be filed on or before January 27, 1984. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-595 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. ER84-181-000]

Public Service Company of Colorado; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (Public Service) on December 28, 1983, tendered for filing on behalf of members of the Inland Power Pool the Revised Inland Power Pool Agreement which contains proposed changes to the Original Inland Power Pool Agreement (Original Agreement) dated May 6, 1974, as amended. The Original Agreement is on file as Public Service FERC Electric Tariff No. 16. Public Service states that the proposed changes are to allow for the expansion of the Inland Power Pool's functions and scope of operations. The changes include the addition of several sections covering the internal operations of the Pool and changes in the format of the Original Agreement.

Public Service states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-15-000]

State of Texas, Railroad Commission of Texas, Stahl Petroleum Company (El Paso Natural Gas Company), Patterson #2 Well, FERC J.D. No. 81-15154; Petition To Reopen Final Well Category Determination

Issued: January 5, 1984.

On December 6, 1983, El Paso Natural Gas Company (El Paso) filed a petition with the Federal Energy Regulatory Commission (Commisssion) to reopen the application for determination that natural gas from Stahl Petroleum Company's (Stahl) Patterson #2 Well qualifies as new onshore production gas pursuant to section 103 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). An affirmative determination was made on the Patterson #2 Well by the Railroad Commission of Texas, and became final on January 30, 1981, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

El Paso, purchaser of the gas from the Patterson #2 Well, states that it has learned that the subject well was drilled and abandoned as a dry hole prior to February 19, 1977, and was subsequently reentered and completed. Specifically, El Paso spudded and drilled the well in June, 1965 to 3,365 feet. In September 1979, Stahl stated that it reentered and drilled a "new well" from 1,670 feet to 2,393 feet. Prior to the issuance of *L&B Oil Co., Inc. v. Federal Energy Regulatory Commission*, 665 F.2d 758 (5th Cir. 1982), the Commission held that the suface drilling date for a section 103 well was the date on which the well was spudded in and surface drilling would be found to be prior to February 19, 1977, if the well were drilled prior to February 19, 1977, and subsequently reentered. Under this test, the Patterson #2 Well would not qualify for a section 103 determination, and the determination would have to be vacated. However, after the issuance of *L&B*, the Commission will allow a reentered well originally spudded prior to February 19, 1977, to qualify as a section 103 well if it meets certain criteria. These criteria include factors such as whether the operator upon reentry made more than minimal use of the existing wellbore, whether substantial additional drilling was performed, and whether almost the entirety of normal exploration and production efforts were incurred. El Paso requests that the section 103 determination for the Patterson #2 Well be reopened to determine if this section 103 determination is consistent with existing precedent.

Any person desiring to be heard or to make any protest to the requested reopening should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatorry Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-119-000]

Texas Eastern Transmission Corp. and Michigan Wisconsin Pipe Line Co.; Application

January 5, 1984.

Take notice that on December 8, 1983, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP84-119-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Chevron Chemical Company (Chemical Company) for a term of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 12,000 dt equivalent of natural gas per day for Chemical Company. It is stated that Texas Eastern would receive the gas at existing points of receipt on production platforms located in East Cameron Blocks 160 and 245, East Cameron Area, offshore Louisiana, and redeliver such volumes, less shrinkage, to an existing point of interconnection between the onshore pipeline systems of Applicants in St. Landry Parish, Louisiana. Michigan Wisconsin would then transport equivalent volumes to an existing point of interconnection between the pipeline systems of Michigan Wisconsin and North Central Public Service Corporation (North Central), a local distribution company, in Lee County, Iowa, for ultimate delivery to Chemical Company at Fort Madison, Iowa.

Applicants state that on February 15, 1969, Texas Eastern entered into a gas purchase contract (contract) with The California Company, a Division of Chevron Oil Company (Chevron), which gave Texas Eastern the right to purchase natural gas to be produced from Blocks 160 and 245, East Cameron Area, offshore Louisiana. The contract was filed in Docket No. CI69-818 and is now designated as Chevron U.S.A., Inc.'s FERC Gas Rate Schedule No. 47, it is stated. It is further stated that the contract contains a provision whereby Texas Eastern would release from dedication under the contract, for a term not to exceed two years, up to 12,000 Mcf per day for Chevron's own use or use by a corporate affiliate. It is stated that Chevron has elected to sell it's reserved gas to its corporate affiliate, Chemical Company, for use in Chemical Company's ammonia production facilities at Fort Madison, Iowa.

It is submitted that the proposed transportation of Chevron's reserved gas to its corporate affiliate, Chemical Company, completes a contractual obligation that Texas Eastern undertook in order to acquire additional natural gas supplies for its system. It is asserted that Chemical Company would use the gas supply for the high priority manufacturing of ammonia for fertilizer. It is stated that the acquisition of these natural gas supplies would enable Chemical Company to reopen its ammonia production facility located in Fort Madison, Iowa, that has been shut down since June 1982.

It is stated that Texas Eastern's transmission charge for this proposed service would be 36.73¢ per dt (10.69¢ per dt offshore plus 26.04¢ per dt onshore). It is indicated that the offshore transportation rate was derived utilizing the methodology and costs set forth in Texas Eastern's filing of revised tariff sheets pursuant to the stipulation and agreement in Docket No. RP83-35-000, *et al.*, as approved by Commission order issued July 14, 1983. It is explained that the offshore transportation services were assigned transmission costs based on an offshore mainline Mcf-mile study for mainline transmission and volumertrically for lateral transmission and that the onshore transmission rate is equivalent to Texas Eastern's currently effective TS-2 rate.

Michigan Wisconsin proposes to charge Chemical Company a rate per dt consistent with the rate contained in Michigan Wisconsin's Rate Schedule EUT-1 as finally approved by the Commission. Michigan Wisconsin states its Rate Schedule EUT-1 is pending before the Commission in Docket No. RP84-1-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-598 Filed 1-9-84, 8.45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-31-001]

Texas Gas Transmission Corp. and Texas Gas Exploration Corp.; Amendment to Application

January 5, 1984.

Take notice that on December 14, 1983, Texas Gas Transmission Corporation (Texas Gas) and Texas Gas Exploration Corporation (Exploration), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP84-31-001 an amendment to its pending application filed in Docket No. CP84-31-000 pursuant to section 7(c) of the Natural Gas Act to reflect Exploration as joint applicant in Texas Gas' application, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that the joint filing would be applicable to that portion of Texas Gas' proposal involving the exchange of natural gas with Exploration and that both delivery and redelivery points would be at Exploration's Eunice processing plant.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 26 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations

under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-599 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-176-000]

Western Massachusetts Electric Co.; Rate Schedule Change

January 5, 1984.

The filing Company submits the following:

Take notice that on December 27, 1983, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed rate schedule change with respect to a purchase agreement dated July 1, 1983 (Amendment) between (1) WMECO and (2) Village of Johnson, Water and Light Department (Johnson).

WMECO states that the Amendment provides for changes to a purchase agreement between the same parties dated as of November 1, 1981 (the Agreement). The requested change increase the cost of equity capital and modifies the manner of estimating the annual operation and maintenance expense during the period commencing on July 1, 1983 and terminating on October 31, 1989.

The Agreement provides for a purchase by Johnson of a specified percentage of capacity and associated energy from two gas turbine generating units owned by WMECO during the period from November 1, 1981 to October 31, 1989.

The transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of service on the transmission system of the NU Companies. The monthly transmission charge is determined as the product of (i) the appropriate transmission charge rate ($/kW-month), and (ii) the total kilowatts of capacity which Johnson is entitled to receive in each month pursuant to the Agreement as amended.

WMECO requests that the Commission waive its standard notice period and permit the Amendment to become effective on July 1, 1983.

WMECO states that copies of this rate schedule have been mailed or delivered to Johnson (Johnson, Vermont).

WMECO 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, NE.,Washington, D.C. 20426, in accordance with Rules 210, 211, and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.210, 385.211, and 385.214). All such petitions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-601 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-155-000]

Public Service Company of New Mexico; Rescinding Notice

January 5, 1984.

Take notice that the Notice of Filing issued in this proceeding on December 29, 1983, (49 FR 499, January 4, 1984) duplicated notice given previously on December 13, 1983 (48 FR 55911, December 16, 1983) and is, therefore, rescinded.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-602 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-121-000]

Small Power Producers; Ultrapower 3; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 5, 1984.

On December 28, 1983, Ultrapower 3, (Applicant) of 16845 Von Karman Avenue, Irvine, California 92714, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located in Blue Lake, California. The primary energy source of the facility will be biomasss in the form of wood waste. The electric power production capacity of the facility will be 11.4 megawatts. The facility will be owned by a general partnership organized under the laws of the State of California. The general partners are Ultrapower 3 Inc. and Rincon Investing Company, a wholly-owned subsidiary of Tucson Electric Power Company. Each partner is stated to have a 50 percent equity interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-600 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

January 3, 1984.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3225 NEOB, Washington, D.C. 20503, (202) 395-7231.

Title: Application for New or Modified Radio Station Authorization under Part 5 of FCC Rule—Experimental

Radio Services (Other Than Broadcast)
Form No.: FCC 442
Action: Reinstatement
Respondents: State or local governments and business (including small business)
Estimated Annual Burden: 700 Responses; 2,100 Hours.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 84-567 Filed 1-9-84; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1984-1]

Filing Dates for Wisconsin Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Wisconsin Special Primary and General Elections.

SUMMARY: Committees required to file reports in connection with only the special primary election to be held in the 4th Congressional District of Wisconsin on February 21, 1984, must file a 12-day pre-primary report by February 9, 1984, and an April 15 quarterly report due on April 15, 1984. Committees required to file reports in connection with *both* the special primary election *and* the special general election to be held on February 21, 1984, and April 3, 1984, respectively, must file a 12-day pre-primary report by February 9, 1984, the 12-day pre-general election report by March 22, 1984, the April 15 quarterly report by April 15, 1984, and the 30-day post-election report by May 3, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street NW., Washington, D.C. 20463, Telephone: (202) 523-4068, Toll-free: (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Notice of Filing Dates for Special Primary and Special General Elections, 4th Congressional District, Wisconsin

All principal campaign committees of candidates in the special primary election and all other political committees not filing monthly reports which support candidates in this special primary election shall file a 12-day pre-primary election report due on February 9, 1984, with coverage dates from date of candidacy, or last report, through February 1, 1984 and an April 15 quarterly report due on April 15, 1984, with coverage dates from February 2, 1984, through March 31, 1984.

All principal campaign committees of candidates in the special primary election and the special general election and all other political committees not filing monthly reports which support candidates in these elections shall file a 12-day pre-primary election report due on February 9, 1984, with coverage dates from the date of candidacy, or last report, through February 1, 1984, a 12-day pre-general election report due on March 22, 1984, with coverage dates from February 2, 1984, through March 14, 1984, the April 15 quarterly report due on April 15, 1984, with coverage dates from March 15, 1984, through March 31, 1984, and a 30-day post-election report due on May 3, 1984, with coverage dates from April 1, 1984, through April 23, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

Dated: January 5, 1984.

Lee Ann Elliott,
Chairman Federal Election Commission.

[FR Doc. 84-513 Filed 1-9-84; 8:45 am]
BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Citicorp, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, 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 interests, or unsound banking practices." Any comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (finance company and credit-related insurance activities; Iowa, Kansas, and Nebraska): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), located in Ballwin, Missouri, to include the entire states of Iowa, Kansas, and Nebraska for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than February 3, 1984.

2. *Citicorp,* New York, New York (finance company and credit-related insurance activities; Florida): To relocate a distance of 11 miles three co-located offices of Citicorp subsidiaries, specifically, Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Financial Center of Florida, Inc., and Citicorp Homeowners, Inc., from Orlando, Florida, to Altamonte Springs, Florida. From this new location Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Financial Center of Florida, Inc., and Citicorp Homeowners Inc. will continue to engage in all their previously approved activities, serving the entire State of Florida. All three offices will continue to engage in the activities of:

the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; and the sale of credit related life and accident and health insurance by licensed agents or brokers, as required. In addition, Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Financial Center of Florida, Inc. will continue to engage in the activity of the extension of loans to dealers for the financing of inventory (floor Planning) and working capital purposes. Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc. will also continue to engage in the activities of the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. Citicorp Person-to-Person Financial Center of Florida, Inc. will continue to engage in the additional activity of the purchasing and servicing for its own account of sales finance contracts. Comments on this application must be received not later than February 3, 1984.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Firstbank Holding Company of Colorado,* Lakewood, Colorado (underwriting credit life and disability insurance; Colorado); To engage, through a subsidiary to be known as Colorado Firstbank Life Insurance Company, in the activity of underwriting, as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit by the credit extending affiliates of Firstbank Holding Company of Colorado. This activity would be conducted at offices in Phoenix, Arizona, serving the State of Colorado. Comments on this application must be received not later than February 1, 1984.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bank Securities, Inc.,* Albuquerque, New Mexico (data processing; New Mexico); To engage, through its Data Processing Services Division, in data processing and transmission services, facilities, data bases, or access to such services, facilities, or data bases by any technologically feasible means. The data to be processed or furnished is of an economic, financial or banking nature. This activity will be conducted from an office in Albuquerque, New Mexico, serving New Mexico. Comments on this application must be received not later than February 3, 1984.

2. *Unicorp Bancshares, Inc.,* Houston, Texas (data processing activities; Texas): To engage through its subsidiary, Unicorp Services, Inc., in data processing activities, including the provision of data processing services, data transmission services, data bases and facilities for the internal operation of Unicorp Bancshares, Inc. and its subsidiaries and the provision of data processing and data transmission services for financial, banking or economic data to other financial and nonfinancial institutions in accordance with the Board's Regulation Y. These activities would be conducted from an office in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than February 3, 1984.

D. Federal Reserve Bank of San Francisco (Harry W. Greene, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerican Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Pennsylvania, New Jersey, Delaware, and New York): To continue to engage through its indirect subsidiary, FinanceAmerica Consumer Discount Company, a Pennsylvania corporation, in the activities of making or acquiring for its own account of loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will be offered only in Pennsylvania. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(D) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982 and Section 2 of the Pennsylvania Act of the General Assembly 1974 (Pub. L. 1148, No. 365 (40 P.S. 281) with respect to credit-related property insurance. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to consumer and businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Consumer Discount Company. Credit-related life and credit-related accident and health insurance may be reinsured in the states of Pennsylvania, New Jersey and Delaware by BA Insurance Company, Inc., an affiliate of FinanceAmerica Consumer Discount. These activities will be conducted from seven existing Pennsylvania officers. The Bensalem, Springfield and two Philadelphia offices will each serve the entire states of Pennsylvania and New Jersey. The Erie office will serve the additional State of New York. The West Chester office will serve the entire States of Pennsylvania and Delaware. The Wilkes-Barre office will serve the entire State of Pennsylvania. Comments on this application must be received not later than February 1, 1984.

2. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities, expansion of geographic scope; Indiana and Michigan): To continue to engage, through its indirect subsidiary, FinanceAmerica Corporation, an Indiana corporation, in the activities of making or acquiring for its own account of loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(A) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982. Such activities will include, but not limited to, purchasing installment sales finance contracts, making loans and other extensions of credit to consumers and businesses, making loans secured by real and personal property and offering credit-related life insurance and credit-related accident and health insurance directly related to extensions of credit made or acquired by the above corporation. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Corporation. These activities will be conducted from an existing office located in South Bend, Indiana, serving the entire States of Indiana and Michigan. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-516 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

Avenue Financial Co., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth is section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disput and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Avenue Financial Corporation, Oak Park, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of Avenue Bank of Elk Grove, Elk Grove Village, Illinois; Dempster Plaza State Bank, Niles, Illinois; and The Northlake Bank, Northlake, Illinois. Comments on this application must be received not later than January 25, 1984.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. Pacific Capital Bancorp, Monterey, California; to become a bank holding company be acquiring 100 percent of the voting shares of First National Bank of Monterey County, Monterey, California, a proposed new bank. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-515 Filed 1-9-84; 8.45 am]

BILLING CODE 6210-01-M

Elkton Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 27, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St Louis, Missouri 63166:

1. *Elkton Bancorp, Inc.*, Elkton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Elkton Bank and Trust Company, Elkton, Kentucky.

2. *First Kentucky National Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares or assets of First National Bank, Louisville, Richmond, Virginia, a *de novo*. bank.

3. *Kentucky State Bancorp, Inc.*, Scottsville, Kentucky; to become a bank holding company by acquiring 80 percent of more of the voting shares of Kentucky State Bank of Scottsville, Scottsville, Kentucky.

4. *Magna Group, Inc.*, Belleville, Illinois; to acquire the successor by merger to The First National Bank in Columbia, Columbia, Illinois; the successor by merger to First National Bank of Smithton, Smithton, Illinois; the successor by merger to First National Bank of Marissa, Marissa, Illinois; and 100 percent of Freeburg Bancorp, Inc., Freeburg, Illinios, thereby indirectly acquiring The First National Bank of Freeburg, Freeburg, Illinois.

5. *Saline Bancorp, Inc.*, Harrisburg, Illinois; to become a bank holding company by acquiring 81.8 percent of more of the voting shares of The Bank of Harrisburg, Harrisburg, Illinios.

6. *Sharp Bancshares, Inc.*, Cave City, Arkansas; to acquire 80 percent of more of the voting shares or assets of Bank of Evening Shade, Evening Shade, Arkansas.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee;

Associate Secretary of the Board.

[FR Doc. 84-514 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

The One Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the Federal Reserve Bank indicated for that application. Which respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written representation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 1, 1984.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *The One Bancorp*, Portland, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Maine Savings Bank, Portland, Maine.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FNT Bancorp, Inc.*, Sunbury, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First National Trust Bank, Sunbury, Pennsylvania.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Tucker Bros. Inc.*, and *Tucker Holding Company, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Tucker Bank of Jacksonville, Jacksonville, Florida.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire at least 83 percent of the voting shares or assets of First National Bank, Batesville, Arkansas and at least 96.5 percent of Bank of Newark, Newark, Arkansas.

2. *Mercantile Bancorporation Inc.*, St. Louis, Missouri; to acquire 100 percent of the successor by merger to First County Bank, Bloomfield, Missouri.

3. *Second Illinois Bancorp, Inc.*, Manchester, Missouri; to become a bank holding company by acquiring 88.16 percent of First Bank and Trust Company in Greenville, Greenville, Illinois; 90.67 percent of the Farmers and Merchants Bank of Vandalia, Vandalia, Illinois; and 84.26 percent of First National Holding Corporation of O'Fallon, O'Fallon, Illinois, which holds 83.30 percent of First Bank and Trust Company of O'Fallon, O'Fallon, Illinois.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-517 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp., Inc.; Acquisition of Bank Shares by Bank Holding Companies

The company listed in this notice 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 voting shares or assets of a bank. 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 indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southern Bancorp, Inc.*, Waycross, Georgia; to acquire 100 percent of the voting shares or assets of Mount Vernon Bank, Mount Vernon, Georgia. Comments on this application must be received not later than February 1, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-516 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

The Mitsubishi Bank, Ltd.; Acquisition of Bank Shares by Bank Holding Companies

The Mitsubishi Bank, Limited, Tokyo, Japan, a registered bank holding company for purposes of the bank Holding Company Act (12 U.S.C. 1841 *et seq.*), has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of BanCal Tri-State Corporation, San Francisco, California, and thereby indirectly acquire the Bank of California, National Association, San Francisco, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and include consideration of the financial resources of the applicant organization and the bank to be acquired.

The Board has recently stated, in connection with several other applications by foreign banking organizations under the Act, that it has under review the general question whether the capital standards applicable to domestic bank holding companies should also be applied to foreign banking organizations having, or seeking to acquire, domestic banking operations. Korea First Bank, Seoul, Korea, Order dated December 21, 1983; Commercial Bank of Korea, Seoul, Korea, Order dated December 21, 1983; Fuji Bank Limited, Tokyo, Japan, Order dated December 20, 1983. Interested persons may express their views regarding this application, including the manner, if any, that this question bears on the application, by submitting views in writing to the Secretary of the Board or to the Federal Reserve Bank of San Francisco. Such comments must be received not later than February 3, 1984.

