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PAGES
2051–2291

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MONDAY, JANUARY 10, 1977

highlights

PART I:

AMERICAN ALLIGATOR
Interior/FWS reclassifies as threatened species in certain parts of its range; effective 2–7–77 2071

AMATEUR RADIO STATIONS
FCC proposed rules on licensing and operation; comments by 4–1–77; reply comments by 4–15–77 2089

SUPPLEMENTAL SECURITY INCOME
HEW/SSA proposal on reductions, suspensions and terminations of benefits; comments by 2–22–77 2079

BROKERS AND DEALERS
SEC temporarily suspends two ratings requirement for short term commercial paper; comments by 2–15–77 2060

VETERANS BENEFITS
VA provides due process for incompetency determinations; effective 1–4–77 2069

MEETINGS—

RESCHEDULED MEETINGS—

CONTINUED INSIDE

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

USDA/AMS—Canned plums; U.S. standards for grades..... 54161; 12–13–76

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.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

HIGHLIGHTS—Continued

contents

CONTENTS

CONTENTS

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

1822 2051

10 CFR

100 2051

12 CFR

16 2200

PROPOSED RULES:

604 2078

14 CFR

25 2052
39 (6 documents) 2053–2055
71 (4 documents) 2055, 2056
97 2056

PROPOSED RULES:

71 (3 documents) 2078, 2079

15 CFR

369 2057

16 CFR

PROPOSED RULES:

4 2079

17 CFR

211 2058
240 2060

18 CFR

PROPOSED RULES:

1 2079
3 2079

20 CFR

404 2062
416 2062

PROPOSED RULES:

416 2079

24 CFR

1914 2193

PROPOSED RULES:

1917 (9 documents) 2063–2068
1917 (2 documents) 2082

30 CFR

PROPOSED RULES:

211 2082

31 CFR

51 2196

32 CFR

PROPOSED RULES:

903 2085

38 CFR

3 2069

45 CFR

PROPOSED RULES:

158 2086

47 CFR

74 2069

PROPOSED RULES:

73 2086
74 2087
83 2088
97 2089

49 CFR

173 2071
174 2071

PROPOSED RULES:

523 2092
1251 2092

50 CFR

17 2071

PROPOSED RULES:

17 (2 documents) 2101, 2102

CUMULATIVE LIST OF PARTS AFFECTED DURING JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*
1–741	Jan. 3
743–1015	4
1017–1194	5
1195–1450	6
1451–2049	7
2051–2291	10

rules and regulations

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

Exhibit G of Subpart A of Part 1822, Chapter XVIII, Title 7 of Code of Federal Regulations (41 FR 42641) is revised to delete one community and add six others to the list of rural areas of between 10,000 and 20,000 population, eligible for Farmers Home Administration (FmHA) rural housing programs. Also, Exhibit G is revised to correct the spelling of two towns.

The Secretary of Agriculture has determined that the six rural areas being added to the eligible list have a serious lack of credit for low- and moderate-income families. Since publishing for comment would delay these families from becoming eligible for the financing they need to obtain adequate housing, and thus would be contrary to the public interest, these revisions will become effective on January 10, 1977.

Exhibit G is also revised by deleting the town of "Albert Lea" where it appears under the State of Minnesota because the town, along with the surrounding area, is over 20,000 population and is thus not eligible for FmHA assistance. The additions and editorial corrections to the list of towns in Exhibit G are as follows:

Additions: The following six places are added to Exhibit G, Subpart A of Part 1822, Chapter XVIII, as eligible areas:

Kansas: after "Coffeyville" add "Dodge City," "Garden City," and "Great Bend."

Massachusetts: after "North Adams" add "Southbridge."

Pennsylvania: after "Oil City" add "Shamokin" and after "Indiana" add the place "Kulpmont—Mount Carmel—Marion Heights."

Corrections: Spelling of the following communities are corrected where they appear:

Puerto Rico: Humancao correctly spelled as "Humacao."

Texas: Synder correctly spelled as "Snyder."

Effective date: This revisions shall become effective on January 10, 1977.

(Delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: December 23, 1976.

FRANK B. ELLIOTT,
Administrator.

[FR Doc.77-745 Filed 1-7-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 100—REACTOR SITE CRITERIA

Seismic and Geologic Design Bases

By letter dated February 11, 1975, Mr. David S. Fleischaker of Berlin, Roisman, Kessler, and Cashdan, 1712 N Street, NW, Washington, D.C. 20036, counsel for the New England Coalition on Nuclear Pollution, filed a petition for rule making (PRM 100–1) with the Nuclear Regulatory Commission.