This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of San Francisco. Any comment on the 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, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-710 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Information Collection, Trade Regulation; Consumer Protection

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act, (44 U.S.C. 3501 *et seq.*) for review of information collection requirements contained in current trade regulation rules.

SUMMARY: The FTC is requesting OMB review under 5 CFR 1320.14 of information collection requirements contained in the final trade regulation rules which were adopted by the FTC before the enactment of the Paperwork Reduction Act. The requests pertain to consumer protection labeling, disclosure and recordkeeping requirements deemed to be subject to the regulations implementing the Paperwork Reduction Act.

DATES: Comments on these requests for OMB review must be submitted on or before February 9, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. Copies of the applications may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3776.

By direction of the Commission.

Dated: December 29, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 84-603 Filed 1-9-84; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Hotel/Motel Discount Directory; Availability

The General Services Administration (GSA) announces the sixth edition of the Federal Hotel/Motel Discount Directory scheduled for publication in January 1984. The new directory will include a number of features that will make it more useful to the reader. The significant changes to be incorporated into the new directory are as follows:

(1) Revised rates that are effective for 1 year rather than for 6 months;

(2) Coverage of foreign as well as domestic cities;

(3) An expanded list of accommodations and facilities available to Federal travelers, such as accommodations for the handicapped, free parking, free limousine service, and restaurants located on the premises;

(4) Additional information on where agencies or individual travelers may obtain tax exemption certificates; and

(5) Coverage of over 3,500 hotels/motels in more than 1,200 cities. (this is an increase of 900 establishments and 202 cities over the July 1983 directory.)

Agencies are encouraged to ride GSA's printing requisition and to order a sufficient supply to meet their headquarters and field office needs. This will be the only opportunity you will have for the next year to ride the GSA requisition. The publication is being discontinued as a subscription item, but will be sold over the counter through the Government Printing Office (GPO) as a single copy item effective in January 1984. The cost of the directory will be announced by GPO at the time of publication.

Agencies should submit a consolidated printing and binding requisition (SF 1), citing the title of the directory, to the Government Printing Office Planning Services, Room 836, Washington, DC 20401, as soon as possible to obtain copies of the 1984 directory. The rider requisition should contain a reference to GSA requisition 4-00208.

By promoting and supporting the hotel/motel program within your agency, you can help to reduce the cost of Federal travel significantly. GSA will continue its efforts to constantly expand the number of properties listed, as well as to seek greater discounts for the Federal traveler.

Dated: December 21, 1983.

R. H. Jeanneret,

Acting Assistant Administrator for Federal Supply and Services.

[FR Doc. 84-572 Filed 1-9-84; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Treatment Strategies in Schizophrenia Cooperative Agreement Program

AGENCY: National Institute of Mental Health; Alcohol, Drug Abuse, and Mental Health Administration; HHS.

ACTION: Issuance of Request for Applications for Treatment Strategies in Schizophrenia Cooperative Agreement Program.

SUMMARY: The National Institute of Mental Health announces the availability of a request for research cooperative agreement applications for the Treatment Strategies in Schizophrenia Cooperative Agreement Program. Awards will be made to institutions to carry out an identical protocol in a collaborative research effort. Support must be requested for 5 years. In Fiscal Year 1984, it is anticipated that four awards will be made.

Receipt date of applications for FY 1984 funding: March 1, 1984.

FOR FURTHER INFORMATION OR A COPY OF THE ANNOUNCEMENT, CONTACT: Ms. Jacqueline Dobson, Pharmacologic and Somatic Treatments Research Branch, National Institute of Mental Health, 5600 Fishers Lane—Room 10C-06, Rockville, Maryland 20857, (301) 443-3524.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84-571 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 79N-0339 and 79N-0340; DESI Nos. 8165 and 10210]

Prednisolone Acetate and Sodium Sulfacetamide With or Without Neomycin Sulfate for Ophthalmic Use; Drugs for Human Use; Drug Efficacy Study Implementation; Termination of Postponement of Requirement for Revised Labeling; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is terminating the postponement of a requirement that the labeling of ophthalmic combination drug products containing prednisolone acetate and sodium sulfacetamide be revised. This notice requires further revisions in the labeling of such drug products and in the labeling of ophthalmic combination drug products that contain prednisolone acetate, sodium sulfacetamide, and neomycin sulfate. These labeling revisions concern the activity of sodium sulfacetamide against certain common bacterial eye pathogens.

DATES: Supplements to approved new drug applications due on or before March 12, 1984. Revised labeling must be put into use on or before May 9, 1984.

ADDRESSES: Communications in response to this notice should be identified with the appropriate DESI number, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Anti-Infective Drug Products (HFN-140), Rm. 12B-45, National Center for Drugs and Biologics.

Original abbreviated new drug applications, original antibiotic Form 6's, or supplements thereto (identify as such): Division of Generic Drug Monographs (HFN-530), National Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN-501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: Douglas Ellsworth, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In two notices published in the Federal Register of August 29, 1980 (45 FR 57776 and 57780), FDA announced its conclusion that certain ophthalmic combination drug products are effective, including the following drug products:

NDA 10-210; Metimyd Ophthalmic Suspension containing prednisolone acetate and sodium sulfacetamide; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033 (DESI 10210).

NDA 50-362; Metimyd with Neomycin Ophthalmic Ointment containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate; Schering Corp. (DESI 8615).

These notices also announced conditions for marketing and approval of such drugs. In the Federal Register of May 18, 1982 (47 FR 21296), FDA amended these conditions to require revised labeling.

After publication of the May 1982 notice, the National Center for Drugs and Biologics determined that certain statements in the required labeling revisions for the ophthalmic combinations containing sodium sulfacetamide needed to be further reviewed. These statements pertained to the activity of sodium sulfacetamide against common bacterial eye pathogens.

In the Federal Register of October 19, 1982 (47 FR 46577), to allow time for the review, the Director of the Center postponed the effective date of the May 1982 notice in so far as it pertained to ophthalmic combinations containing prednisolone acetate and sodium sulfacetamide. The effective date of those parts of the May 1982 notice concerning ophthalmic combinations containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate was not postponed because no manufacturer was marketing such a product.

In the October 1982 notice, the Director also invited interested persons to submit pertinent data. In response, Schering Corp. submitted data. Based upon a review of these data and other available information, the Director concludes that the labeling for ophthalmic steroid/anti-infective combinations containing sodium sulfacetamide should be revised to reflect the activity of the drug against *Pseudomonas* species, *Haemophilus influenzae, Klebsiella pneumoniae,* and *Enterobacter* species. In addition, data do not support a general claim regarding the drug's activity against "Streptococci, including *Streptococcus pneumoniae*" as provided for in the May 1982 notice. Instead, data support a more specific claim of activity against *Streptococcus pneumoniae* and *Streptococcus (viridans group).*

Therefore, the postponement of the effective date of those parts of the May 1982 notice affecting ophthalmic combinations containing prednisolone acetate and sodium sulfacetamide is hereby terminated. Amended conditions for marketing and approval of ophthalmic steroid/ anti-infective combinations containing sodium sulfacetamide are set forth below.

I. Amended Conditions for Marketing and Approval of Combinations Containing Prednisolone Acetate and Sodium Sulfacetamide for Ophthalmic Use

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to Metimyd Ophthalmic Suspension, these conditions apply to the following drug products:

ANDA 87-547; Isopto Cetapred Suspension; Alcon Labs., Inc., 6201 S. Freeway, Box 1959, Fort worth, TX 76101.

ANDA 88-089; Sulphrin Suspension; Muro Pharmacal Labs., Inc., 890 East St., Tewksbury, MA 01876.

ANDA 12-313; Blephamide Ophthalmic Suspension; Allergan Pharmaceuticals, Inc., 2525 Dupont Dr., Irvine, CA 92713.

ANDA 88-032; Predsulfair Ophthalmic Ointment; Pharmafair, 110 Kennedy Blvd., Hauppauge, NY 11788.

ANDA 88-059; Predamide Ophthalmic Suspension; Maurry Biological Co., Inc., 6109 S. Western Ave., Los Angeles, CA 90047.

ANDA 88-007; Predsulfair Ophthalmic Suspension; Pharmafair.

These conditions also apply to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review these conditions to determine whether they cover any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of these conditions to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* FDA has reviewed all available evidence and concludes that the drug is effective for the indication described in the labeling conditions below.

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product contains prednisolone acetate and sodium sulfetamide, and is suitable for ophthalmic administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all the requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The "Indication" is as follows:

> For steroid-responsive inflammatory ocular conditions for which a corticosteroid is indicated and where bacterial infection or a risk of bacterial ocular infection exists.

Ocular steroids are indicated in inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe where the inherent risk of steroid use in certain infective conjunctivitides is accepted to obtain a diminution in edema and inflammation. They are also indicated in chronic anterior uveitis and corneal injury from chemical, radiation, or thermal burns or penetration of foreign bodies.

The use of a combination drug with an anti-infective component is indicated where the risk of infection is high or where there is an expectation that potentially dangerous numbers of bacteria will be present in the eye.

The particular anti-infective drug in this product is active against the following common bacterial eye pathogens: *Escherichia coli, Staphylococcus aureus, Streptococcus pneumonia, Streptococcus (viridans group), Pseudomonas* species, *Haemophilus influenzae, Klebsiella* species, and *Enterobacter* species.

The product does not provide adequate coverage against: *Neisseria* species and *Serratia marcescens.*

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before March 12, 1984, the holder of the application has submitted a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice. Revised labeling in accord with the labeling conditions described in this notice must be put into use on or before May 9, 1984. The revised labeling may be put into use before approval of a supplemental new drug application, as provided for in 21 CFR 314.8 (d) and (e).

b. Approval of an abbreviated new drug application (21 CFR 314.2) must be obtained before marketing such products. Marketing before approval of a new drug application will subject such

products, and those persons who caused the products to be marketed to regulatory action.

II. Amended Conditions for Marketing and Approval of Combinations Containing Prednisolone Acetate, Sodium Sulfacetamide, and Neomycin Sulfate for Ophthalmic Use

The approval and marketing of such drug products are governed by the regulations applicable to antibiotic-containing drugs. Currently, no ophthalmic combinations containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate are marketed. The labeling of any such drug product proposed for marketing must conform to the labeling conditions described below.

a. The indication is:

For steroid-responsive inflammatory ocular conditions for which a corticosteroid is indicated and where bacterial infection or a risk of bacterial ocular infection exists.

Ocular steroids are indicated in inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe where the inherent risk of steroid use in certain infective conjunctivitides is accepted to obtain a diminution in edema and inflammation. They are also indicated in chronic anterior uveitis and corneal injury from chemical, radiation, or thermal burns, or penetration of foreign bodies.

The use of a combination drug with an anti-infective component is indicated where the risk of infection is high or where there is an expectation that potentially dangerous numbers of bacteria will be present in the eye.

The particular anti-infective drugs in this product are active against the following common bacterial eye pathogens: *Escherichia coli, Staphylococcus aureus, Sterptococcus pneumonia, Streptococcus (viridans groups), Pseudomonas* species, *Haemophilus influenzae, Klebsiella* species, *Enterobacter* species, and *Neisseria* species.

The product does not provide adequate coverage against: *Serratia marcescens.*

b. The WARNINGS section of the labeling must contain an appropriate statement concerning the potential of neomycin sulfate to cause cutaneous sensitization.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–1053 as amended, 59 Stat 463 as amended (21 U.S.C. 352, 355, 357)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70 and 47 FR 26913 published in the Federal Register of June 22, 1982).

Dated: December 30 1983.

Harry M. Meyer, Jr.

Director, National Center for Drugs and Biologics.

[FR Doc. 84-531 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Advisory Child Health and Human Development Council; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Child Health and Human Development Council, January 30–31, 1984, Conference Room 10, National Institutes of Health, Bethesda, Maryland and the meeting of the Subcommittee on Planning on January 29 from 3:30 p.m. to 5:30 p.m. in Building 31, Room 2A52, which was published in the Federal Register on February 16, 1983 (48 FR 55925).

The Subcommittee on Planning was to have convened on January 29 from 3:30 p.m. to 5:30 p.m. The Subcommittee meeting has been cancelled.

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-529 Filed 1-9-84; 8:45 am]

BILLING CODE 4140-01-M

Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, February 17, 1984. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 31, Conference Room 2, A-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (303) 496–4236, will provide summaries of the meeting and roster of the Committee members.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-528 Filed 1-9-84; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Application Announcement for Cooperative Agreements and Proposed Funding Preference for Area Health Education Center Programs

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Cooperative Agreements for Area Health Education Center (AHEC) Programs under the authority of Section 781(a)(1) of the Public Health Service Act, are now being accepted, and invites comments on the proposed funding preference as set forth below.

Section 781(a)(1) authorizes Federal assistance to medical and osteopathic schools which have cooperative arrangements with one or more public or nonprofit private area health education centers for the planning, development, and operation of area health education center programs. New applications submitted under this authority will be accepted from medical and osteopathic schools for the purpose of planning, developing and operating new area health education center programs. Applicants may request up to three years of support with the expectation that centers planned and developed in years one and two will be operational no later than the third year. Applications for supplemental funds will also be accepted for currently active programs.

To be eligible to receive support for an area health education center cooperative agreement, the applicant must be a public or nonprofit private accredited school of medicine or osteopathy, or consortium of such schools, or the parent institution on behalf of such school(s).

To receive support, programs must meet the requirements of final regulations at 42 CFR Part 57, Subpart MM, published in the Federal Register on February 22, 1983. In addition to the criteria outlined in § 57.3806 of the AHEC regulations concerning the evaluation of applications, consideration will be given to the potential of the project to continue on a self-sustaining basis after the end of the project period.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (U-76), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C-22, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Questions regarding programmatic information should be directed to: Division of Medicine, Area Health Education Center Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6950.

The application deadline date is May 9, 1984. Applications sent by mail will be considered on time if postmarked on or before May 9 and received no later than May 16, 1984. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received on or before May 9.

Approximately $1,000,000 is expected to be available in Fiscal Year 1984 for competing awards under Section 781(a)(1).

This program is listed at 13.824 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Proposed Funding Preference

A proposed funding preference is established as follows:

(1) New planning and development projects under Section 781(a)(1) will be funded first, and

(2) Supplements to existing awards will be funded with any remaining funds, according to their relative priority score.

Interested persons are invited to submit written comments regarding this funding preference to Acting Director, Division of Medicine, Bureau of Health Professions at the address given below.

All comments received not later than February 9, 1984 will be considered before a final funding preference for Fiscal Year 1984 is established. Normally, the comment period would be 60 days. However, due to the need to implement any changes in the funding preference for the Fiscal Year 1984 award cycle, this comment period has been reduced to 30 days. After the close of comment period, the final funding preference will be published as a notice in the Federal Register.

Written comments should be addressed to: Acting Director, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6190.

All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: January 4, 1984.

Robert Graham,

Administrator Assistant Surgeon General.

[FR Doc. 84-699 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-15-M

Geographic Composition of the Contract Health Service Delivery Areas (CHSDA's) Established by Regulations of the Indian Health Service

On October 23, 1980, a notice was published in the Federal Register (45 FR 70320) of our best assessment of CHSDA's established by 42 CFR 36.22(a). As noted then, corrections of mistaken inclusions or exclusions of a county or counties would be made administratively and included in a later notice.

The purpose of this notice is to revise and update the October 23, 1980, list. Final regulations for Indian Health Service (IHS) Contract Health Services were published in the Federal Register on August 4, 1978 (43 FR 34659).

The regulation at 42 CFR 36.22(a)(6) provides that:

> With respect to all other reservations [i.e., other than those not specifically listed in 42 CFR 36.22] within the funded scope of the Indian health program, the contract health service delivery area shall consist of a county which includes all or part of a reservation, and any county or counties which have a common boundary with the reservation.

This is the geographic area within which contract health services may be made available by the IHS to eligible individuals who reside within the area, subject to the provisions of the regulation. This list presents reservations within the funded scope of the IHS program, and includes exceptions to the rule specifically provided for by the regulation at 42 CFR 36.22(a), several exceptions covering areas which have been traditionally served by IHS and are within the funded scope and exceptions provided by legislation. Listed for each reservation are the counties comprising the CHSDA.

It should be clearly understood that residence within a CHSDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 36.12, creates no legal entitlement to contract health services but only potential eligibility for services. Services needed but not available at an IHS facility are provided under the Contract Health Services program dependent upon the availability of funds, the person's relative medical priority, and the actual availability and accessibility of alternate resources in accordance with the regulations.

Counties included or excluded from the following list of CHSDA's were determined by applying the regulation quoted above (42 CFR 36.22(a)(6)) except where otherwise provided for by regulations, public laws or congressional action in the appropriations process. Any mistakes in the list of CHSDA's should be brought to the attention of: Mr. Richard J. McCloskey, Indian Health Service, Room 6A-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Any corrections of mistaken inclusions or exclusions of a county or counties in a CHSDA may be made administratively and included in a later Federal Register notice. However, as explained in the October 23, 1980, notice, redesignations of areas included or excluded from a CHSDA for reasons other than a mistake in applying the regulations is governed by the procedures in 42 CFR 36.22(b) and may only be made by the Secretary and must conform with the Procedures of the Administrative Procedure Act (5 U.S.C. 553).

The CHSDA's for all reservations within the funded scope of the IHS program are as follows:

CONTRACT HEALTH SERVICE DELIVERY AREAS

Reservation	CHSDA (County/State)
Acoma Pueblo	Valencia, NM.
Agua Caliente Indian Reservation.	Riverside, CA.
Ak Chin	Pinal, AZ.
Alaska	(1).
Alturas Indian Rancheria.	Modoc, CA.
Augustine Reservation	Riverside, CA.
Bad River	Ashland, WI, Iron, WI.
Barona Reservation	San Diego, CA.
Bay Mills	Chippewa, MI.
Benton Paiute Reservation.	Mono, CA.
Berry Creek Rancheria	Butte, CA.
Big Bend Rancheria	Shasta, CA.
Big Lagoon Rancheria	Humboldt, CA.
Big Pine Reservation	Inyo, CA.
Bishop Colony	Inyo, CA.
Blackfeet	Glacier, MT, Pondera, MT
Bridgeport Indian Colony.	Mono, CA.
Burns Paiute	Harney, OR.
Cabazon Reservation	Riverside, CA.
Cahuilla Reservation	Riverside, CA.
Campo Verde	Yavapai, AZ.
Campo Indian Reservation.	San Diego, CA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Capitan Grande Reservation.	San Diego, CA.
Cedarville Rancheria	Modo, CA.
Chehalis	Grays Harbor, WA, Thurston, WA.
Chemehuevi Reservation.	San Bernardino, CA, Mohave, AZ.
Cheyenne River	Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD.
Chitimacha	St. Mary Parish, LA.
Choctaw	Attala, Ms, Jasper, MS,[2], Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS.[2]
Cochiti Pueblo	Sandoval, NM.
Cocopah	Yuma, AZ.
Coeur d'Alene	Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA.
Cold Springs Rancheria	Fresno, CA.
Colville	Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA.
Colorado River	Yuma, AZ, Riverside, CA, San Bernardino, CA.
Colusa Rancheria	Colusa, CA.
Cortina Indian Rancheria.	Colusa, CA.
Coushatta	Allen Parish, LA.
Cow Creek Band of Umpqua.	Douglas, OR,[2], Jackson, OR[3], Josephine, OR.[3].
Coyote Valley Rancheria.	Mendocino, CA.
Crow	Big Horn, MT, Carbon, MT, Yellowstone, MT, Big Horn, WY, Sheridan, WY.
Crow Creek	Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD.
Cuyapiape Reservation	San Diego, CA.
Dry Creek Rancheria	Sonoma, CA.
Duck Valley	Nevada (see Nevada below), Owyhee, ID.
Eastern Band of Cherokees.	Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC.
Enterprise Rancheria	Butte, CA.
Flandreau	Moody, SD.
Flathead	Flathead, MT, Lake, Mt, Missoula, MT, Sanders, MT.
Fond Du Lac	Carlton, MN, St. Louis, MN.
Fort Apache	Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ.
Fort Belknap	Blaine, MT, Phillips, MT.
Fort Berthold	Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND.
Fort Bidwell Reservation.	Modoc, CA.
Fort Hall	Bannock, ID, Bingham, ID, Caribou, ID, Power, ID.
Fort Independence Reservation.	Inyo, CA.
Fort McDermitt	Nevada (see Nevada below), Malheur, OR.
Fort McDowell	Maricopa, AZ.
Fort Mohave	Nevada (see Nevada below), Mohave, AZ, San Bernardino, CA.
Fort Peck	Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT.
Fort Totten (Devil's Lake Sioux Reservation).	Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND.
Fort Yuma (Quechan)	Imperial, CA, Yuma, AZ.
Gila River	Maricopa, AZ, Pinal, AZ.
Gochute	Nevada (see Nevada below), Juab, UT, Tooele, UT.
Grand Portage	Cook, MN.
Grand Ronde	Polk, OR,[4] Washington, OR,[4] Marion, OR,[4] Yamhill, OR,[4] Tillamook, OR,[4] Multnomah, OR,[4].
Grand Traverse Band of Ottawa and Chippewa.	Leelanau, MI.
Grindstone Indian Rancheria.	Glenn, CA.
Hannahville	Delta, MI, Menominee, MI.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Havasupai	Coconino, AZ.
Hoh	Jefferson, WA.
Hoopa Valley Reservation.	Humboldt, CA.
Hopi	Apache, AZ, Coconino, AZ, Navajo, AZ.
Hopland Rancheria	Mendocino, CA.
Houlton Band of Maliseet.	Aroostook, ME.[5]
Hualapai	Coconino, AZ, Mohave, AZ, Yavapai, AZ.
Inaja and Cosmit Reservation.	San Diego, CA.
Iowa	Brown, KS, Doniphan, KS, Richardson, NE.
Isabella	Clare, MI, Isabella, MI, Midland, MI.
Isleta Pueblo	Bernalillo, NM, Torrance, NM, Valencia, NM.
Jackson Rancheria	Amador, CA.
Jamestown Band of Clallam.	Clallam, WA.
Jemez Pueblo	Sandoval, NM.
Jicarilla Apache	Archuleta, CO, Rio Arriba, NM, Sandoval, NM.
Kaibab	Coconino, AZ, Mohave, AZ, Kane, UT.
Kalispel	Pend Oreille, WA.
Karok Tribe of California.	Humboldt, CA, Siskiyou, CA.
Katakitegoning (Watersmeet) or Lac Vieux Desert Band.	Gogebic, MI.
Keweenaw Bay	Baraga, MI, Houghton, MI, Ontonagon, MI.
Kickapoo	Brown, KS, Jackson, KS.
Kootenai	Boundary, ID.
Lac Courte Oreilles	Sawyer, WI.
Lac du Flambeau	Iron, WI, Oneida, WI, Vilas, WI.
La Jolla Reservation	San Diego, CA.
Laguna Pueblo	Bernalillo, NM, Sandoval, NM, Valencia, NM.
La Posta Indian Reservation.	San Diego, CA.
Laytonville Rancheria	Mendocino, CA.
Leech Lake	Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN.
Lone Pine Reservation	Inyo, CA.
Lookout Rancheria	Modoc, CA.
Los Coyotes Reservation.	Dan Diego, CA.
Lower Brule	Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD.
Lower Elwha	Clallam, WA.
Lower Sioux	Redwood, MN, Renville, MN.
Lummi	Whatcom, WA.
Makah	Clallam, WA.
Manchester—Pt. Arena Rancheria.	Mendocino, CA
Manzanita Reservation	San Diego, CA.
Nashantucket Pequot	New London, CT.[6]
Menominee	Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI.
Mesa Grande Reservation.	San Diego, CA.
Mescalero	Chaves, NM, Lincoln, NM, Otero, NM.
Middletown Rancheria	Lake, CA.
Mille Lacs	Aitkin, MN, Kanebec, MN, Mille Lacs, MN, Pine, MN.
Mole Lake	Forest, WI.
Montgomery Creek Rancheria.	Shasta, CA.
Morongo Reservation	Riverside, CA.
Muckleshoot	King, WA, Pierce, WA.
Nambe Pueblo	Santa Fe, MN.
Narragansett	Washington, RI.[7]
Navajo (including Alamo Navajo, Coconio Navajo and Ramah Navajo).	Apache, AZ, Bernalillo, NM, Coconio, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM.
Nett Lake	Itasca, MN, Koochiching, MN, St. Louis, MN.
Nevada	(8).
Nez Perce	Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID.
Nisqually	Pierce, WA, Thurston, WA.
Nooksack	Whatcom, WA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Northern Cheyenne	Big Horn, MT, Rosebud, MT.
Oklahoma	(9).
Omaha	Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE.
Oneida	Brown, WI, Outagamie, WI.
Paiute Indian Tribe of Utah.	Iron, UT,[10] Millard, UT,[10] Sevier, UT,[10] Washington, UT.[10]
Pala Reservation	San Diego, CA.
Papago	Maricopa, AZ, Pima, AZ, Pinal, AZ.
Pasqua-Yaqui	Pima, AZ.[11]
Passamaquoddy	Aroostook, ME,[12] Washington, ME.
Pauma and Yuima Reservation.	San Diego, CA.
Payson Community (Tonto Apache).	Gila, AZ.
Pechanga Reservation	Riverside, CA, San Diego, CA.
Penobscot	Aroostook, ME,[12] Penobscot, ME.
Picuris Pueblo	Taos, NM.
Pine Ridge	Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD, Mellette, SD, Pennington, SD, Shannon, SD, Sheridan, NE, Todd, SD, Washabaugh, SD.
Pit River Indian Tribe of the X-L Ranch Reservation.	Modoc, CA.
Pojoaque Pueblo	Rio Arriba, NM, Santa Fe, NM.
Port Gamble	Kitsap, WA.
Port Madison	Kitsap, WA.
Potowatomi	Forest, WI, Marinette, WI, Oconto, WI.
Potawatomi	Jackson, KS.
Prairie Island	Goodhue, MN.
Prior Lake	Scott, MN.
Puyallup	King, WA, Pierce, WA.
Quileute	Clallam, WA, Jefferson, WA.
Quinault	Grays Harbor, WA, Jefferson, WA.
Ramona Reservation	Riverside, CA.
Red Cliff	Bayfield, WI.
Red Lake	Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN.
Rosighini Rancheria	Del Norte, CA.
Rincon Reservation	San Diego, CA.
Roaring Creek Rancheria.	Shasta, CA.
Robinson Rancheria	Lake, CA.
Rocky Boy's	Chouteau, MT, Hill, MT.
Rosebud	Bennett, SD, Cherry, NE, Mellette, SD, Todd, SD, Tripp, SD
Round Valley Reservation.	Mendocino, CA.
Rumsey Indian Rancheria.	Yolo, CA.
Sac and Fox (Iowa)	Tama, IA.
Sac and Fox (Kansas)	Brown, KS, Richardson, NE.
Salt River	Maricopa, AZ.
Sandia Pueblo	Bernalillo, NM, Sandoval, NM.
San Carlos	Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ.
San Felipe Pueblo	Sandoval, NM.
San Ildefonso	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
San Juan Pueblo	Rio Arriba, NM.
San Manual Reservation.	San Bernardino, CA.
San Pasqual Reservation.	San Diego, CA.
Santa Ana Pueblo	Sandoval, NM.
Santa Clara Pueblo	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
Santa Rosa Rancheria	Kings, CA.
Santa Rosa Reservation.	Riverside, CA.
Santa Ynez Reservation.	Santa Barbara, CA.
Santa Ysabel Reservation.	San Diego, CA.
Santee	Bon Hommo, SD, Knox, NE.
Santo Domingo Pueblo	Sandoval, NM, Santa Fe, NM.
Sauk-Suiattle	Snohomish, WA.
Seneca	Allegany, NY, Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren PA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Sheep Ranch Rancheria.	Calaveras, CA.
Sherwood Valley Rancheria.	Mendocino, CA.
Shingle Springs Rancheria (Veronica Tract).	El Dorado, CA.
Shoalwater	Pacific, WA.
Siletz	Benton, OR,[14] Lane, OR,[14] Lincoln, OR,[14] Linn, OR,[14] Marion, OR,[14] Polk, OR,[14] Tillamook, OR,[14] Yam Hill, OR.[14]
Sisseton	Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN.
Skokomish	Mason, WA.
Skull Valley	Tooele, UT.
Soboba Reservation	Riverside, CA.
South Florida (including Brighton, Florida State, Hollywood, and Miccosukee).	Broward, FL, Collier, FL, Dade, FL, Glades, FL, Hendry, FL.
Southern Ute	Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM.
Spokane	Ferry, WA, Lincoln, WA, Stevens, WA.
Squaxin Island	Mason, WA.
St. Croix	Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI.
St. Regis Mohawk	Franklin, NY, St. Lawrence, NY.
Standing Rock	Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD.
Stewarts Point Rancheria.	Sonoma, CA.
Stillaguamish	Snohomish, WA.
Stockbridge-Munsee	Menominee, WI, Shawano, WI.
Sulfer Bank Rancheria	Lake, CA.
Suzanville Indian Rancheria.	Lassen, CA.
Swinomish	Skagit, WA.
Sycuan Reservation	San Diego, CA.
Table Bluff Rancheria	Humboldt, CA.
Table Mountain Rancheria.	Fresno, CA.
Taos Pueblo	Colfax, NM, Taos, NM.
Tesque Pueblo	Santa Fe, NM.
Texas Band of Kickapoo.	Maverick, TX.[15]
TorresMartinez Reservation.	Riverside, CA., Imperial, CA.
Trinidad Rancheria	Humboldt, CA.
Tulalip	Snohomish, WA.
Tule River Indian Reservation.	Tulare, CA.
Tunica-Biloxi	Avoyelles, LA.
Tuolumne Rancheria	Tuolumne, CA.
Turtle Mountain	Rolette, ND.
Twenty-Nine Palms Reservation.	San Bernardino, CA.
Uintah and Ouray	Carbon, UT, Duchesne, UT, Emery, UT, Grant, UT, Rio Blanco, CO, Uintah, UT, Wasatch, UT.
Umatilla	Umatilla, OR, Union, OR.
Upper Lake Rancheria	Lake, CA.
Upper Sioux	Chippewa, MN, Yellow Medicine, MN.
Ute Mountain Ute	La Plata, CO, Montezuma, CO.
Viejas Reservation	San Diego, CA.
Warm Springs	Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR.
Washoe River (Dresslerville Colony).	Alpine, CA, Nevada (see Nevada).
White Earth	Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN.
Wind River	Hot Springs, WY, Freemont, NY, Sublette, WY.
Winnebago (Nebraska)	Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Winnebago (Wisconsin)	Adams, WI,[16] Clark, WI,[16] Columbia, WI,[16] Crawford, WI,[16] Eau Claire, WI,[16] Houston, MN,[1] Jackson, WI,[16] Juneau, WI,[16] La Crosse, WI,[16] Marathon, WI,[16] Monroe, WI,[16] Sauk, WI,[16] Shawano, WI,[16] Vernon, WI,[16] Wood, WI,[16]
Yakima	Klickitat, WA, Lewis, WA, Yakima, WA.
Yankton	Bon Homme, SD, Boyd, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchison, SD, Knox, NE.
Yavapai-Prescott	Yavapai, AZ.
Zia Pueblo	Sandoval, NM.
Zuni Pueblo	Apache, AZ, McKinley, NM, Valencia, NM.

[1] Alaska Native Regions are reservations (42 CFR 36.21(i)) and the entire State of Alaska is included as a CHSDA by regulation (42 CFR 36.22(a)(1)).

[2] Choctaw Indians residing in Jasper and Noxubee Counties, MS, will continue to be eligible for contract health services pending correction of the inadvertent omission of these two counties from section 36.22 of the regulations.

[3] Cow Creek Band of Umpqua recognized by Pub. L. 97-391, signed into law on December 29, 1983. House Rept. No. 97-862 designates Douglas, Jackson, and Josephine Counties as a service area notwithstanding existence of a reservation.

[4] Grand Ronde Tribe of Oregon recognized by Pub. L. 98-165, signed into law on six counties without regard to the existence of a reservation.

[5] Pub. L. 97-428 provides for eligibility in or near the Town of Houlton without regard to existence of a reservation.

[6] Mashantucket Pequot Indian Claims Settlement Act, Pub. L. 98-134, signed into law on October 18, 1983, provides for a reservation in New London.

[7] Narragansett Indians recognized by Pub. L. 95-395, signed into law September 30, 1978. Lands in Washington County are now federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[8] The entire State of Nevada is designated a CHSDA by regulation (42 CFR 36.22(a)(2)).

[9] Former reservations in the State of Oklahoma are reservations by regulation (42 CFR 36.21)(1)). The entire State of Oklahoma is a CHSDA by regulation (42 CFR 36.22(a)(3)).

[10] Paiute Indian Tribe of Utah Restoration Act, Pub. L. 98-227, provides for extension of services to these four counties without regard to the existence of a reservation.

[11] Legislative history (H.R. Report No. 95-1021) to Pub. L. 95-375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresss congressional intent that lands conveyed to the tribes pursuant to Act of October 8, 1964, (Pub. L. 88-350) shall be deemed a Federal Indian Reservation.

[12] Included to carry out the intention of Congress to fund and provide contract health services to Penobscot and Passmaquoddy Indians in Aroostook County.

[13] The counties included in this CHSDA were designated by regulation (42 CFR 36.22(a)(4)).

[14] In order to carry out the congressional intent under the Siletz Restoration Act, Pub. L. 95-195, as expressed in H.R. Report No. 95-623, at page 4, Siletz tribal members residing in these counties are eligible for contract health services.

[15] Texas Band of Kickapoo was recognized by Pub. L. 97-429, signed into law on January 8, 1983. The Act provides for eligibility in Maverick County without regard to the existence of a reservation.

[16] The counties included in this CHSDA were designated by regulation (42 CFR 36.22(a)(5)).

Dated: January 4, 1984.

Robert Graham,

Administrator.

[FR Doc. 84-610 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, and use (indication) of apheresis for the treatment of chronic relapsing polyneuropathy. Specifically, we are interested in knowing whether this method has significant advantages or disadvantages when compared with other methods of immunosuppression in the treatment of chronic relapsing polyneuropathy in general, and steroid resistant cases in particular. If it proves to be safe and clinically effective, what are specific indications for its use and how many courses of therapy are reasonable and necessary? In addition, this assessment seeks to determine whether this specific application of apheresis is regarded as investigational, or generally accepted treatment.

For the purposes of this announcement, apheresis is defined as a procedure utilizing specialized equipment to remove selected blood constituents (plasma or cells) from whole blood and returning the remaining constituents to the person from whom the blood was taken.

This method of treatment has been used alone or in conjunction with other immunosuppressive modalities in treating severe systemic autoimmune diseases, macro and hyperglobulinemias, acute renal allograft rejection, myasthenia gravis, and leukemia. This assessment addresses primarily the use of apheresis in the treatment of chronic relapsing polyneuropathy.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technolgy. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than March 15, 1984 or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies and other information related to the characterization of the patient population most likely to benefit from it, and the clinical acceptability and the effectiveness of this technology.

Written material should be submitted to: Harry Handelsman, D.O., National

Center for Health Service Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland, 20857.

Further information is available from Dr. Harry Handelsman, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: December 21, 1983.

Enrique D. Carter,

Acting Director, Office of Health Technology Assessment, National Center for Heatlh Services Research.

[FR Doc. 84-618 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Memphis Zoological Garden et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Memphis Zoological Garden, Memphis, TN. APP. #584360.

The applicant requests a permit to import one pair of captive-bred lowland anoa (*Bubalus depressicornis*) from Leipzig Zoo, Leipzig, East Germany for enhancement of propagation.

Applicant: Rolf J. Bergt, Newburg, MD. APP. #584429.

The applicant requests a permit to purchase in interstate commerce two female and one male Hawaiian (-nene) geese [*Nesochen(-Branta) sandvicensis*], from the National Zoo, Washington, D.C., for enhancement of propagation.

Applicant: Endangered Species Research and Breeding Center, Spokane, WA. APP. #584115.

The applicant requests a permit to import one pair of cheetah (*Acinonyx jubatus*) from African Lion Safari, Ontario, Canada for enhancement of propagation.

Applicant: Knoxville Zoological Park, Knoxville, TN. APP. #583845.

The applicant requests a permit to import one captive-born female Siberian tiger (*Panthera tigris altaica*) from Leipzig Zoo, East Germany for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 4, 1984.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-615 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explantory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer, at (202) 395-7340.

Title: Survey of Alaska Natives' Knowledge and Attitudes about Alaska Native Claims Settlement Act
Bureau Form Number: None
Frequency: One time only
Description of Respondents: Randomly selected sample of Alaska Natives
Annual Responses: 2630
Annual Burden Hours: 1315
Bureau Clearance Office: Orville Hood (202) 343-3574

Dated: December 27, 1983.

John W. Fritz,

Assistant Secretary, Indian Affairs.

[FR Doc. 84-568 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-02-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 30, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 25, 1984.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Litchfield County

Winchester, *Winchester Soldiers' Monument*, Crown St.

FLORIDA

Orange County

Orlando, *Bridges, J.J., House*, 704 S. Kuhl Ave.

Sarasota County

Venice, *Hotel Venice*, 200 N. Nassau St.

St. Lucie County

Fort Pierce, *St. Lucie High School*, 1100 Delaware Ave.

Volusia County

Ormond Beach, *Anderson-Price Memorial Library Building*, 42 N. Beach St.

MARYLAND

Garrett County

Oakland, *Oakland Historic District*, Roughly bounded by Oak, High, 3rd, Omaha, and Bartlet Sts.

MASSACHUSETTS

Essex County

Danvers, *State Lunatic Hospital at Danvers*, 450 Maple St.

MICHIGAN

Oakland County

Novi, *Yerkes, Joseph D., House*, 42580 Eight Mile Rd.

Ottawa County

Holland, *Cappon, Issac, House*, 228 W. 9th St.

Wayne County

Detroit, *Garfield, James A., School*, 840 Waterman St.

MISSOURI

St. Louis (Independent City)

Majestic Hotel, 1017-23 Pine St. and 200-10 N. 11th St.

Murphy-Blair District, Roughly bounded by I-70, Florissant Ave., Chambers and Branch Sts.

Peters Shoe Company Building, 1232-36 Washington Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Anaya, Gavino House (Albuquerque North Valley MRA)*, 2939 Duranes Rd., NW

Albuquerque, *Barela, Adrian, House (Albuquerque North Valley MRA)*, 7618 Guadalupe Trail, NW

Albuquerque, Candelarias Chapel-San Antonio Chapel, 1934 Candelaria Rd., NW

Albuquerque, *Chavez, Juan de Dios, House, (Albuquerque North Valley MRA)*, 205 Griegos Rd., NW
Albuquerque, *Chavez, Juan House (Albuquerque North Valley MRA)*, 7809 4th St., NW
Albuquerque, *Dietz, Robert, Farmhouse (Albuquerque North Valley MRA)*, 4117 Rio Grande Blvd., NW
Albuquerque, *Duranes Chapel (Albuquerque North Valley MRA)*, 2601 Indian School Rd., NW
Albuquerque, *Foraker, C. M., Farmhouse (Albuquerque North Valley MRA)*, 905 Menaul Blvd., NW
Albuquerque, *Gomez, Refugio, House (Albuquerque North Valley MRA)*, 7604 Guadalupe Trail, NW
Albuquerque, *Grande, Charles, House (Albuquerque North Valley MRA)*, 4317 Grande St., NW
Albuquerque, *Los Greigos Historic District (Albuquerque North Valley MRA)*, Griegos Rd. and Rio Grande Blvd.
Albuquerque, *Los Tomases Chapel (Albuquerque North Valley MRA)*, 3101 Los Tomases, NW
Albuquerque, *Lucero y Montoya, Francisco, House (Albuquerque North Valley MRA)*, 9742 4th St., NW
Albuquerque, *Nordhaus, Robert, House (Albuquerque North Valley MRA)*, 6900 Rio Grande Blvd., NW
Albuquerque, *Our Lady of Mt. Carmel Church (Albuquerque North Valley MRA)*, 7813 Edith Blvd., NE
Albuquerque, *Romero, Felipe, House (Albuquerque North Valley MRA)*, 7522 Edith Blvd., NE
Albuquerque, *Shalit, Samuel, House (Albuquerque North Valley MRA)*, 5209 4th St., NW
Albuquerque, *Zeiger, Charles, House (Albuquerque North Valley MRA)*, 3200 Edith Blvd., NE

PENNSYLVANIA

Venango County

Franklin, *Franklin Historic District*, Roughly bounded by Miller Ave., Otter, 8th, Buffalo, and 16th Sts.