The petitioner requested that an opinion interpreting and clarifying Appendix A of 10 CFR Part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," with respect to the determination of the Safe Shutdown Earthquake, be issued. The question of interpretation raised in the petition is whether or not the maximum vibratory ground motion design basis for a nuclear power plant is limited to that associated with the maximum intensity earthquake of historical record, i.e., whether or not the Safe Shutdown Earthquake is necessarily the maximum intensity earthquake of historical record.

The petitioner also requested that, in the event a clarifying opinion is not issued, the Commission institute a rulemaking proceeding pursuant to § 2.802 of 10 CFR Part 2, to amend Section V(a)(1) of Appendix A of 10 CFR Part 100 as follows:

1. *Determination of the Safe Shutdown Earthquake.* The Safe Shutdown Earthquake shall be determined by reference to the following guidelines which establish minimal requirements for evaluation of seismic and geologic information developed pursuant to the requirements of paragraph IV(a).

The Commission treated the matter as a petition for rulemaking, and a notice of filing of the petition, Docket No. PRM–100–1, was published in the FEDERAL REGISTER on May 14, 1975 (40 FR 20983). The public comment period ended July 14, 1975.

The Commission has considered the public comments received and other relevant information in its evaluation of the petition.

The procedures and investigations specified in Section V(a)(1) of the existing regulations result invariably in the Safe Shutdown Earthquake intensity being equal to or exceeding the maximum historic earthquake intensity experienced at a nuclear power plant site. These provisions of Appendix A are minimum requirements, and they have consistently been interpreted as such in licensing decisions. Section V(a)(1)(i) of Appendix A of the CFR Part 100 states in pertinent part that "The magnitude or intensity of earthquakes based on geologic evidence may be larger than that of the maximum earthquake historically recorded." Furthermore, Section II, "Scope," of Appendix A states in relevant part that "* * * more conservative determinations that those included in these criteria may be required for sites located in areas having complex geology or in areas of high seismicity."

The Commission does not believe that the specific clarifying language proposed by the petitioner would clarify Appendix A, add to its inherent safety, or improve its implementation, and, therefore, it has rejected the specific wording proposed by the petitioner. However, the Commission has accepted the substance of the petitioner's proposal and has decided to issue an amendment to Appendix A that clearly states that the maximum historic earthquake could be exceeded in the determination of the safe shutdown earthquake where warranted.

The Commission believes that this clarifying amendment will accomplish the petitioner's objective, and eliminate a possible source of misinterpretation. In particular, with regard to the determination of the Safe Shutdown Earthquake, and whether and under what conditions it may exceed the value derived by application of the methodology specified in Appendix A, the previous regulation provided the broad guidance that the "procedures in paragraphs (a)(1)(i) through (iii) of this section (Section V) shall be applied in a conservative manner." The amendment would clarify this guidance, in light of past experience in implementing the regulation by specifically providing, that a larger Safe Shutdown Earthquake may be required when geological and seismological data warrant. Some conditions which might warrant selection of a larger Safe Shutdown Earthquake are: (1) Where the highest intensity of historically reported earthquakes is determined to have been experienced at the site taking into consideration site foundation conditions, (2) where seismicity in the immediate site vicinity is significantly higher than that generally existing in the tectonic province as a whole, (3) where there exists in

proximity to the site tectonic structure demonstrably like that found where larger earthquakes in the tectonic province have occurred historically.

Because the amendment which follows relates solely to minor matters of a clarifying nature, good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary, and for making the amendment effective on January 10, 1977.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code the following amendment to Appendix A of 10 CFR Part 100 is published as a document subject to codification.

The fourth sentence of Section V(a)(1)(iv) of Appendix A of 10 CFR Part 100 is amended to read as follows:

* * * * *

V. SEISMIC AND GEOLOGIC DESIGN BASES

(a) *Determination of Design Basis for Vibratory Ground Motion.* * * *

(1) *Determination of Safe Shutdown Earthquake.* * * *

(iv) * * * The procedures in paragraphs (a)(1)(i) through (a)(1)(iii) of this section shall be applied in a conservative manner. The determinations carried out in accordance with paragraphs (a)(1)(ii) and (a)(1)(iii) shall assure that the safe shutdown earthquake intensity is, as a minimum, equal to the maximum historic earthquake intensity experienced within the tectonic province in which the site is located. In the event that geological and seismological data warrant, the Safe Shutdown Earthquake shall be larger than that derived by use of the procedures set forth in Section IV and V of the Appendix. * * *

* * * * *

Effective date: This amendment becomes effective on January 10, 1977.

(Sec. 161, Pub. L. 83-703, 88 Stat. 948 as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, D.C., this 5th day of January 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-913; Filed 1-7-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13696; Amdt. 25-39]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Type A Passenger Emergency Exit Capacity

The purpose of this amendment to §§ 25.807(c)(2) and (c)(3) of Part 25 of the Federal Aviation Regulations (FAR) is to revise the maximum passenger seating configuration allowed for each pair of Type A exits from 100 to 110 for the type certification of transport category airplanes.