PUERTO RICO

Aguadilla County

Camuy, *Antiguo Casino Camuyano*, Estrella and Munoz Rivera Sts.

RHODE ISLAND

Providence County

Providence, *Downtown Providence Historic District*, Roughly bounded by Washington, Westminster, Empire and Weybosset Sts.

VERMONT

Bennington County

Manchester, *Manchester Village Historic District*, US 7A, Union St., and Taconic Ave.

[FR Doc. 84-629 Filed 1-9-84; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-143]

Certain Amorphous Metal Alloys and Amorphous Metal Articles; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Stephen L. Sulzer, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Lynn I. Levine, Esq.

The Secretary is requested to publish this Notice in the Federal Register.

Dated: December 23, 1983.

David L. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 84-255 Filed 1-9-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. TA-201-49]

Stainless Steel Table Flatware

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 13, 1983.

SUMMARY: Following receipt of a petition on December 13, 1983, from counsel on behalf of the Stainless Steel Flatware Manufacturers Association for an investigation under section 201 of the Trade Act of 1974 of certain imported stainless steel flatware, the United States International Trade Commission hereby gives notice of the institution of investigation No. TA-201-49 under section 201(b)(1) of the act (19 U.S.C 2251) to determine whether knives, forks, spoons, and ladies, with stainless steel handlers, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, 651.75 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by June 13, 1984.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator (202/523-0439), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring the file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Public hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on March 29, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436 (19 CFR 201.13). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 20, 1984.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on March 23, 1984 (19 CFR 201.8). Confidential submissions should be in accordance with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any

prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on March 23, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than close of business on April 6, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 6, 1984. A signed original and fourteen copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Remedy briefs.—In the event that the Commission makes an affimative injury determination in this investigation (a determination on the issue of injury will be made by the Commission in a meeting scheduled for early in the week beginning April 29, 1984), posthearing briefs on remedy will be due to the Secretary of the Commission no later than the close of business May 8, 1984, and must conform with the requirements of §§ 201.6 and 201.8 of the Commission's rules.

Inspection of petition.—The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rule of Practice and Procedure, 19 CFR 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982, and Part 206, Subparts A and B (19 CFR 206, Subparts A and B).

By order of the Commission.

Issued: January 5, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-604 Filed 1-9-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30356]

Providence and Worcester Railroad Co.; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of 699,300 shares of common stock by Providence and Worchester Railroad Company to its current shareholders.

DATES: This exemption will be effective on February 9, 1984. Petitions to stay must be filed by January 20, 1984, and petitions for reconsideration must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30356 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representatives: Thomas E. Acey, Jr., Verner, Liipfert, Bernhard and McPherson, 1660 L Street, NW., Washington, D.C. 20036

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystem, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (DC Metropolitan Area) or toll-free (800) 424-5403.

Decided: December 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-566 Filed 1-9-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review by OMB

January 5, 1984.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

- Immigration and Naturalization Service, Department of Justice

Application to extend time of temporary stay (I-539)

One Time

Individuals or housholds

Form is used by non-immigrant alien in the United States to apply for an extension of temporary stay and by the INS to determine eligibility for such extension : 125,000 respondents; 41,000 hours; not applicable under 3504(h).

Rob Veeder—395-4814

- Immigration and Naturalization Service, Department of Justice

Application to file for petition for naturalization (N-400)

One Time

Individuals or households

Used by aliens filing petitions for naturalization and by the INS as a means of determining eligiblity pursuant thereto: 270,000 resposnes; 270,000 hours; not applicable under 3504(h).
Rob Veeder—395-4814
• Immigration and Naturalization Service, Department of Justice
Request for verification of naturalization (N-25)
One Time
Individuals or households
Used to obtain information from the records of a Clerk of Court which may be needed by a person applying for benefits under various provisions of the I&N Act: 1,000 responses; 250 hours; not applicable under 3504(h).
Rob Veeder—395-4814
• Immigration and Naturalization Service, Department of Justice
Notice of final naturalization hearing (children) (N-445B)
One Time
Individuals or housholds
Used to notify a U.S. citizen parent of the Court place and time of a final hearing for the naturalization of his/her child. Documentation which must be presented to the Court if the child is to be naturalized is required to be present: 6,000 responses; 500 hours; not applicable under 3504(h).
Rob Veeder—395-4814
• Immigration and Naturalization Service, Department of Justice
Application by a lawful permanent resident for an alien registration receipt card (I-551)
On occasion
Individuals or households
For use by any lawful permanent resident wishing to obtain an Alien Registration Card because no card has yet been issued, the original has been lost, stolen mutilated, or information on the original must be updated or corrected: 200,000 responses; 100,000 hours; not applicable under 3504(h).
Rob Veeder—395-4814
• Immigration and Naturalization Service, Department of Justice
Request for cancellation of public bond charge (I-356)
One Time
Individuals or housholds
Form is used to determine if bond posted on behalf of an alien in the United States should be cancelled: 900 responses; 225 hours; not applicable under 3504(h).
Rob Veeder—395-4814
• Immigration and Naturalization Service, Department of Justice
Application to file petition for naturalization in behalf of child (N-402)
One Time
Individuals or households
Used by a U.S. citizen to file a petition for naturalization on behalf of their natural or adopted child: 10,000 resposnes; 5,000 hours; not applicable under 3504(h).
Rob Veeder—395-4814

Larry E. Miesso,
Departmental Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division.

[FR Doc. 84-529 Filed 1-9-84; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Autoquip Corp., et. al

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 30th day of December 1983.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
Autoquip Corp. (USWA)	Guthrie, OK	12/23/83	12/20/83	TA-W-15,152	Power lifts.
Copperweld Corp., Alumoweld Products Div. (USWA)	Gloucester, PA	12/27/83	12/22/83	TA-W-15,153	Aluminoweld wire.
Spalding Div. of Questor, Inc. (workers)	Chicopee, MA	12/27/83	12/22/83	TA-W-15,154	Iron forged heads & wood heads for golf clubs.
Taylor Machine Works, Inc. (USWA)	Louisville, MS	12/22/83	12/20/83	TA-W-15,155	Logging and lifting equipment.
The United States Shoe Corp. (wkrs)	Wilmington, Ohio	12/23/83	12/13/83	TA-W-15,156	Women's leather sport footwear.

[FR Doc. 84-627 Filed 1-9-84; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Coberknit Corp., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 26, 1983—December 30, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,760; Coberknit Corp., New York, NY

TA-W-14,783; SCM Proctor, SCM Proctor-Silex Altoona, PA

TA-W-14,834; National Supply Co., Div. of Armco, Inc., Torrance, CA

TA-W-14,805; National Supply Co., Div of Armco, Inc., Gainesville, TX

TA-W-14,693; DTS Caribe, Inc., Vega Baja, PR

TA-W-14,694; DTS Caribe, Inc., Morovis, PR

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,737; Ford Motor Co., Ford Div., Buffalo, NY

TA-W-14,647; Dravo Corp., Dravo Marine Equipment Co., Div, Neville Island Shipyard, Neville Island, PA

TA-W-14,893; Wilson Automation Co., Warren, MI

TA-W-14,594; Palm Beach Co., Roanoke, AL

TA-W-14,689; General Motors Corp., Delco-Remy Div., Anaheim, CA

TA-W-14,692; General Motors Corp., Rochester Products Div., Coopersville, MI

TA-W-14,848; General Motors Corp., Fisher Body Div., Euclid, OH

TA-W-14,849; General Motors Corp., Grand Rapids Trim, Grand Rapids, MI

TA-W-14,850; General Motors Corp., Livonia, MI

TA-W-14,851; General Motors Corp., Tecumseh, MI

TA-W-14,852; General Motors Corp., Columbus, OH

TA-W-14,853; General Motors Corp., Detroit Fort Street, Detroit, MI

TA-W-14,854; General Motors Corp., Elyria, OH

TA-W-14,855; General Motors Corp., Coldwater Road, Flint, MI

TA-W-14,856; General Motors Corp., Syracuse, NY

TA-W-14,858; General Motors Corp., Chicago, IL

TA-W-14,859; General Motors Corp., Coit Road, Cleveland, OH

TA-W-14,860; General Motors Corp., Grand Blanc, MI

TA-W-14,861; General Motors Corp., Grand Rapids Metal Fabricating, Grand Rapids, MI

TA-W-14,862; General Motors Corp., Hamilton, OH

TA-W-14,863; General Motors Corp., Kalamazoo, MI

TA-W-14,864; General Motors Corp., Lordstown, OH

TA-W-14,865; General Motors Corp., Mansfield, OH

TA-W-14,866; General Motors Corp., Marion, IN

TA-W-14,867; General Motors Corp., Pittsburgh, PA

TA-W-14,868; General Motors Corp., Fleetwood, Detroit, MI

TA-W-14,869; General Motors Corp., Flint Plant, Flint, MI

TA-W-14,870; General Motors Corp., Lansing, MI

TA-W-14,872; General Motors Corp., Detroit Central Plants, Detroit, MI

TA-W-14,887; General Motors Corp., General Offices, Warren, MI

Affirmative Determinations

TA-W-14,871; General Motors Corp., Fisher Body Div., Pontiac, MI

A certification was issued covering all workers separated on or after July 12, 1982.

TA-W-14,706; Parker Pen Co., Janesville, WI.

A certification was issued covering all workers separated on or after May 16, 1982.

TA-W-14,781; Island Creek Coal Co., Beatrice Mine, Buchanan County, VA

A certification was issued covering all workers separated on or after September 1, 1982

TA-W-14,825; AMF Voit, Inc., Sporting Goods Div., Santa Ana, CA

A certification was issued covering all workers separated on or after June 28, 1982 and before December 20, 1983.

TA-W-14,906; Cleveland Cliffs Iron Co., Empire Mine, Ishpeming, MI

A certification was issued covering all workers separated on or after August 4, 1982.

TA-W-14,894; Wilson Sporting Goods Co., Inc., Ironton, OH

A certification was issued covering all workers engaged in employment related to the production of leather baseball gloves and mitts separated on or after March 1, 1983 and before September 15, 1983.

TA-W-14,878; Massey Ferguson, Inc. Gear & Shaft Plant, Detroit, MI

A certification was issued covering all workers separated on or after June 21, 1982 and before December 1, 1983.

TA-W-14,879; Massey Ferguson, Inc., Transmission & Axle Plant, Wayne, MI

A certification was issued covering all workers separated on or after June 21, 1982 and before December 1, 1983.

TA-W-14,14,577; Knickerbocker Toy Co., Middlesex, NJ

A certification was issued covering all workers separated on or after December 1, 1982 and before May 1, 1983.

TA-W-14,717; U.S. Steel Corp., U.S.S. Fabrication Div., South San Francisco, CA

A certification was issued covering all workers separated on or after October 1, 1982 and before November 30, 1983.

TA-W-14,572; Texaco U.S.A., Eagle Point Plant, Westville, NJ.

A certification was issued covering all workers engaged in employment related to the production of toluene separated on or after January 1, 1983 and before June 1, 1983.

TA-W-14,799; Stauffer Chemical Co., Louisville, KY

A certification was issued covering all workers separated on or after June 28, 1982 and before December 12, 1983.

TA-W-14,828; Central Electronics Co., Paris Div., Paris, Ill, Subsidiary of Zenith Radio Corp.

A certification was issued covering all workers separated on or after Jauary 1, 1983.

TA-W-14,845; Kane Industries, Div. of Chromalloy American Corp., Smith Grove, KY

A certification was issued covering all workers separated on or after October 1, 1982 and before July 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period December 26, 1983–December 30, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 3, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-628 Filed 1-9-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Performance Review Board; Senior Executive Service

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of amendment.

SUMMARY: The Civil Service Reform Act (4314(c)(4)) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register.** NASA's membership list appeared in the **Federal Register** as NASA Notice 82–18, 47 FR 12887, March 25, 1982, which was subsequently amended by NASA Notice 83–56, 48 FR 26381, June 7, 1983.

This Notice further amends the membership by reappointing Louis B. DeAngelis, whose term expired July 1983. Mr. DeAngelis's new term will expire November 1986. Jeffrey D. Rosendhal (term expires November 1986) is appointed to replace Franklin D. Martin, whose term expired July 1983. Jesse W. Moore (term expires November 1986) is appointed to replace David R. Braunstein, whose term was to expire in July of 1985. John J. Quann (term expires November 1986) is appointed to replace Clifford E. Charlesworth, whose term expired July 1983.

EFFECTIVE DATE: December 1, 1983.

ADDRESS: Executive Personnel Management Program, NPD, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Philip D. Waller, telephone 202–755–8825.

James M. Beggs,

Administrator.

[FR Doc. 84–525 Filed 1–9–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological, Behavioral, and Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological, Behavioral, and Social Sciences (BBS).

Date and Time: January 26 & 27, 1984; 9:00 a.m. to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact person: Dr. Robert Rabin, Acting Assistant Director, Biological, Behavioral, and Social Sciences (202) 357–9854, Room 506, National Science Foundation, Washington, DC 20550.

Summary minutes: May be obtained from the contact person named above.

Purpose of Advisory Committee: The Advisory Committee for BBS provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that makeup BBS.

Agenda: The Advisory Committee will be informed of the historical background of BBS, the development of research programs, and of current research priorities in the biological, behavioral, and social sciences. Advisory Committee members will be asked to comment on research priorites in 1984 and beyond; to recommend research topics that should receive highest priority for further study; and to discuss and advise on the longer term plans of BBS. Selected members will prepare a summary of the advice and recommendations made. Plans will be made for subsequent meetings of the committee.

Dated: January 5, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–605 Filed 1–9–84; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Recommendation Reponses From

Intermodal—*Research and Special Programs Administration: Dec. 23: I–80–1:* Both Federal Railroad Administration and the Materials Transportation Bureau have reservations about the possible misinterpretation of volume data for liquids. Volume varies with temperature, while the total weight of material within a tank car remains constant, regardless of temperature. FRA and MTB believe that net weight provides the most useful measurement of material present. *Dec. 8: I–83–2:* Is evaluating recommendation to determine, by mode of transportation, the feasibility of requiring comprehensive product-specific emergency response information to be appended to shipping documents for hazardous materials transported in bulk quantities. *Dec. 12: I–83–4:* Is evaluating recommendation to develop, for drums being used to ship regulated hazardous materials, preshipment inspection criteria similar to those established in 49 CFR 173.28(m)(1) for drums being reconditioned for reuse, and to publish these criteria to assist shippers and carriers in complying with the requirements of 49 CFR 17 12(a) and 173.24(a).

International Society of Fire Service Instructors: Dec. 5: I–83–1: Will inform its membership of the safety and command benefits in restricting the access of emergency response groups to hazardous materials accident sites until their potential exposure to safety hazards and the need for their response activities can be determined.

Matlack, Inc.: Dec. 13: I–83–3: Will immediately send a letter to all drivers reminding them of Department of Transportation regulations requiring that bills of lading and other shipping documents be readily available and recognizable to authorities in the event of an accident, emergency occurrence, or inspection. Will add information regarding shipping papers to its emergency procedures section of its driver's manual. Will review the matter of shipping documents at emergency situations during regularly scheduled safety meetings.

Pipeline—*The Pipelines of Puerto Rico, Inc.: Dec. 7: P–80–75 and –79:* Has written to the Public Service Commission of Puerto Rico regarding the recommendations to develop procedures to employ during pipeline emergencies and to establish an island-wide "one-call" excavation notifications system.

American Public Gas Association: Nov. 8: P–83–29: Notified its member companies of the accident on February 1, 1983, in Pryor, Oklahoma, and urged them, with respect to customer-owned service lines not subject to Federal inspection requirements, (1) to encourage their customers to arrange for periodic inspections of buried gas service lines for corrosion and (2) to encourage local governments to institute requirements for periodic inspections of buried gas service lines for corrosion.

Interstate Natural Gas Association of America: Nov. 10: P–83–27: In addition to a Sep. 13, 1983, memorandum to its member companies, members of the Construction and Operations staff reviewed, with the the INGAA Construction and Operations Committee, the circumstances of the accident in Pine Bluff, Arkansas, on Oct. 1, 1982, and the recommendation of companies to provide checklists to supervisory personnel for major work projects to identify the essential actions to be performed, before starting work and while work is in progress, to ensure employee and public safety.

Puerto Rico Telephone Company: Nov. 16: P–80–88: Believes that a "one-call" system will benefit all utilities, contractors, and private corporations and that full cooperation and participation of all public and private institutions is required. Is willing and able to participate, but not to undertake the responsibility of managing or supervising such operations.

Trunkline Gas Company: Nov. 18: P–83–17: Ventilation procedure is in Section V–03 of Operation and Maintenance Plan. Gas detection systems are being installed.

American Gas Association: Nov. 10: P–83–19: Notified its member companies of the circumstances of the accident in Bonicord, Tennessee, on Dec. 8, 1982, and urged them to identify compressor station building ventilation systems that have restrictive devices, which if fully or partially closed would allow accumulations of gas leaking from facilities within the building, and install a gas detection system that will detect and alert employees to hazardous gas accumulations and take other actions that may be appropriate to the situation. Does not believe that companies should install a gas detection system that will automatically open

fully all restrictive devices when accumulations of gas are detected.

Railroad—*Chemical Manufacturers Association: Dec. 8: R-83-92:* Has concluded that extended color coding is not the best means of improving tank car identification because such a system (1) tied to generic categories of chemicals would not give the correct response information, as the proper response varies within generic categories; (2) tied to groups of commodities that require the same response would be unworkable since there are over 60 DOT response scenarios. Color-banding could create additional identification problems for on-scene personnel who would have to refer to a chart to interpret the meaning of the color scheme; (3) limited to just a few of the highly hazardous chemicals requires drawing lines between those products that create the greatest transportation hazard and those that do not; (4) could be distorted by smoke, flames, and the darkness of night, and could present problems for the substantial number of people who suffer from color-blindness; (5) is expensive and frequent repainting would be required to counter the effects of debris accumulation and fading and to accommodate for changes in ladings of nondedicated cars.

Federal Railroad Administration: Nov. 14: R-83-79: The results of an inspection made in July 1983 of the track in the Louisville District of the Illinois Central Gulf Railroad and the ICG's response to the FRA's findings indicate that no basis exists for the FRA to issue an emergency order limiting the speed of trains or to otherwise restrict operations in the Louisville District of the ICG. *R-83-80:* Because of the high volume of hazardous materials carried in the Louisville District, the FRA has considered this route a high priority and regularly monitors the condition of the track in accordance with the FRA Railroad Safety National Inspection Plan. Inspections have substantiated that the ICG has significantly improved this tract over the last several years. The Federal Track Safety Standards assign responsibility for setting appropriate classes of track to track owners. As long as the ICG maintains its track in compliance with these standards and takes appropriate remedial action as defects develop, then the ICG is fulfilling its responsibility. *R-83-81:* Has worked with the ICG to effect an improvement in the carrier's inspections practices and to enforce compliance with the Federal Track Safety Standards. *R-83-82:* FRA inspections have been thoughtfully planned and are comprehensive in scope. Remedial actions taken by the ICG have resulted in track improvements that have contributed to the ICG's improved safety performance.

Marine—*Office of the Speaker, Wisconsin Legislature: Dec. 6: M-83-76 and -78:* Referred to the Department of Natural Resources the recommendations to adopt legislation to clearly define the level of legal intoxiation for recreational boat opertors and to require procedures for toxicological trests in the event of a recreational boating fatality to document the role of alcohol in recreational boating accidents and fatalities.

State of New York: Dec. 9: M-83-76 and -77: Commissioner of Parks, Recreation and Historic Preservation has been asked to review the recommendations to adopt legislation (1) to clearly define the level of legal intoxication for recreational boat operators; (2) to allow a chemical test of blood, breath, or urine if a recreational boating operator is suspected of being intoxicated; and (3) to allow toxicological tests in the event of a recreational boating accident fatality.