This amendment is based upon a proposal contained in a notice of proposed rule making (Notice 75-40) published in the FEDERAL REGISTER on December 23, 1975 (40 FR 59354). Notice 75-40 was based, in part, upon comments received in response to an advance notice of proposed rule making published on May 10, 1974 (Notice 74-19, 39 FR 16900). Except as discussed herein, the reasons for this amendment are the same as those contained in Notice 75-40. The relevant comments are discussed below. Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

In general, the comments received in response to Notice 75-40 repeated issues that were raised in comments to Notice 74-19 and subsequently discussed in the preamble of Notice 75-40. Only the more significant of these repetitive comments are discussed herein.

Several commentators who favored an increase in the passenger seating limit for Type A exits contended that the limit could be safely increased to 117 or more. One of these commentators stated that the 117 value is approximately 85 percent of the demonstrated exit capacity as obtained from emergency evacuation tests. The commentator also stated that computer simulated emergency evacuation exercises indicated that 117 passengers could be successfully evacuated through a Type A exit to the ground within 90 seconds. Based on this, the commentator asserted that a passenger seating limit of 117 for each pair of Type A exits would be very conservative and would assure adequate passenger safety levels considering the possible existence of unknown factors which could affect in-service evacuations.

To the contrary, the commentators opposed to the proposed amendment asserted that the amendment would result in a reduction in the safety provided airplane occupants because of a lack of in-service Type A exit system reliability. In this connection, one commentator stated that during a recent year and one-half period at least seven accidents and incidents have occurred, with aircraft having Type A exits, that involved emergency evacuations and that 16 of the 37 Type A exits installed on the aircraft involved were unusable because of exit failures. Several commentators referenced a National Transportation Safety Board Special Study to indicate the problems associated with the maintenance, installation, and design, of current Type A exit systems and crew training related to exit use. The NTSB Special Study as well as several proposals made to the First Biennial Operations Review Program, relating to the reporting of in-service exit system problems, were referenced by commentators to indicate that Type A exit reliability cannot be accurately determined. With respect to basing a rule change on emergency evacuation test data, an FAA study was referenced to indicate the lack of realism in emergency evacuation tests.

As discussed in Notice 75-40, the regulatory provisions relating to Type A exits in FAR § 25.807 were adopted by Amendment 25-15, effective October 24, 1967. That amendment also established the provision in § 25.803(c) that manufacturers show by demonstration that the maximum seating capacity of an airplane having a capacity of more than 44 passengers can be evacuated to the ground within 90 seconds, under conditions prescribed in the regulation. The preamble of Amendment 25-15 indicated that the allowable passenger seating limit of 100 that was established for each pair of Type A exits was less than the evacuation capacity that had been demonstrated by test.

With respect to the comments received that advocated a passenger seating limit in excess of 110, the data presented as justification was based on insufficiently conservative maximum evacuation times and minimum passenger flow rates. The suggested passenger seating limit based on that data is, therefore, also insufficiently conservative.

In regard to the issues raised by the commentators objecting to any increase in the passenger seating limit for Type A exits, the FAA has found no compelling justification for not adopting the proposed amendment. Since the adoption of Amendment 25-15 there have been a number of improvements in the design and maintenance of Type A exit systems. In tests, these systems have functioned in a reliable manner. The FAA believes that in-service reliability of Type A exit systems now warrants an increase in the passenger seating limit. In this connection, the FAA is unaware of any situation in which a passenger has been prevented from evacuating an airplane because of a Type A exit system failure in an accident referenced by the commentators. Furthermore, the FAA expects Type A exit system performance to improve in the future. The proposals referenced by the commentators that were submitted to the Biennial Operations Review Program (Notice 75-9, 40 FR 8685) are related to achieving such a result. Regarding emergency evacuation demonstration realism, those demonstrations are made as realistic as possible and are more demanding than numerous actual emergency evacuations. Moreover, it should be noted that passenger seating limits are not entirely based on data obtained from emergency evacuation demonstrations and that those demonstrations are conducted with one-half of the airplane's exits not being used. Based on the comments and the data available, the increase in the type certification passenger seating limit for Type A exits from 100 to 110, being adopted herein, is justified and will provide for more economic airplane utilization with no adverse effect on safety.

One commentator presumed that the new passenger seating limit for Type A exits could be applied to existing aircraft. That presumption is correct. Under the provisions of Subparts D and E of FAR Part 21, relating to type certificate changes, application could be made for approval of an increased passenger seating capacity for existing air-

craft types. The FAA does not agree with the same commentator's contention that additional emergency evacuation demonstrations would never be necessary after such an increase. The evacuation demonstration requirements of FAR §§ 25.803 and 121.291 are necessary to properly evaluate an entire emergency evacuation system. It should be noted, however, that §§ 25.803 and 121.291, by their own terms, might not require new evacuation demonstrations, depending on the extent of the increase in passenger seating capacity and the extent of cabin configuration change.