State of Virginia: Nov. 10: M-83-76 and -77: Will bring to the attention of appropriate State officials the recommendations regarding alcohol involvement in recreational boating accidents.

Speaker of the Virginia House of Delegates: Nov. 16: M-83-76 and -77: Referred recommendations regarding alcohol involvement in recreational boating accidents to the Chairman of the House Courts of Justice Committee for consideration.

Lieutenant Governor of Connecticut: Nov. 15: M-83-76 and -77: Issue of alcohol involvement in recreational boating accidents deserves careful consideration.

Speaker of the Tennessee House of Representatives: Nov. 18: M-83-76: Acknowledges recommendation concerning alcohol involvement in recreational boating safety.

President of the Louisiana State Senate: Nov. 21: M-83-78: Referred recommendation regarding toxicological tests in the event of a recreational boating fatality to the Committee on Transportation, Highways and Public Works.

State of Maryland: Nov. 23: M-83-78: Tests relating to percentage of blood alcohol are usually available if an autopsy has been ordered by the local medical examiner following a fatality in a recreational boating accident.

State of Alabama: Nov. 22: M-83-76 and -77: Department of Conservation and Natural Resources is drafting legislation which will provide for chemical testing for blood alcohol content and defining the level of legal intoxication for persons involved in recreational boating accidents.

Committee on Criminal Justice, Florida House of Representatives: Nov. 21: M-83-76 and -77: Recommendations concerning alcohol involvement in recreational boating safety have been referred to this committee.

California Department of Boating and Waterways: Nov. 29: M-83-76 and -77: Penalties prescribed in law for alcohol involvement in recreational boating accidents parallel those for operators of vehicles. Is studying the relationship between alcohol and motorboat accidents. Is establishing a special task force comprised of members from boating associations, enforcement groups, and the boating public to provide guidance and direction throughout the study. Recently modified the State Boating Accident report form to include a section on alcohol and drugs. Is conducting a series of intoxication enforcement training sessions for law enforcement personnel on waterborne patrols. Plans to inform the boating public of the problems of boat operation while intoxicated by television public service announcements, special news releases, and a comprehensive media campaign in conjunction with National Safe Boating Week.

Lieutenant Governor of Texas: Nov. 28: M-83-76 and -77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Parks and Wildlife Department.

Illinois Department of Conservation: Nov. 28: M-83-76 and -77: Recommendations concerning alcohol involvement in recreational boating accidents are being reviewed by the Division of Law Enforcement.

State of Hawaii: Dec. 1: M-83-76 and -77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Director of Transportation for review.

State of Oregon: Nov. 30: M-83-76 and -77: The blood alcohol level of 0.08 percent, although found in Oregon's motor vehicle statutes, can be used by marine law enforcement officers. Blood, breath, or urine tests can be administered also.

State of Connecticut: Dec. 6: M-83-76 and -77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Chairman of the Governor's Task Force on Driving While Intoxicated for review.

State of Iowa: Nov. 29: M-83-76 and -77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Department of Transportation for analysis.

American Bureau of Shipping: Nov. 22: M-83-62: Issued a Circular of Instruction to all its surveyors emphasizing the importance of examining the rubber expansion joints in seawater lines carefully and also providing guidelines for renewal after a certain period of time as well as for obvious deterioration. Inserted into its rules a requirement for approval of the design of such pieces in seawater piping system where the nominal diameter exceeds 150mm. May change its rules to include a requirement for examination of nonmetallic expansion pieces at every drydocking rather than just at the Special Survey drydocking, which the original rules imply.

Hellenic Lines Limited: Nov. 3: M-82-19: As far back as June 1977, masters have received instructions concerning the use of the VHF-FM radio telephone equipment as a navigational aid. Has repeated and renewed the instructions to masters.

Note.—Single copies of these response letters are available on written request to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 5, 1984.

[FR Doc. 84-617 Filed 1-9-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

The Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant, located in Charlevoix County, Michigan, at a rated power level of 240 megawatts (thermal). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(m)(2) of 10 CFR, which becomes effective on January 1, 1984, requires single unit reactors to have two Senior Reactor Operators (SRO) and two Reactor Operators (RO) on shift when the unit is operating.

By letter dated October 3, 1983, the licensee requested an exemption to 10 CFR 50.54(m)(2) such that only one SRO and two RO's would be required on shift during operation at Big Rock Point. In support of this request the licensee referred to a letter dated April 1, 1982 submitted by the licensee to the NRC. Two reports entitled, "Assessment of Shift Staffing Requirements for the Big Rock Point Nuclear Plant" and "Operator Action Event Trees for the Big Rock Nuclear Plant," were transmitted by that letter. These reports were prepared by the licensee to evaluate operator actions required to respond effectively to transient and accident conditions at Big Rock Point. Based primarily on this evaluation, Consumers Power Company concluded that a second SRO on shift is not necessary at Big Rock Point. In addition to the licensed operators (SROs and ROs), two Auxiliary Operators (AOs) are also on shift.

The Big Rock Point plant is small and relatively uncomplicated. It does not have many of the complex, interconnected systems of the newer and larger nuclear plants. Originally, the staff's review of the licensee's analysis revealed two sets of accident sequences in which a second SRO on shift would be needed—certain fire sequences and certain loss of offsite power sequences. The fire sequences considered by the staff in its evaluation involved situations where two licensed operators were required to be in the control room while a third licensed operator was required to be at the alternate shutdown panel. This would consume all of the licensed operator resources on shift leaving no licensed operator available to direct the activities of the fire brigade. However, based on further review the staff concluded that there really is no need to man both the control room and the alternate shutdown panel simultaneously. The alternate panel needs to be manned only in the event the control room has to be abondoned and control functions have to be transferred to the alternate panel, in which case one of the two operators from the control room could proceed to and man the alternate panel. Thus, the third licensed operator on shift remains available to direct the activities of the fire brigade, satisfying the reqirements of Appendix R for fire brigade staffing.

The licensee's analysis identified that in certain loss of offsite power sequences a third AO may be useful in verifying and maintaining the operation of emergency diesel generators or performing circuit breaker alignment in the station power room. An additional SRO could also perform such jobs. However, the sequences in which an additional AO or SRO may be useful involve multiple system failures and are of low probability. Therefore, additional staffing would not result in a significant reduction in the overall core-melt probability. On this basis, the staff concluded that addition of a second SRO (or other operator) is not justified.

The staff concludes that all identified accident sequences with significant contribution to core-melt probability can be adequately accommodated with a shift staffing that includes one SRO, two ROs and two auxiliary operators as proposed by the licensee. Thus, the staff concludes that the requested exemption from the requirements for the second SRO to be on shift at the Big Rock Point Nuclear Plant should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirement of 10 CFR 50.54(m)(2) to have two Senior Reactor Operators on-shift during operation. Big Rock Point may continue to operate with only one SRO on-shift (in addition to the two ROs and two AOs).

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption becomes effective on January 1, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-546 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) (PDC) is the holder of Provisional Operating License No. DPR-45 which authorizes operation of the La Crosse Boiling Water Reactor (LACBWR). This provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility is a boiling water reactor rated at 165 megawatts (thermal) and is located at the licensee's site located in Vernon County, Wisconsin.

II

A change to the regulation 10 CFR 50.54, issued on July 11, 1983, requires that, effective January 1, 1984, the minimum shift staffing for an operating, single unit nuclear power plant include: (1) An individual holding a senior reactor operator (SRO) license who is assigned responsibility for overall plant operation (the Shift Supervisor); (2) a second SRO who must be present at all times in the control room from which the nuclear unit is being operated (this SRO may be relieved by the Shift Supervisor or another qualified SRO, but an SRO presence in the control room must be maintained); (3) an individual with a reactor operator (RO) license or an SRO license at the plant controls; and (4) an additional RO assigned to the unit. Previously, individual plant technical specifications had estabilished the minimum shift crew staffing for each nuclear unit, and generally required one SRO and two ROs to be present on shift when the unit was operating. The rule change codifies the previously established general requirements and, for most plants, adds the requirement for the second SRO to be stationed in the control room.

By letter dated August 25, 1983 the licensee requested an exemption to the

staffing requirements of 10 CFR 50.54(m)(2) for LACBWR. In lieu of the four licensed operators required by the rule (two SROs and two ROs), the licensee proposes to operate LACBWR with one SRO and one RO per shift. Two auxiliary operators, who are not required to be licensed, are also on each shift. The LACBWR plant is small and relatively uncomplicated. It does not have many of the complex, interconnected systems of the newer and larger nuclear plants, which results in relatively simple plant controls. Its size is only about one-twentieth the size of today's large plants. It has operated successfully since 1967 with a required licensed operator staffing of one SRO and one RO, as now proposed by the licensee to be continued.

The licensee requires that all LACBWR operator must have previous formal nuclear training and experience prior to hire. Currently, all LACBWR operators, both licensed and unlicensed, are former Navy enlisted technicans. An objective of the licensee is that all plant operators obtain an operator license. Toward this end, all operators on shift at LACBWR either already have a valid operator license or are in training for their license examination. The licensee maintanis four watch stations at the plant: reactor operator, turbine operator, switchyard operator, and auxiliary operator.

To the extent allowed by their licensed status, plant operators rotate duty assignments among the four watch stations so as to maintain their familiarity with all aspects of the plant operation. They also participate in maintenance and refueling activities which further increases their familiarity with the plant. Plant operators in training for a reactor operator license function in the control room under the supervision of a licensed operator. As a result of the emphasis on having all plant operators attain licensed status and the cross qualification attained by having each operator capable of handling any watch station, the licensee assures a greater depth of knowledge regarding details of the plant and a greater assurance that any off-normal conditions can be promptly and safely corrected. The licensee also requires that the control room be attended by two operators, at least one of whom has a license, whenever the reactor is critical; and that two licensed operators are required to be in the control room during plant startup, scheduled plant shutdown, and recovery from trips.

The staff concludes that the licensed operator staffing proposed by the licensee, in conjunction with the emphasis on attaining interchangeability among operators at plant watch stations and on having all operators obtain licensed status, and in light of the small size and simplicity of the plant, is sufficient to assure safe plant operation. Based upon the above evaluation, the staff concludes that the licensee's requested exemption from the requirements of 10 CFR 50.54(m)(2) should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12 an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption described in Section II above.

The NRC staff has determined that granting this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.54(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption becomes effective on January 1, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-547 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al; Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the Licensees). The relief relate to the inservice testing program for the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of December 15, 1983.

The relief permits the licensee to examine certain welds in a manner different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR Part 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons. Alternative examinations have been proposed by the licensee and accepted by the staff.

The request from relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see (1) the application for relief dated May 7, 1983, and (2) the Commission's letter dated December 15, 1983. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated: at Bethesda, Maryland, this 15th day of December, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84-548 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has pursuant to the Decision of its Atomic Safety and Licensing Appeal Board in this proceeding (ALAB-746) dated October 24, 1983, issued Amendment No. 51 to Facility Operating License No. DPR-54, issued to the Sacramento Municipal Utility District (the licensee), which revised the license for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County,

California. The amendment is effective as of its date of issuance.

The amendment adds a license condition which requires radiographic inspection of High Pressure Injection nozzles C and D during future refueling outages.

For further details with respect to this action, see (1) Amendment No. 51 to License No. DPR-54 and (2) the aforementioned Decision of the Atomic Safety and Licensing Appeal Board dated October 24, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of both items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of January 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4 Division of Licensing.

[FR Doc. 84-549 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Electric Co.; et al.; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Construction Permit Nos. CPPR-126 and CPPR-127. The amendments reflect corporation reorganization of the Texas Utilities Company (TUCO) and ownership interest of the co-permitees of the Comanche Peak Steam Electric Station, Units 1 and 2 as follows:

PRESENT

	Percent
Texas Electric Service Co. (TESCO)[1]	35%
Texas Power & Light (TP&L)[1]	33%
Dallas Power & Light (DP&L)[1]	18%
Texas Municipal Power Agency (TMPA)	6%
Brazos Electric Power Cooperative (BEPC)	3%
Tex-La Electric Cooperative of Texas, Inc. (Tex-La)	2%

[1] TESCO, TP&L, and DP&L are subsidiaries of TUCO.

EFFECTIVE JANUARY 1, 1984[1]

	Percent
Texas Utilities Electric Company (TUEC)	87%
Texas Municipal Power Agency (TMPA)	6%
Brazos Electric Power Cooperative (BEPC)	3%
Tex-La Electric Cooperative of Texas, Inc. (Tex-La)	2%

[1] Effective with the reorganization and as a matter of Texas law, all rights and obligations of DP&L, TESCO and TP&L will become the rights and obligations of the successor corporation, TUEC.

The amendments are effective as of January 1, 1984 when the reorganization will become effective.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments. Prior public notice of the amendments were not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments, dated August 2, 1983; (2) Amendment No. 7 to Construction Permits CPPR-126 & CPPR-127, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Somervell County Public Library, On the Square, P.O. Box 417, Glen Rose, Texas 76403. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December, 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 84-550 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Exemption

I

Wisconsin Electric Power Company (the licensee is the holder of Facility Operating License Nos. DPR-24 and DPR-27 (the licenses) which authorize operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) at a steady state reactor power level not in excess of 1518 megawatts thermal. The facilities consist of Westinghouse Electric Corporation designed pressurized water reactors (PWRs) located at the licensee's site in Manitowoc County, Wisconsin.

The licenses are subject to all rules, regulations and Orders of the Commission.

II

10 CFR 50.44(c)(3)(iii) requires a licensee to provide each light-water nuclear power reactor with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of non-condensible gases would cause the loss of function of these systems. Required modifications are to be completed by the end of the first scheduled outage of sufficient duration beginning after July 1, 1982.

By letter dated November 29, 1983, the licensee requested an exemption to the schedular requirements of Paragraph (c)(3)(iii) of 10 CFR 50.44. The licensee requests that it be granted an exemption until no later than December 31, 1984 to complete installation of the ractor coolant system and reactor vessel head high point vents for the Point Beach Nuclear Plant, Unit Nos. 1 and 2.

On January 25, 1983, an exemption from the schedular requirements of 10 CFR 50.44(c)(3)(iii) until January 1, 1984 was granted for Point Beach Unit 1. The first outage of sufficient duration after July 1, 1982 to install the RCS high point vent system at Point Beach Unit 1 was the Fall 1982 refueling outage. Point Beach Unit 1 is currently shutdown in a refueling outage with a scheduled restart date of March 30, 1984. Delivery of the control panels necessary for remote vent operation from the control room, which was intitially scheduled in time to meet the January 1, 1984 date, has been delayed until June of 1984. While this equipment will not be delivered in time for installation during the current refueling outage, it will be able to be installed during the next operating cycle since unit shutdown is not required for installation. The licensee estimates that the control panels will be unable to be installed before September 1, 1984. Verification testing will be necessary following installation before the control panels can be declared fully operable. The expected delivery and installation dates of the control panels and the schedule for training and implementation of emergency operating procedures for the RCS gas vents form the basis for the licensee's requested extension from the currently approved implementation date of January 1, 1984 until December 31, 1984 for Point Beach Unit 1.

The technical status of the RCS high point vent system for Point Beach Unit 1 remains in accordance with the Exemption of January 25, 1983 and on the basis we find the requested extension of the implementation date

acceptable. We note that the Power Operated Relief Valve (PORV) system which is separate from the RCS gas vent system could also be utilized as an additional method for venting the pressurizer and the RCS system (over an extended period of time) as mentioned in the January 25, 1983 Exemption.

On May 9, 1983, an exemption from the schedular requirements of 10 CFR 50.44(c)(3)(iii) until January 1, 1984 was granted for Point Beach Unit 2. The first outage of sufficient duration after July 1, 1982 to install the RCS gas vent system at Point Beach Unit 2 had been the spring of 1983 refueling outage. The schedular Exemption was granted due to delivery delays of the control panels necessary for remote operation of the RCS gas vent system from the control room. Subsequent to the issuance of the May 9, 1983 Exemption the licensees learned of additional delivery delays until June 1984 for these control panels. Additionally, the solenoid operated valve isolating the RCS vent path directly to containment for Point Beach Unit 2 failed its hydrostatic leak test during the spring 1983 outage. The valve was subsequently removed from the system and the line capped upstream of the valve. The system was then re-hydrostatically tested. The system is operable utilizing the remaining vent path to the pressure relief tank and utilizing the interim power supplies described in the May 9, 1983 Exemption. The valve will be replaced during the next refueling outage scheduled for the fall of 1984. The installation of the control panels necessary for remote operation from the control room and the implementation of emergency operating procedures will be completed by December 1984 as described earlier for Unit 1.

The technical status of the system is the same as described in the May 9, 1983 Exemption with the exception of the vent ot containment isolation valve which has been removed from the system. Based on the considerations discussed above and for reasons discussed in our May 9, 1983 Exemption, we find the requested extension of the implementation date for the RCS vent system for Point Beach Unit 2 to be acceptable. We note that the PORV system which is separate from the RCS gas vent system could be utilized as an additional method for venting the pressurizer and RCS system (over an extended period of time) as mentioned above in the case of Unit 1.

Since the likelihood that vents would be needed prior to the completion of the vent system is low, the NRC staff concludes that a schedular exemption to the hydrogen rule vents requirements (10 CFR 50.44(c)(3)(iii)) until the system controls are installed and fully tested, but no later than December 31, 1984, is reasonable and that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of November 29, 1983, as discussed above, is authorized by law and will not endanger the life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted as follows:

The date specified in Paragraph (c)(3)(iii) of 10 CFR 50.44 to complete installation of reactor coolant system high point vents is extended to no later than December 31, 1984 for the Point Beach Plant, Unit Nos. 1 and 2.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 30th day of December, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-551 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Yankee Atomic Electric Company (the licensee), which relates to the inservice inspection program for the Yankee Nuclear Generating Station (the facility) located in Franklin County, Massachusetts. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.55a(g). The relief is effectice as of its date of issuance and expires on July 1, 1991.

The relief modifies the visual, surface, volumetric and/or pressure test examinations requirements for certain Class 1, 2, and 3 components for which the Code required examinations have been determined to be impractical.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's application dated October 3, 1977, and request for relief dated October 2, 1981; (2) Amendment No. 81 to License No. DPR-3; (3) the letter to the licensee granting the relief dated January 3, 1984; and (4) the Commission's related Safety Evaluation, including a report prepared by the Commission's contractor, Science Applications, Inc., dated August 27, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3d day of January 1984.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch 5, Division of Licensing.

[FR Doc. 84-552 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organization; Cincinnatic Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

American Family Corporation—Common Stock, $.10 Par Value (File No. 7-7260)
Arkansas Best Corporation—Common Stock, $1 Par Value (File No. 7-7261)
Arlen Realty & Development Corp.—Common Stock, $1 Par Value (File No. 7-7262)
BankAmerica Corporation—$2.875 Cumulative Special Preferred Stock (File No. 7-7263)
Basic Resources Corporation—Common Stock, $.05 Par Value (File No. 7-7264)
Block (H&R) Inc.—Common Stock, No Par Value (File No. 7-7265)
Century Telephone Enterprises, Inc.—Common Stock, $1 Par Value (File No. 7-7266)
Chromalloy American Corporation—Common Stock, $1 Par Value (File No. 7-7267)
Coachmen Industries Inc.—Common Stock, No Par Value (File No. 7-7268)
ConAgra, Inc.—Common Stock, $5 Par Value (File No. 7-7269)
Diamond Shamrock Corporation—Common Stock, $1 Par Value $4 Cumulative Convertible Preferred Stock (File No. 7-7270)
DMG, Inc.—Common Stock, $.01 Par Value (File No. 7-7271)
Dravo Corporation—Common Stock, $1 Par Value (File No. 7-7272)
Energy Exchange Corporation—Class A Common Stock, $.01 Par Value (File No. 7-7273)
Fay's Drug Company, Inc.—Common Stock, $.10 Par Value (File No. 7-7274)
First Wisconsin Corporation—Common Stock, $2.50 Par Value (File No. 7-7275)
Fox-Stanley Photo Products, Inc.—Common Stock, $1 Par Value (File No. 7-7276)
Golden Nugget, Inc.—Warrants (File No. 7-7277)
Grow Group, Inc.—Common Stock, $.10 Par Value (File No. 7-7278)
Guardian Industries Corp.—Common Stock, $1 Par Value (File No. 7-7279)
Hartmarx Corporation—Common Stock, $2.50 Par Value (File No. 7-7280)
Institutional Investors Corp.—Common Stock, No Par Value (File No. 7-7281)
International Harvester Co.—Warrants (File No. 7-7282)
Lamson & Sessions Co. (The)—Common Stock, $5 Par Value (File No. 7-7283)
Lehigh Valley Industries, Inc.—Common Stock, $.50 Par Value (File No. 7-7284)
Lifemark Corporation—Common Stock, $.01 Par Value (File No. 7-7285)
Maytag Company (The)—Common Stock, $2.50 Par Value (File No. 7-7286)
Mesa Offshore Trust—Units of Beneficial Interest (File No. 7-7287)
Minnesota Power & Light Company—Common Stock, No Par Value (File No. 7-7288)
Nicolet Instrument Corporation—Common Stock, $.25 Par Value (File No. 7-7289)
Northwest Energy Company—$2.125 Convertible Preferred $1 Par Value (File No. 7-7290)
NVF Company—Common Stock, $.01 Par Value (File No. 7-7291)
Orion Pictures Corporation—Common Stock, $.25 Par Value (File No. 7-7292)
Pacific Scientific Company—Common Stock, $1 Par Value (File No. 7-7293)
Pantry Pride, Inc.—Common Stock, $.01 Par Value (File No. 7-7294)
Prime Motor Inns, Inc.—Common Stock, $.05 Par Value (File No. 7-7295)
Rexnord, Inc.—Common Stock, $1 Par Value (File No. 7-7296)
Rubbermaid Incorporated—Common Stock, $1 Par Value (File No. 7-7297)
Safeguard Scientifics, Inc.—Common Stock, $.10 Par Value (File No. 7-7298)
Service Corporation International—Common Stock, $1 Par Value (File No. 7-7299)
Shaw Industries, Inc.—Common Stock, No Par Value (File No. 7-7300)
Southmark Corporation—Common Stock, $1 Par Value (File No. 7-7301)
Texfi Industries, Inc.—Common Stock, $1 Par Value (File No. 7-7302)
Washington National Corporation—Common Stock, $5 Par Value (File No. 7-7303)
Western Air Lines, Incorporated—Warrants (File No. 7-7304)
Wolvertine World Wide, Inc.—Common Stock, $1 Par Value (File No. 7-7305)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 84-565 Filed 1-9-84; 8:45 am]
BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applicatoins for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Detroit Edison Co. (File No. 7-7255)—
5[illegible]% Cumulative Convertible Preferred, $100 Par Value
9.32% Cumulative Perferred, $100 Par Value
$2.75 Cumulative Perferred, Series B, $1 Par Value
7.08% Cumulative Perferred, $100 Par Value
7.45% Cumulative Perferred, $100 Par Value
7.35% Cumulative Perferred, $100 Par Value
2.75% Cumulative Perferred, $1 Par Value
$2.28 Cumulative Perferred, $1 Par Value
9.72% Cumulative Perferred Series, $100 Par Value
12.80% Cumulative Perferred, $100 Par Value
15.68% Cumulative Perferred, $100 Par Value
$4.12 Cumulative Perferred, $1 Par Value
$4.00 Cumulative Perferred Series, $1 Par Value
$3.42 Cumulative Perferred Series, $1 Par Value
$3.40 Cumulative Perferred Series, $1 Par Value
$3.24 Cumulative Perferred Series, $1 Par Value
$3.13 Cumulative Perferred Series, $1 Par Value
Long Island Lighting Co. (File No. 7-7256—
5% Cumulative Perferred Series B, $100 Par Value
4.35% Cumulative Perferred Series E, $100 Par Value
5.44% Cumulative Perferred Series I, $100 Par Value
8.12% Cumulative Perferred Series J, $100 Par Value
8.30% Cumulative Perferred Series K, $100 Par Value
$2.47 Cumulative Perferred Series O, $25 Par Value
$2.43 Cumulative Perferred Series P, $25 Par Value
9.80% Cumulative Perferred Series S, $100 Par Value
$3.31 Cumulative Perferred Series T, $25 Par Value
$4.25 Cumulative Perferred Series U, $25 Par Value
$3.50 Cumulative Perferred Series V, $25 Par Value
$3.52 Cumulative Perferred Series W, $25 Par Value
Occidental Petroleum Corp. (File No. 7-7257)—
$14.625 Cumulative Preferred, $1 Par Value
15.50% Cumulative Non-Convertible Preferred, $1 Par Value
Tenneco, Inc. (File No. 7-7258)—

7.40% Cumulative Preferred, No Par Value
$11.00 Cumulative Preferred, No Par Value
Xerox Corp. (File No. 7-7259)—
$5.45 Cumulative Preferred, $1 Par Value

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-563 Filed 1-9-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Lake Shore Mines Ltd.—Common Stock, $1 Par Value (File No. 7-7249)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-564 Filed 1-9-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 17, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer

Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer

J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Form Submitted for Review

Title: Application for Section 502/503 Loans
Form No. SBA 1244
Frequency: On Ocassion
Description of Respondents: Certified Development Companies
Annual Responses: 912
Annual Burden Hours: 2,736
Type of Request: Revision

Dated: January 5, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management, Branch, Small Business Administration.

[FR Doc. 84-639 Filed 1-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2110]

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration. I find that the Counties of Dallas, Calhoun, Jefferson and Shelby in the State of Alabama constitute a disaster loan area because of damage resulting from tornadoes, severe storms and flooding beginning on December 2, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 13, 1984, and for economic injury until September 13, 1984, at:

U.S. Small Business Administration, 900 South 20th Street, Birmingham, Alabama 35256.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.500
Homeowners without credit available elsewhere	6.250
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (nonprofit organizations including charitable	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 16, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-638 Filed 1-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3039]

Delaware; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Delaware

FmHA, Number, and Date

SO–107, November 22, 1983.

Incident and Date

Drought and high temperatures beginning July 1, 1983, and continuing through August 31, 1983.

Counties: New Castle, Kent.

FmHA, Number and Date

SO–107, November 22, 1983.

Incident and Date

Excessive rainfall during period of March 1, 1983, through June 30, 1983, followed by extended drought beginning July 1, 1983, and continuing through August 31, 1983.

County: Sussex.

As a result of this designation, I have determined the above counties in the State of Delaware constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships, and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3039 for physical damage to eligible agricultural enterprises and for economic injury 6115.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (404) 221–5822.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59003)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-[illegible] Filed 1-9-84; [illegible] am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3042]

Louisiana; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Louisiana

FmHA Number, and Date

SO–109, November 28, 1983.

Incident and Date

Drought beginning July 1, 1983, and continuing through September 19, 1983.

Parishes: Bienville, Claiborne, East Carroll, Lincoln, Webster.

FmHA Number, and Date

SO–110, November 28, 1983.

Incident and Date

High winds, tornadoes, hail, excessive rainfall causing flooding, and a cold wet spring beginning May 15, 1983, through June 15, 1983, and a severe drought beginning July 1, 1983, and continuing through September 19, 1983.

Parishes: Franklin, Madison, Ouachita, Richland, Tensas, West Carroll.

As a result of this designation, I have determined the above parishes in the State of Louisiana constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1983. The number assigned to this disaster is 3042 for physical damage to eligible agricultural enterprises and for economic injury 6118.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527–7735 and in Texas (800) 442–7208.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59003)

Dated: December 23, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-[illegible] Filed 1-9-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #3043]

Michigan; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Michigan

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Drought beginning June 1, 1983, through September 1, 1983.

Counties: Alcona, Alpena, Cass, Cheboygan, Chippewa, Emmet, Kalamazoo, Luce, Mackinac,

Montmorency, Otsego, Presque Isle, Schoolcraft.

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Freezing temperatures occurring May 9, 1983 through May 26, 1983.

Counties: Benzie, Grand Traverse, Leelanau, Mason, Oceana.

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Freezing temperatures and drought occurring May 9, 1983, through September 1, 1983.

Counties: Allegan, Antrim, Berrien, Charlevoix.

As a result of this designation, I have determined the above counties in the State of Michigan constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injuiry disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 29, 1984. The number assigned to this disaster is 3043 for physical damage to eligible agricultural enterprises and for economic injury 6119.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 22, Atlanta, Georgia 30303, (404) 221–5822.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–634 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3040]

Montana; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Montana

FmHA, Number and Date

Incident and Date

SO–106 November 22, 1983.

Drought and high temperatures beginning April 1, 1983, and continuing through November 1, 1983.

Counties: Daniels, Garfield, Glacier, Richland, Roosevelt.

As a result of this designation, I have determined the above counties in the State of Montana constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3040 for physical damage to eligible agricultural enterprises and for economic injury 6116. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825 (800) 468–1710 and in California (800) 468–1713

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–630 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3041]

New Jersey; Declaration of Physical Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of New Jersey

FmHA, Number and Date

SO–108, November 22, 1983.

Incident and Date

Drought occurring from July through September 1983 and a hailstorm in Atlantic County occurring on June 16, 1983.

Counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Salelm, Somerset.

As a result of this designation, I have determined the above counties in the State of New Jersey constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-fare small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3041 for pysical damage to eligible agricultural enterprises and for Economic Injury 6117.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 1 Disaster Office, 15.01 Broadway, Fair Lawn, New Jersey 07410 (201) 794–8195

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-633 Filed 1-9-84; 8:45 am]

BILLING CODE 6025-01-M

[Declaration of Disaster Loan Area #2112]

New York; Declaration of Disaster Loan Area

321 East 22nd Street, New York City in the State of New York constitutes a disaster area because of damage resulting from a fire which occurred on November 9, 1983. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on March 5, 1984, and for economic injury until the close of business on October 3, 1984, at the address listed below:

U.S. Small Business Administration, 26 Federal Plaza, Room 3100, New York, New York 10278

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.750
Homeowners without credit available elsewhere	6.375
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 3, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-637 Filed 1-9-84; 8:45 am]

BILLING CODE 6025-01-M

[Declaration of Disaster Loan Area #3038]

North Dakota; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of North Dakota

FmHA, Number and Date

Incident and Date

SO–109 November 28, 1983.

Heavy rains, high winds, and hail on July 17, 1983.

County: Morton.

As a result of this designation, I have determined the above county in the State of North Dakota constitutes a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thrity days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA of the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3038 for physical damage to eligible agricultural enterprises and for economic injury 6114. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825 (800) 488–1710 and in California (800) 468–1713

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-640 Filed 1-9-84; 8:45 am]

BILLING CODE 6025-01-M

[Declaration of Disaster Loan Area #3037]

Oklahoma; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation. Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Oklahoma

FmHA, Number and Date

Incident & Date

SO-111 November 28, 1983.

Extended drought and high temperatures beginning June 1, 1983, and continuing through October 10, 1983. Cimarron County also suffered an unseasonable freeze in early September 1983.

Counties: Beckham, Cimarron, Comanche, Cotton, Custer, Greer, Jackson, Jefferson, Kiowa, Roger Mills, Stephens.

As a result of this designation, I have determined the above counties in the State of Oklahoma constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships, and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as folows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter or referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3037 for physical damage to eligible agricultural enterprises and for economic injury 6110. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051 (800) 527-7735 and in Texas (800) 442-7206

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-637 Filed 1-9-84; 8:45 am]

BILLING CODE 6025-01-M

TENNESSEE VALLEY AUTHORITY

Proposed Modifications in Guidelines on Dispersed Power Production

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed modifications in TVA's Dispersed Power Production Program and Guidelines.

SUMMARY: On April 20, 1981, TVA adopted a policy to encourage dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and the distributors of TVA power in implementation of the policy. The policy, program, and guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617). In light of recent changes in rates and power supply considerations, TVA is considering the development of new pricing arrangements for dispersed power production, along with various other revisions in the Dispersed Power Production Guidelines. Written comments are invited from interested persons and the comments will be considered in the development of the guideline changes.

DATE: Comments in writing must be received by 5 p.m., January 31, 1984, to be assured of being considered.

ADDRESS: Written comments should be sent to R. C. Crawford, Director, Division of Energy Use and Distributor Relations, Tennessee Valley Authority, 840 Power Building, Market Street, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB5, Knoxville, Tennessee 37902, (615) 632-4402.

SUPPLEMENTARY INFORMATION: TVA's current guidelines on dispersed power production were printed in the Federal Register on October 25, 1982 (47 FR 47355), with certain modifications of the guidelines being printed in the Federal Register on August 4, 1983 (48 FR 35549). The existing guidelines have been extended through March 31, 1984.

The proposed modifications include among other things (1) a new set of standard purchase prices, (2) optional negotiated purchase price arrangements, and (3) a modified standby rate schedule. Other proposed guideline modifications include provisions whereby (1) any dispersed power producer will be responsible for metering, interconnection, and handling costs whether the output is sold to TVA or a distributor of TVA power, (2) power supply contract demands may be reduced to reflect the addition of dispersed power production facilities, and (3) larger producers will furnish telemetering. The revised guidelines also will describe TVA's administration of the Dispersed Power Production Program and will include certain revisions of the electrical design and operating standards.

A draft of the proposed modified guidelines is printed below.

Dated: December 29, 1983.

W. F. Willis,

General Manager.

Dispersed Power Production Guidelines

These guidelines are intended to assist TVA and its distributors in developing arrangements for the effective utilization of dispersed power production in the Tennessee Valley. The guidelines are of a general nature and are intended to encompass a wide range of possibilities in this new area. As experience is obtained modifications to the guidelines may be necessary and may be made by TVA from time to time as it deems appropriate.

A. Facilities Owned by All Entities Except Distributors of TVA Power

1. *Criteria for Qualified Facilities.* Criteria for qualification of small power production facilities and cogeneration facilities are the same as set out in Federal Energy Regulatory Commission (FERC) rules (18 CFR Part 292).

2. *Purchase of Output from Qualified Facilities.* a. Owners of qualified facilities (qualified producers) will be allowed the option of either (1) using the output of their production facilities to supply their own requirements or (2) selling their surplus or entire output to the connecting electric system, either the local distributor of TVA power or TVA.

b. Owners of qualified facilities may make arrangements to sell their output under the then available standard purchase price schedule referred to in subsection A.3. or under negotiated prices and terms as described in subsection A.4.

c. The qualified producer's right to sell power to the distributor or TVA may be subject to temporary curtailments during system emergencies, and when as a result of operational circumstances, the delivery of such power would interfere with the safe operation of TVA's and/or distributor's respective power systems.

d. All qualified producers that desire to sell power to the distributors of TVA power or TVA will be required to execute contractual agreements.

3. *Standard Purchase Price for Power from Qualified Facilities within the TVA Area.* a. Qualified producers with facilities located within the area in which TVA or the distributors of TVA power are a source of power supply under provisions of the TVA Act may contract to sell the output of their facilities under the then available standard purchase price schedule as adjusted, modified, changed, or replaced by TVA from time to time (see attached Schedule CSPP or any subsequent replacements). Such price schedule adjustments, modifications, and changes (as well as replacements) will be made by TVA as it deems appropriate to reflect changes in projections for avoided energy and capacity costs, changing conditions on the TVA power system, and other power supply considerations.

b. To be eligible for payments under provisions currently included in Part C of the standard purchase price schedule, qualified producers must contract to supply capacity for at least 10 years and must provide reasonable security in accordance with subsection A.6.

c. Amounts payable under the standard purchase price schedule will

be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by the electric system as a result of making purchases from a qualified producer.

4. *Negotiated Purchase Price for Power from Qualified Facilities Located Within the TVA Area.* a. Qualified producers that contract to provide 1,000 kW or more of capacity from a production facility for a period of 10 years or longer are eligible for negotiated pricing arrangements. The negotiated pricing arrangements will permit producers to obtain assured prices for their power output for extended periods of time as described in subsections A.4.b. and A.4.c. In arriving at the price, consideration will be given to the benefits to the power system of such factors as dispatchability, maintenance scheduling, reduced line losses, curtailment rights during periods when deliveries would increase operating costs on the TVA system, and reliability of the project output during TVA onpeak load periods. Under negotiated pricing arrangements, contract terms may not exceed 20 years under subsection A.4.b. and 30 years under subsection A.4.c. Contracts may not be cancelled prior to original expiration dates. Moreover, qualified producers will provide reasonable security in accordance with subsection A.6.

b. All qualified producers that meet the requirements of subsection A.4.a. are eligible to negotiate for fixed purchase prices which will be applicable for each year during the first one-half of the contract term. The prices agreed upon to be paid for each year during such period will be based on the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during such period. For the last one-half of the contract term the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule.

c. All qualified producers that meet the requirements of subsection A.4.a. and that use renewable resources as their primary energy source are eligible to negotiate for a levelized fixed purchase price which will be applicable for the first two-thirds of the contract term. Under this pricing arrangement, the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during the first two-thirds of the contract term is determined as in subsection A.4.b. above. These projections will be utilized to determine a fixed price which will yield a sum of payments for project output over the first two-thirds of the contract term that is equivalent to the projected value of the project's output in terms of TVA's projected avoided costs over the same period. This will take into account the then applicable TVA discount rate. For the last one-third of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule. Renewable resources are solar, wind, and hydro energy, and all forms of biomass fuels, including solid waste as defined in Section 292.204(b) of FERC's Rules (18 C.F.R. Part 292). A primary energy source is defined herein as that source providing a 75-percent or greater level of the total energy input to the facility on an annual basis.

d. Amounts payable under the negotiated price arrangements will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by the electric system as a result of making purchases from a qualified producer.

5. *Purchase Price for Power from Qualified Facilities Located Outside the TVA Area.* Qualified producers, with facilities located outside the area in which TVA or the distributors of TVA power are a source of power supply and that are able to make arrangements with connecting utility systems to supply their output to TVA's power system, will receive payments based upon a negotiated price. The price agreed upon is not to exceed the avoided cost of energy to the TVA system and the value, if any, of power to be supplied in offsetting TVA's capacity needs over the term of the contract. Moreover, such producers will provide reasonable security in accordance with subsection A.6.

6. *Security to be Provided by Qualified Producers and Other Protection to Minimize Risks of Loss to the Electric Systems under Long-Term Arrangements.* Contracts will include appropriate provisions to minimize the risks of loss that may be incurred by the electric systems under long-term contracts under subsections A.3., A.4., and A.5. when the qualified producer fails to deliver power and energy as provided under the contract. This may include provisions such as those for payment of damages, setoffs against amounts to be paid qualified producers, and security.

If the qualifed producer fails to deliver power and energy as provided under the contract, the qualified producer will be obligated under the provisions of the contract to repay to the electric system an appropriate portion of the payments already made by the electric system. Such amount to be repaid, with interest, will reflect the amount and other characteristics of power actually received, and the period of delivery, all as compared with the contract terms and requirements.

The security to be provided will be a performance bond, a bank letter of credit, or other measures of security in such form, combination, and amount as deemed sufficient by the electric systems to offset the risks otherwise imposed on the purchasing system under such long-term contracts.

The specific arrangements under a long-term contract will reflect the varying risks associated with the negotiated contract terms and the pricing alternative utilized.

7. *Contract Demand Reductions for Power Customers Constructing Qualified Facilities That Provide Power for Inplant Use.* a. Customers of TVA that own qualified facilities, the constuction of which commenced on or after the effective date (————) of these guidelines, and which select inplant use of the output of their facilities, may request reductions in the amounts of power that they have contracted to purchase from TVA. If a reduction in contract demand is determined to be appropriate, it will be agreed to if the qualified producer agrees to utilize the output of the production facility to meet its own power requirements for the remaining duration of the power contract term. (Distributors may also agree to such reductions in contract demand for their customers constructing qualifying facilities.) The amount of reduction will be determined by TVA in its sole judgment and, as appropriate, by the distributors, as provided in subsections A.7.b. and A.7.c. Any customer seeking such a reduction shall supply information adequate in the judgment of TVA, or the distributor when appropriate, to determine the permissible reduction in the customer's contract demand. If a customer questions the amount of permissible reductions, TVA or the distributor, at the customer's expense, will make such inspection and any testing that will be useful in further evaluating the permissible reduction.

b. Customers owning qualified facilities using renewable resources, as defined in subsection A.4.c., as a primary energy source will be allowed offsetting reductions in the amount of power contracted for up to the demonstrated firm capacity of the qualified facilities.

c. Customers owning qualified facilities that do not use renewable energy resources as a primary energy source (as defined in subsection A.4.c.) will be allowed contract demand reductions upon showing that they are able to produce electricity from their production facilities with less Btu's of fuel input as compared with TVA's fossil-fired generating plants. The amount of permissible reduction will be determined by calculating the conservation of fuel resources obtained by displacing electrical production on the TVA system with the customer's own production. (Fuel resources required to produce electrical output at the qualified facility will be expressed as an incremental heat rate in Btu per kWh.)

The energy conserved in electrical production is expressed as the ratio of (1) the difference between the TVA annual average heat rate for fossil-fired generating plants and the average annual incremental heat rate for the qualified facility over (2) the TVA annual average heat rate for the fossil-fired generating plants. The amount of the permissible contract demand reduction is the product of the ratio and the demonstrated firm capacity of the qualified facility.

d. It is recognized there may be transmission and distribution facilities or portions thereof which were installed based on the customer's initial power supply requirements and which TVA or the distributor would not otherwise have installed if the customer had initially requested a lesser power requirement. Any contract demand reduction agreed to above shall be subject to arrangements being made for full reimbursement by the customer for the unamortized cost of any investments made in such power supply facilities that may not be recoverable over the remaining portion of the power contract term.

8. *Availability of Maintenance and Emergency Standby Power to Qualified Producers.* a. Maintenance and emergency standby power will be available to qualified producers within the area in which TVA or the distributors of TVA power are a source of power supply under provisions of the TVA Act.

b. Qualified producers contracting for the purchase of standby power requirements will do so at the applicable standby power charges. (See attached Standby Power Rate Schedule SP, which schedule may be adjusted, modified, or changed, as well as replaced, from time to time by TVA as it deems appropriate to reflect changes in the costs of providing such power.)

c. When the purchase of standby power requires the distributors or TVA to provide additional interconnection or metering facilities, qualified producers will pay for the additional costs of such facilities in accordance with subsections A.10.a. and A.10.c. of the guidelines.

9. *Sale of Power by TVA and the Distributors for Qualified Facilities.* a. Qualified producers located within the area served with TVA power may purchase their firm, supplemental, or interruptible power requirements under the standard rates then applicable for their customer classifications in the area in which their facilities are located.

b. Qualified producers will contract for their expected maximum supply requirements including, as appropriate, amounts that may be needed to compensate for scheduled or unscheduled loss of output from their own production facilities when a particular qualified producer elects not to purchase standby power.

c. Neither TVA nor the distributors of TVA power will contract or otherwise become obligated to sell power to any qualified producers that are not located within the area in which TVA power can be made available under the provisions of the TVA Act.

10. *Responsibility for Interconnection, Transmission, and Metering Costs.* a. Owners of qualified facilities will be required to pay for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) to the extent that any such additional costs are in excess of those that the distributors of TVA power and TVA would have incurred if the qualified producer's output had not been purchased. Qualified producers with facilities capable of producing in excess of 15,000 kW will be required to provide telemetering facilities to supply information on the power output of their production facilities to the purchasing system.

b. Existing customers of the distributors or TVA that subsequently install qualified facilities may also be required to compensate the distributor or TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities that are rendered surplus by changes in the customer's supply requirements. When such surplus facilities are severable from distributor's or TVA's system, the qualified producer will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

c. For the transmission and distribution facility costs specified in subsections A.10.a. and A.10.b. above, the qualified producer will be required to reimburse the electric system through (1) monthly payments for periodic operation and maintenance of equipment and (2) a lump sum payment, or, at the producer's option, equivalent monthly payments, for any capital equipment acquisition and installation costs. When the monthly payment option under (2) above is elected, the electric system may include an amount in such payment based on the electric system's cost of money at the time that each facility investment was made.

11. *Compliance with Safety, System Protection, and System Operating Guidelines—For Qualified Producers Operating in Parallel with Connecting Electric Systems (see also Section D for Supplemental Details and Requirements for Parallel and Nonparallel Operation).* a. Qualified producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on the distributors' or TVA's systems.

b. Qualified producers will cooperate with the distributors and TVA in developing mutually acceptable operating procedures for delivery of the output of the qualified producers' facilities.

c. Qualified producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, generation, and interconnection equipment installed by qualified producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's and distributors' systems.

e. All qualified producers that desire to operate their generation facilities in parallel with the electric systems of the distributors of TVA power or TVA will be required to execute contractual agreements.

B. Facilities Owned by Distributors of TVA Power

1. *Criteria for Authorized Facilities.* a. Distributors will be permitted to develop, own, and operate facilities that meet the qualifying criteria referred to in subsection A.1. with the exception of criteria in FERC's rules limiting electric

system participation in facility ownership; provided the distributors comply with the following additional requirements.

b. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities with design production capacities in excess of (1) 80 MW for any individual facility or (2) any amount that would cause the aggregate production capacity of all production facilities owned by the distributor to exceed 10 percent of the distributor's peak capacity requirements projected for the year in which the facilities become operational.

c. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities for which the ongoing annual revenue requirements in the event of facility failure will cause the projected ongoing annual revenue requirements for all production facilities of the distributor to exceed 10 percent of the distributor's projected annual net revenues from its electric operations (resale electric revenues less total power supply costs) during any year after the facilities become operational.

d. In seeking TVA's prior approval of projects that exceed the limitations in subsections B.1.b. and B.1.c. above, it will be the responsibility of the distributor to notify TVA in writing of the proposed undertaking and to provide TVA with such data and information as TVA might reasonably request for the purpose of evaluating the technical and financial feasibility of the proposed project. If the distributor has received no response from TVA within 90 days from the date that the distributor submitted such notice and information to TVA, the distributor may proceed with the proposed project.

2. *Purchase of Output from Distributor-Owned Facilities.* a. Distributors owning authorized facilities will be allowed the option of either (1) using the output to partially supply their own power requirements or (2) selling their surplus or entire output to TVA.

b. Distributors may make arrangements to sell the output of their facilities to TVA under the then available standard purchase price schedule referred to in subsection B.3. or under negotiated prices and terms as described in subsection B.4.

c. Distributors' right to sell power to TVA may be subject to temporary curtailments during system emergencies and when, as a result of operational circumstances, the delivery of such power will interfere with the safe operation of TVA's bulk power supply system.

3. *Standard Purchase Price for Power from Distributor-Owned Facilities.* a. Distributor producers may contract to sell the output of their facilities under the then available standard purchase price schedue as adjusted, modified, changed, or replaced by TVA from time to time (see attached Schedule CSPP or any subsequent replacements). Such price schedule adjustments, modifications, and changes (as well as replacements) will be made by TVA as it deems appropriate to reflect changes in projections for avoided energy and capacity costs, changing conditions on the TVA power system, and other power supply considerations.

b. To be eligible for payments under provisions currently included in Part C of the Standard purchase price schedule, distributor producers must contract to supply capacity to the TVA power system for at least 10 years and must provide reasonable security in accordance with subsection B.5.

c. Amounts payable under the standard purchase price schedule will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by TVA as a result of making purchases from the distributor producer.

4. *Negotiated Purchase Prices for Power from Distributor-Owned Facilities.* a. Distributor producers that contract to provide 1,000 kW, or more, of capacity to TVA from a production facility for a period of 10 years or longer are eligible for negotiated pricing arrangements. The negotiated pricing arrangement will permit distributor producers to obtain assured prices for their power output for extended periods of time as described in subsections B.4.b. and B.4.c. In arriving at the price, consideration will be given to the benefits to the power system of such factors as dispatchability, maintenance scheduling, reduced line losses, curtailment rights during periods when deliveries would increase operating costs on the TVA system, and reliability of the project output during TVA onpeak load periods. Under negotiated pricing arrangements, contract terms may not exceed 20 years under subsection B.4.b. and 30 years under subsection B.4.c. Contracts may not be cancelled prior to original expiration dates. Moreover, distributor producers will provide reasonable security in accordance with subsection B.5.

b. Distributor producers that meet the requirements of subsection B.4.a. are eligible to negotiate for fixed purchase prices which will be applicable for each year during the first one-half of the contract term. The prices agreed upon to be paid for each year during such period will be based on the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during such period. For the last one-half of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule.

c. All distributor producers that meet the requirements of subsection B.4.a. and that use renewable resources as their primary energy source are eligible to negotiate for a levelized fixed purchase price which will be applicable for the first two-thirds of the contract term. Under this pricing arrangement the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during the first two-thirds of the contract term is determined as in subsection B.4.b. above. These projections will be utilized to determine a fixed price which will yield a sum of payments for project output over the first two-thirds of the contract term that is equivalent to the projected value of the project's output in terms of TVA's projected avoided costs over the same period. This will take into account the then applicable TVA discount rate. For the last one-third of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule. Renewable resources are solar, wind, and hydro energy, and all forms of biomass fuels, including solid waste as defined in Section 292.204(b) of FERC's Rules (18 CFR Part 292). A primary energy source is defined herein as that source providing a 75-percent or greater level of the total energy input to the facility on an annual basis.

d. Amounts payable under the negotiated price arrangements will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by TVA as a result of making purchases from a distributor producer.

5. *Security to be Provided by Distributor Producers and Other Protection to Minimize Risks of Loss to TVA Under Long-Term Arrangements.* Contracts will include appropriate provisions to minimize the risks of loss that may be incurred by TVA under subsections B.3. and B.4. when the distributor producer fails to deliver power and energy as provided under the

contract. This may include provisions such as those for payment of damages, setoffs against amounts to be paid distributor producers, and security.

If the distributor producer fails to deliver power and energy as provided under the contract, the distributor producer will be obligated under the provisions of the contract to repay to TVA an appropriate portion of the payments already made by TVA. Such amount to be repaid, with interest, will reflect the amount and other characteristics of power actually received, and the period of delivery, all as compared with the contract terms and requirements.

The security to be provided will be a performance bond, a bank letter of credit, or other measures of security in such form, combination, and amount as deemed sufficient by TVA to offset the risks otherwise imposed on TVA under such long-term contracts.

The specific arrangements under a long-term contract will reflect the varying risks associated with the negotiated contract terms and the pricing alternative utilized.

6. *Availability of Maintenance and Emergency Standby Power to Distributors.* a. TVA will make arrangements for the supply of standby power to distributors for resale to qualified producers interconnected with their systems. Qualified producers contracting for the purchase of standby power requirements will do so in accordance with subsection A.8.

b. When distributors own production facilities and elect to use the output of their facilities to reduce their supply requirements for TVA or when distributors contract with qualified producers for the same purpose and the aggregate supply of a particular distributor from other than TVA sources exceeds 10 percent of the distributor's total peak supply requirements, TVA reserves the right to require the distributor to purchase from TVA such amounts of standby power as TVA determines to be reasonable. In the event this level of supply is achieved through dependence upon facilities operated by customers of the distributor, TVA will work with distributor to develop an appropriate method for allocating the charges for said supply of standby power among those customers.

c. When the purchase of standby power requires TVA to provide additional interconnections or metering facilities, distributors will pay for the additional costs of such facilities in accordance with subsection B.8.a.

7. *Sale of Power to Distributors Owning Authorized Production Facilities or Purchasing Partial Requirements from Qualified Producers.*

a. Distributors obtaining part of their total supply requirements from their authorized facilities or their customers' qualified facilities may purchase the balance of their supply requirements from TVA at the then current wholesale rate for municipal and cooperative distributors of TVA power; provided, however, as indicated in subsection B.6.b. above, distributors that purchase less than 90 percent of their peak capacity requirements from TVA may be required to purchase reasonable amounts of standby power from TVA.

b. For planning purposes, distributors should anticipate that the structure of TVA's wholesale rate may be changed to track TVA production costs from time of use or peak responsibility standpoints and that these changes could affect the economics of distributor-owned facilities.

8. *Responsibility for Interconnection, Transmission, and Metering Costs.* a. Distributors that acquire production facilities for partial supply of their own requirements or for sale of power to TVA will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributor had not acquired the production facilities. Distributor producers with facilities capable of producing in excess of 15,000 kW will be required to provide telemetering facilities to supply information on the power output of their production facilities to TVA.

b. Distributors that purchase for their own use output from qualifying facilities owned by their customers will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) imposed on TVA to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributors did not purchase part of their requirements from qualified producers. Likewise, distributors shall require qualified producers to bear such additional costs resulting from their purchase commitments to qualified producers.

c. Distributors that operate production facilities or purchase output from their customers for their own requirements may be required to compensate TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities owned by TVA that are rendered surplus by any reduction in the distributor's supply requirements from TVA. When such surplus facilities are severable from TVA's system the distributor will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

9. *Compliance with Safety, System Protection, and System Operating Guidelines (see also Section D for Supplemental Details).* a. Distributor producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on TVA's system.

b. Distributor producers will cooperate with TVA in developing mutually acceptable operating procedures for integrating the output of their production facilities with the output from TVA's production facilities.

c. Distributor producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, generation, and interconnection equipment installed by distributor producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's system.

C. Program Administration

1. *General Program Administration.* a. TVA develops and administers these guidelines which are applicable for purchases by TVA and by distributors of TVA power from dispersed power production facilities and to the utilization of dispersed power production on the region's power system.

b. Distributors of TVA power purchase power from qualified facilities in accordance with the applicable provisions of these guidelines including, but not limited to, those involving standard purchase prices or negotiated purchase prices, and the safety and electric system protection requirements.

c. Upon TVA's request distributors, prior to execution, shall submit for TVA review and approval any agreements with qualified producers for the purchase of their output, including any related arrangements for the sale of standby power to such producers.

2. *Negotiated Pricing Arrangements by Distributors.* a. The negotiated pricing arrangements as provided for in these guidelines require information as to TVA's avoided capacity and energy costs. TVA will develop this and such other information as the distributors

may reasonably request to assist them in evaluating power sales proposals from qualified producers.

b. At the distributor's request, TVA will assist in the development of the negotiated pricing arrangements for qualified producers.

3. *Contract Demand Reductions for Distributor Customers.* a. Distributors at the request of their customers may, consistent with the provisions of subsection A.7., reduce contract demands of existing customers that install qualified facilities providing power for inplant use.

b. In such cases, distributors will make a good faith effort to determine contract demand reductions that are permitted under these guidelines.

c. Distributors will obtain from qualified producers the data needed in making determinations as to the appropriate reductions as provided for under these guidelines, including any necessary inspections and testing at the customer's expense.

d. At a distributor's request, TVA will assist in determining the appropriate reduction as provided for under these guidelines.

4. *Power Deliveries to Distributors for TVA's Account.* a. When an owner of a qualified facility connected to a distributor's power distribution facilities elects to sell its power output under these guidelines to TVA rather than to the connecting distributor and such arrangements are also acceptable to the distributor, the distributor will enter into appropriate contractual arrangements with TVA and the qualified producer for such purposes.

b. Under such an arrangement, the qualified producer will repay the distributor for any additional transmission, distribution, and administrative costs that the distributor incurs as a result of such purchases by TVA from the qualified producer.

c. The amount of any such payments by the qualified producer will be determined by the distributor in consultation with TVA taking into consideration such factors as operation and maintenance of distributor's facilities, changes in distributor's transmission and distribution losses, and meter reading and billing costs.

5. *Contract Amendements and Arrangements for Distibutors.* a. TVA will enter into contract amendments or agreements as appropriate to recognize that there may be limited distributor ownership and operation of production facilities meeting the critiera set forth in subsection B.1. and that distributors may purchase power from qualifying cogeneration facilities and qualifying small power production facilities as referred to in Section A. Such agreements with a distributor will recognize the responsibility of the distributor to TVA for certain additional costs TVA may incur if (without sufficient advance notice for it to have been included in power system plans) TVA has to supply replacement power to the distributor in the event of extended nonperformance of the production facilities of the distributor or a qualifying producer supplying power for use on the distributor's system.

b. Distributors are permitted to use up to 2 percent of their annual net revenues (resale electric revenue less wholesale power cost) for research and demonstration activities, including the evaluation of proposed dispersed power production projects. Activities requiring aggregate expenditures above this amount would be subject to prior review and approval by TVA.

c. When distributors seek TVA's prior approval of research and development expenditures that exceed the limitations in subsection C.5.b. above, it will be the distributor's responsibility to notify TVA in writing of the proposed expenditure and to provide TVA with such data and information as TVA might reasonably request for the purpose of evaluating the proposed research and development activity. If the distributor has received no response from TVA within 90 days from the date the distributor submitted such notice and information to TVA, the distributor may proceed with the proposed expenditure.

d. Distributors will provide TVA with reasonable advance notice of all power production faciltities that either the distributors or their customers plan to acquire and coordinate with TVA the development of any necessary power supply and operating arrangements. Additionally, after such facilities commence operations, the distributors will be responsible for notifying TVA promptly of any anticipated change in the capability of such production facilities to continue to supply power.

D. Supplemental Safety and System Protection Requirements Applicable to Owners of Production Facilities

These requirements shall be applicable to assure system safety and reliability of interconnected operations. The adequacy of safety and system protection facilities for interconnection with producers as provided herein will be determined by TVA and, as appropriate, by the distributors but only insofar as necessary to determine the compatibility of such facilities with the connecting electric system. TVA and the distributors will apply such other safety and system protection requirements as may be determined to be appropriate.

It is recommended that the connecting electric system, TVA or the distributor, emphasize to prospective producers the importance of discussing plans with the connecting electric system before purchasing or installing equipment.

1. *Fault Protection.* a. Adequate protection facilities shall be provided by the owner to protect the connecting electric system from fault currents originating from the production facility. The owner will provide adequate fault current interruption capability with secondary relaying and control circuits.

b. It shall be the responsibility of the owner to provide adequate protection for its production facility from fault currents originating on the connecting electric system because of a fault in the production facility.

2. *Overvoltage and Undervoltage.* a. It shall be the responsibility of the owner to provide adequate protection or safeguards to prevent damage to the connecting electric system caused by overvoltage originating from the operation of the production facility.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from inadvertent overvoltages originating on the connecting electric system.

c. It shall be the responsibility of the owner to provide facilities adequate to prevent the production facility from being damaged by undervoltage conditions on the connecting electric system.

3. *Synchronization and Isolation.* a. the owner shall provide adequate facilities for the proper synchronization of its production facility with the connecting electric system such that synchronism is accomplished, either manually or by automatic means, without causing undesirable currents or voltages (including current surges and voltage dips) on the connecting electric system.

b. The owner shall provide means for properly disconnecting the production facility from the connecting electric system for system line interruptions, for occasions when the connecting electric system becomes isolated from its source of generation, and for the proper resynchronization of the production facility after such interruptions or isolation. Rapid restoration of service following a temporary interruption using automatic circuit breaker reclosing is a standard utility practice.

c. To provide assurance that the connecting electric system cannot be energized from the production facility during outages on the connecting

electric system, the owner of the production facility must provide equipment for manually disconnecting and isolating the production facility. This will help provide safety for the connecting electric system's employees performing emergency repairs or routine maintenance to its lines. Such equipment must be capable of preventing the production facility from energizing the system's lines and must include a device (or devices) which can be locked so as to isolate the production facility and prevent all means of backfeed into the connecting electric system.

d. The owner may install generating facilities to supply a portion of its load without operating its generating facilities in parallel with the electric system. In these instances, the owner must verify to the electric system that the switches used for transferring the load from the electric system lines to the onsite generation facilities will meet the electric system's requirements for non-parallel operation. Also, the owner must verify there is no possibility of backfeed to the electric system's lines. If it is found that the generating facilities can backfeed, the facilities must meet the requirements for parallel operation.

4. *Grounding.* The facilities (generator, connecting transformer, etc.) that connect to the electric system must be grounded in such a way that coordination is maintained with the relay protection system in use by the connecting electric system and the connected facilities will be protected from deleterious voltages during fault conditions.

5. *Harmonics.* a. Adequate design precautions must be taken by the owner to prevent excessive and deleterious harmonic voltages or currents caused by the production facility from occurring on the connecting electric system.

b. The production facility must be designed to operate with normal harmonic voltages and currents that originate from the connecting electric system.

6. *Reactive Power.* The production facility shall be operated to supply appropriate amounts (as hereinafter described) of reactive power during onpeak hours and to supply no reactive power, or to consume appropriate amounts (as hereinafter described) of reactive power during offpeak hours. The specific reactive power requirements to be met by the production facility will be determined by the connecting electric system, taking into consideration such factors as production facility size and equipment design limitations, electric system voltage levels, and other conditions on the electric system. If the production facility is unable to meet such requirements due to equipment design or other such limitations for which reasonable corrective measures cannot be taken by the producer, the connecting electric system, as it deems necessary, may provide the required reactive power at the expense of the owner of the production facility.

The connecting electric system reserves the right to install metering equipment or to make periodic tests to determine the reactive power flows to or from the owner's production facility and to mutually agree with the owner of the production facility to requirements differing from those described in the above paragraph. The onpeak hours and offpeak hours referred to above are the same as those provided in the then effective standard price schedule.

7. *Voltage Regulation.* The owner shall provide necessary voltage regulation equipment to prevent the production facility from causing excessive voltage variation on the connecting electric system. The voltage variation caused by the production facility must be within ranges capable of being handled by the voltage regulation facilities used by the connecting electric system.

8. *Voltage Flicker.* The voltage surges caused by the operation, synchronization, or isolation of the production facility shall be within the standards of frequency of occurrence and magnitude established by the connecting electric system to prevent undue voltage flicker on the connecting electric system.

9. *Voltage Balance.* a. The voltage produced by the production facility must be balanced if it is a three-phase installation. The waveform must be sinusoidal and compatible with the operation of the connecting electric system.

b. The owner will be responsible for protecting its production facility from inadvertent phase unbalance in the connecting electric system's voltage.

10. *Operational Oversight.* a. The owner will be responsibile for operating its production facility in a manner that will not cause undesirable or harmful effects to the connecting electric system or its other customers.

b. The owner will not begin initial operation of the production facility until it has received written approval from the connecting electric system. This approval shall not be construed as confirming or endorsing the design or as any warranty of safety, durability, or reliability of the production facility equipment.

c. The owner supply the connecting electric system with diagrams and specifications describing the production facility and related interconnection, operation, and protective equipment and any proposed changes to the aforesaid facilities. These diagrams and specifications shall be consistent with good engineering practice and shall specify the equipment to be used (relays, breakers, transformers, generators, etc.) by manufacturer, model, type, size, impedance, and other pertinent information.

For any production facility with output greater than 1,000 kW, the control and protective equipment used by the owner shall be utility class and shall conform to the latest revision of ANSI/IEEE C37.90, IEEE Standard Relays and Relay System Associated with Electric Power Apparatus. Specifications and/or instruction manuals for such control and protective equipment shall be made available by the owner upon request by the concerning electric system.

d. The connecting electric system shall have the right at any time to inspect and test the operation of any control and protective equipment owned and maintained by the owner.

e. If, subsequent to initial operation, a production facility is unable to comply with the provisions for safety, system protection, and production facility operation contained in this Section D, or is otherwise operated in an unsafe manner, the production facility may be disconnected from the connecting electric system until the problem has been corrected.

11. *Metering.* The type of metering and associated equipment shall be determined by the connecting electric system (and purchasing electric system, if different). Selection of metering arrangements will be based upon the lowest cost for equipment and arrangements that will also meet the electric systems' reasonable data requirements. Operation, maintenance, and testing of the meeting equipment may be required from time to time by the electric systems. When tests are requested by the owner of a production facility, such test shall be at the owner's expense.

12. *Dc Current Injection.* Adequate design precautions must be taken by the owner of the production facility to prevent injecting direct current into the connecting electric system. Where dc current injection is a possibility, methods such as isolation transformers, monitoring devices, or other decoupling devices should be utilized by the owner of the production facility to prevent dc current injection.

13. *Single-phase generators.* Single-phase generators larger than 100 kW will be permitted to be connected to distribution facilities (26 kV and below) only after a determination by the connecting electric system that such connection will not interfere with the operation of the distribution circuit. Single-phase generators will not normally be permitted to be connected to subtransmission and transmission (46 kV and above) facilities.

14. *Indemnification.* The owner of the production facility will release, indemnify, and save harmless the connecting electric system and the purchasing electric system if different, and their respective agents and employees from all liability, claims, demands, causes of action, costs, or losses for personal injuries, property damage, or loss of life or property, sustained by the owner, its agents and employees, or third parties rising out of or in any way connected with the installation, operation, maintenance, repair, defect, or failure of the production facility and associated equipment and facilities.

15. *Insurance.* The owner of the production facility will carry general liability insurance (in such minimum amounts as may be determined appropriate by the connecting and purchasing electric systems) to provide protection against liability, claims, demands, causes of action, costs, or losses as described in subsection D.14. above (including losses sustained by the connecting electric system and the purchasing electric system, and their respective agents and employees). The owner of the production facility, at the request of the electric systems, will provide the electric systems with evidence of the continuing effectiveness of such insurance during the term of the contract. The owner of the production facility, at the request of the electric systems, will name the electric systems, and their respective agents and employees, as additional insureds.

Dispersed Power Price Schedule CSPP

(——————— 1984)

Availability

This schedule shall apply to purchases by TVA or distributors of TVA power from cogeneration and small power production facilities within the TVA area in accordance with the guidelines for TVA's Dispersed Power Production Program.

Character of Purchased Power

Alternating current, single, or three-phase, 60 hertz. Power will be purchased at the highest voltage available in the vicinity or other voltage agreed to by the purchasing electric system.

Standard Prices

Part A

Price for power and energy when no time-differentiated metering is utilized.

All kilowatthours per month at 1.710 cents per kWh.

Part B

Price for power and energy when time-differentiated metering is utilized.

All onpeak kilowatthours per month at 1.790 cents per kWh.

All offpeak kilowatthours per month at 1.660 cents per kWh.

Part C

Price for power and energy when time-differentiated metering is utilized. (Only available for purchases under contracts having terms of 10 years or longer.)

All onpeak kilowatthours per month at 2.380 cents per kWh.

All offpeak kilowatthours per month at 1.660 cents per kWh.

Revisions

All of the above prices are subject to revision by TVA annually to reflect, as TVA deems appropriate, TVA's then current projections of avoided energy costs and avoided capacity costs, if any, for the next annual period in which the power and energy is to be supplied.

The onpeak price in Part C above contains a capacity component based on capacity cost projections for an extended period. This portion of the price will be revised annually to reflect changes in such capacity cost projections.

Determinations of Onpeak and Offpeak Hours

Except for Saturdays and Sundays and the weekdays that are observed as Federal holidays for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, onpeak hours for each day shall be 10:00 a.m. to 10:00 p.m. during calendar months of May through September and from 6:00 a.m. to 12:00 noon and from 4:00 p.m. to 10:00 p.m. during all other calendar months. All other hours of each day and all hours of such expected days shall be offpeak hours. Such times shall be Central Standard Time or Central Daylight Time, whichever is then in effect. The onpeak and offpeak hours under this price schedule are subject to change by TVA. In the event TVA determines that such changes onpeak and offpeak hours are appropriate, it shall so notify producers supplying power to TVA hereunder and distributors at least 12 months prior to the effective date of such changed hours, and the distributors shall promptly notify producers supplying power to them hereunder.

Contract Requirement

Contracts are required for purchases hereunder. For purchases under Part A and Part B above contracts shall extend for a term of not less than one year, provided however that they may be cancelled by the producer upon not less than 90 days' advance written notice to the purchasing electric system. For purchases under Part C above contracts shall extend for a term of not less than 10 years.

Payment

Representatives of TVA or distributor shall on a monthly basis read the meters at the point of delivery and provide the owner of the qualified facility with a detailed accounting of the amount of power and energy supplied (including, as appropriate, metered amounts during onpeak and offpeak periods) as determined by TVA, or distributor. From these readings, calculations will be made to determine the amount to be paid for power and energy supplied by the qualified facility and payment will be rendered promptly to the owner of the qualified facility in accordance with the terms of the contract.

Standby Power Rate Schedule SP

(——————— 1984)

Availability

Available for small power producers and cogenerators that qualify under TVA's Dispersed Power Production Program and that elect to purchase standby service for schedule maintenance and emergency standby power supply. Service is subject to notice and scheduling requirements set out in the contract.

Character of Standby Service

Alternating current, single or three-phase, 60 hertz. Power supplied shall be delivered at the highest voltage available in the vicinity, unless at the customer's request a lower standard voltage is agreed upon.

Standby Power Charges

Reservation charges:

$0.71 per month per kilowatt of customer's standby contract demand, plus

$0.28 per month per kilowatt of aggregate production capacity of customer's facilities.

Demand Use Charges:

$1.41 per week per kilowatt of maintenance standby power prescheduled by customer, plus

$2.82 per week per kilowatt of emergency standby power used by customer.

Standby demand use charges will be prorated on a daily basis for periods of less than one week. All energy deemed to be taken with standby power will be billed as firm energy at the charges applicable under the standard general power rate schedule available for service to the customer. (For customers for whom firm power is also being made available, the amounts of standby power scheduled or taken will be subtracted from the customer's measured demand during such periods for purposes of determining the customer's billing demand for firm power.)

The above reservation and demand use charges may be increased or decreased by TVA, effective with the effective date of any adjustment addendum published by TVA or any Rate Change, to reflect changes in the cost of standby service.

Facilities Rental

There shall be no facilities rental charge under this rate schedule for delivery at bulk transmission voltage levels of 161 kV or higher. For delivery at less than 161 kV, there shall be added to the customer's bill a facilities rental charge. This shall be 33 cents per kW per month except for delivery at voltages below 46 kV, in which case the charge shall be 87 cents per kW per month for the first 10,000 kW and 68 cents per kW per month for the excess over 10,000 kW. Such charge shall be applied to the customer's then effective standby contract demand except that, for a customer for whom firm power is also being made available, and whose firm power takings are also subject to facilities rental charges under the provisions of the standard general power rate schedule, calculations for determining the facilities rental charges for firm power and for standby power shall be made as follows. The standby contract demand will be added to the higher of (1) the highest billing demand for firm power established during the latest 12-consecutive-month period or (2) the customer's then effective firm contract demand, and the amounts in cents per kW set out above shall be applied to the total. The facilities rental charge shall be in addition to all other charges under this rate schedule. Such amounts in cents per kW may be increased or decreased by TVA, effective with the effective date of any Adjustment Addendum published by TVA or any Rate Change, to reflect changes in the costs of providing for delivery at voltage levels below 161 kV.

Contract Requirement

Customers to whom this rate schedule is applicable shall be required to execute contracts, and such contracts shall be for a term not to exceed 10 years.

Payment

Bills under this rate schedule will be rendered monthly. Any amount of bill unpaid after due date specified on bill may be subject to additional charges under Distributor's standard policy.

Single-Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and metering point, and at a single voltage. If service is supplied to the same customer through more than one point of delivery or at different voltages, the supply of service at each delivery and metering point and at each different voltage shall be separately metered and billed under this rate schedule.

Service is subject to Rules and Regulations of the Distributor and guidelines applicable under TVA's Dispersed Power Production Program.

[FR Doc. 84-575 Filed 1-9-84; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Executive Steering Committee of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows:

Opening remarks.

Presentation of Task Group Staff Studies, including recommendations:

Task Group 1-5.3—Common Airspace and Procedures Integration

Task Group 2-1.2—Flow Management

Task Group 2-2.2—Traffic Segregation by Category/IFR Departure Routes

Task Group 2-4.3—Helicopter Charts

Unfinished business.

DATE: January 31, 1984, convenes at 10 a.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 24, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on January 4, 1984.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 84-540 Filed 1-9-84; 8:45 am]
BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

University Affiliation Program; Application Notice for Fiscal Year 1984

Correction is hereby made to the notice issued in the Federal Register, Vol. 48, No. 245, December 20, 1983, appearing on page 56301.

Inquiries concerning programming and budget for the Near East/South Asia should be addressed to: Dr. Ann Bos Radwan, United States Information Agency, E/AEN, 301 4th Street SW., Washington, D.C. 20547 (202) 485-7368.

Dated: January 5, 1984.

Dina Andrews,

Management Analyst.

[FR Doc. 84-616 Filed 1-9-84; 8:45 am]
BILLING CODE 0230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Trade Commission	1
Parole Commission	2, 3
Securities and Exchange Commission	4

1

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, January 12, 1984

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Thompson Medical Company, Docket No. 9149.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Thompson Medical Co., Docket No. 9149.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

Emily H. Rock,

Secretary.

[S. 84-654 Filed 1-6-84; 1:45 pm]

BILLING CODE 6750-01-M

2

PAROLE COMMISSION

TIME AND DATE: Tuesday, January 17, 1984—9:00 a.m. to 1:00 p.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Appeals to the Commission of approximately 24 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory releases.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

Dated: January 6, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[S. 84-697 Filed 1-6-84; 2:45 pm]

BILLING CODE 4410-01-M

3

UNITED STATES PAROLE COMMISSION

TIME AND DATE: Tuesday, January 17, 1984—2:00 p.m. to 7:00 p.m. Wednesday, January 18, 1984—8:30 a.m. to 11:30 a.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open meeting of October 18 through October 20, 1983.
2. Reports from the Chairman, Vice Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Chief of Case Operations, and the Administrative Section.
3. 28 CFR 2.20 Offense Severity Items:
(a) Export offenses.
(b) Manufacturing of synthetic illicit drugs and possession, manufacturing, or distribution of chemical precursors used in illicit drug manufacturing.
4. 28 CFR 2.20. The grading of State offenses committed at or about the same time as the current Federal offense.
5. Proposal that Notices of Action be sent directly to prisoners and representatives.
6. Procedures Manual (2.28-03)—clarification of when a National Appeals Board decision becomes official Commission action.
7. Ten-year reconsideration hearings.
8. Proposal that an experimental community service program be conducted.

Consent Agenda

The following Consent Agenda items, only if previously requested to be opened for discussion at the meeting on or before January 13, 1984:

9. Consideration of amendments to Rules and Procedures Manual in R&P Memo 84/1 dated December 9, 1983.
10. Adoption of Training Aids—005 (Clinical Judgment), 003 (Drug Purity), and 007 (Grading Assault Offenses) all dated January 1, 1984.
11. Proposed amendment to 28 CFR 2.19(c) concerning use of charges on which a prisoner has been acquitted.
12. 28 CFR 2.20—clarification of the definition of "protected person."
13. Use of sworn testimony at revocation hearings.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492-5930.

Dated: January 6, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[S. 84-698 Filed 1-6-84; 2:45 pm]

BILLING CODE 4410-01-M

4

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 January 9, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Wednesday, January 11, 1984; at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, 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)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Longstreth, Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, January 11, 1984, 10:00 a.m., will be: Consideration of whether to adopt Rule 17ad-14 under Section 17A(d)(1) of the Securities Exchange Act of 1934. That rule would require registered transfer agents acting for bidders as "tender agents"—i.e., as "depositaries" during tender offers or as "exchange agents" during exchange offers—to establish special accounts with certain securities depositories. These accounts would

permit depository participants (e.g., broker-dealers and banks) to deliver tendered securities to, or receive withdrawn securities from, the tender agent by book-entry. Tender agents would have to establish these accounts with all registered securities depositories that have Commission-approved automated tender offer procedures, within two business days after the tender or exchange offer begins. For further information, please contact Thomas V. Sjoblom at (202) 272-7379.

The subject matter of the closed meeting scheduled for Wednesday, January 11, 1984, following the open meeting, will be: Formal order of investigation. Institution of injunctive action.

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 POSPONED, PLEASE CONTACT: Jerry Marlatt at (202) 272-2092.

January 5, 1984.

George A. Fitzsimmons,

Secretary.

[S 84-673 Filed 1-6-84; 1.45 pm]

BILLING CODE 8010-01-M

Reader Aids

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-340 3
341-556 4
557-860 5
861-1044 6
1045-1170 9
1171-1320 10

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12369 (Continued by EO 12455) 345
12382 (Continued by EO 12454) 343
12387 (Superseded by EO 12456) 347
12428 (Amended by EO 12457) 865
12454 343
12455 345
12456 347
12457 865
Proclamations:
5133 (Amended by Proc. 5142) 341
5142 341
5143 557
5144 861
5145 863

5 CFR

890 1045
Proposed Rules:
532 602

7 CFR

2 1047
6 361
201 1171
354 1173
413 867
421 871
432 876
701 1174
907 ..... 848, 1048
910 876
915 1048
932 1
1430 ..... 2, 361
Proposed Rules:
51 603
770 409
989 413
1540 414

9 CFR

81 368
97 1175

10 CFR

463 5
Proposed Rules:
2 414
20 1205
72 414

12 CFR

Ch. VII 559
5 52
225 794
349 1176
544 53
552 53
720 559
722 559
735 559
750 559
780 559
791 559
792 559
793 559
Proposed Rules:
5 893
563b 415

14 CFR

11 53
21 53
39 ..... 369, 370, 1049
43 53
45 53
71 ..... 371, 1050, 1051, 1176
91 53
97 1052
Proposed Rules:
39 415-417
71 ..... 419, 895, 1211

15 CFR

904 ..... 1036, 1037
924 1037
929 1037
935 1037
936 1037
937 1037
938 1037
Proposed Rules:
17 420
303 605

16 CFR

453 ..... 559, 564

17 CFR

211 53
271 55
Proposed Rules:
230 614
239 614
240 421
270 614
274 614

18 CFR

35 1177
154 565
271 ..... 56, 565, 566
274 566
282 568
301 1177
1312 1016

Proposed Rules:
2....70
3....643
11....1067
13....1067
154....70
201....70
270....70
271....70, 644

19 CFR
10....852

20 CFR
341....569
416....1177

21 CFR
5....571
73....372
74....61
81....61
82....61
452....373
520....572
510....62
558....62, 374
876....573, 1053
890....1053
895....1177
1316....1178

23 CFR
650....1178
Proposed Rules:
625....1213
645....1219
655....1213

24 CFR
51....877
200....375–377

26 CFR
1....1182
35a....62
Proposed Rules:
1....645, 646, 1075, 1225–1244
25....896

28 CFR
524....190, 192
Proposed Rules:
511....195
548....194
551....195

29 CFR
1601....1054
1910....881
2610....63
2619....1054
2621....1055
2622....63
Proposed Rules:
1910....844, 996
1917....996

30 CFR
917....65
926....66
938....379

32 CFR
229....1016
885....881

33 CFR
1....574
117....575, 577
153....574, 576
161....577
165....583
Proposed Rules:
110....649
140....1083
142....1083

35 CFR
111....1184

36 CFR
254....1184
296....1016

37 CFR
1....348

39 CFR
10....583
Proposed Rules:
233....897

40 CFR
52....67, 583, 1187
66....1188
67....1188
86....68
162....380
180....388–390,882
271....585
439....1190
469....1056
Proposed Rules:
52....78, 79
87....421
162....423
180....426
261....427
721....82, 99
799....108, 430–456, 899

42 CFR
405....234, 408
409....234
489....234

43 CFR
Subtitle A....1190
7....1016

45 CFR
Proposed Rules:
1609....1087
1620....1088
1626....1090

46 CFR
Proposed Rules:
7....908

47 CFR
Ch. I....882, 1190
43....896
51....896
52....896
73....391–396, 1252–1254
90....1056
Proposed Rules:
Ch. I....1090
31....1245
64....1248
73....465–467, 908, 1091, 1252–1254
74....908
97....1097

49 CFR
71....887
1033....586
1152....396

50 CFR
17....1057
22....887
23....590, 1058
215....1037
216....1037
220....1037
222....1037
285....1037
611....396, 595, 1037
620....1036
621....1037
649....1037
650....1037
651....1037
652....1037
655....402, 1037
663....597, 1060
672....1037, 1061
674....1037
675....396, 1037, 1063
680....1037
681....407, 1037
Proposed Rules:
17....1166
662....1255

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 December 19, 1983.