In consideration of the foregoing, effective February 10, 1977, Part 25 of the Federal Aviation Regulations is amended as follows:

§ 25.807 [Amended]

1. By revising the table in § 25.807(c)(2) to read as follows:

Additional emergency exits (each side of fuselage):	*Increase in passenger seating configuration allowed*
Type A	110
Type I	45
Type II	40
Type III	35

* * * * *

2. By amending the last sentence of § 25.807(c)(3), to read—"A passenger seating configuration of 110 seats is allowed for each pair of Type A exists and a passenger seating configuration of 45 seats is allowed for each pair of Type I exits."

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

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

Issued in Washington, D.C., on December 29, 1976.

JOHN MCLUCAS,
Administrator.

[FR Doc 77-799 Filed 1-7-77;8:45 am]

[Docket No. 76-EA-80; Amdt. 39-2804]

PART 39—AIRWORTHINESS DIRECTIVE

Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 73-23-01 applicable to Lycoming type aircraft engines.

In continuation of the manufacturer's research into all engines which may still be subject to AD 73-23-01 additional engine numbers are being added to the outstanding directive.

Since the air safety problem connected with the issuance of the initial directive, notice and public procedure hereon are impractical and cause exists for making the directive effective in less than 30 days.

We have determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 73-23-01, as follows:

§ 39.13 [Amended]

Amend AD 73-23-01 as follows.—1. Revise applicability paragraph to read "Applies to all Lycoming series engines and all engines overhauled by Lycoming (also known as remanufactured) listed below and in Lycoming Service Bulletin No. 367F and in Supplement No. 1 for Lycoming Service Bulletin No. 367F."

2. Add the following engine numbers to the O-360 series. L-17475-36A through L-17479-36A.

3. Add the following engine numbers to the IO-540-A1A5, -B1A5, -C1A5, -C4B5, -D4A5, -E1A5, -E1B5, -G1D5, -J4A5, -K1A5, -K1B5, -K1C5, -K1E5, -K1E5D series. L-10303-48, L-10304-48, L-10306-48 through L-10308-48, L-10317-48 through L-10320-48, L-10564-48 through L-10567-48, L-10569-48, L-10577-48.

NOTE.—The Federal Aviation Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

This amendment is effective January 13, 1977.

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

Issued in Jamaica, N.Y., on December 30, 1976.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-797 Filed 1-7-77;8:45 am]

[Airworthiness Docket No. 76-WE-12-AD; Amdt. 39-2802]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a one-time inspection of the rigging of the air conditioning compartment doors and modification of the doors and their latching mechanism on McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-30, DC-10-30F, and DC-10-40 airplanes was published in 41 FR 29714.

Interested persons have been afforded an opportunity to participate in the making of the amendment.

Commentators concurred that a one-time rigging check should be performed on those aircraft not previously checked at the factory. However, they have commented that credit should be given for checks performed previous to the latest maintenance manual instructions as cited in the proposed amendment. FAA agrees that performance of the rigging procedure is essential for proper maintenance of the air conditioning compartment door. However there have been numerous revisions to that procedure. To maintain continuity within the fleet, the requirements of the latest revision to the maintenance manual rigging procedure will be used. Some modifications to that procedure will be incorporated in the AD to eliminate some unnecessary steps and to allow for previously performed steps. Commentators stated that, while a secondary handle latch mechanism would provide redundancy to the primary door handle latch, mandatory compliance for installation of those mechanisms per McDonnell Douglas Service Bulletin 52-116 and 52-122 is unjustified. FAA agrees since the rigging procedure requires a handle pull test and there has been no service experience that would indicate a need for that modification.

Commentators stated that the proposed requirement to install latch spool end plates per Douglas Service Bulletin 52-122 is unjustified in view of only minimal door deflection under the pressurization tests performed at Douglas. FAA concurs and we further note that the rigging procedure requires latch/spool overcenter verification which is the intended purpose of the end plates. Commentators stated that the proposed requirement to reinforce the door structure per McDonnell Douglas Service Bulletin 52-122 would not be justified since the door structural adequacy is not in question. FAA agrees and further notes that Service experience does not indicate a need for that requirement.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. Applies to Model DC-10-10, DC-10-10F, DC-10-30, DC-10-30F, and DC-10-40 airplanes, certificated in all categories.

Compliance required within the next 2000 flight hours after the effective date of this AD, unless already accomplished.

To prevent in-flight separation of an air conditioning compartment access door, accomplish the inspection and rigging procedure specified in the DC-10 Maintenance Manual, Chapter 52-42-01, Temporary Revision 52-231, dated September 17, 1976, paragraph 3, or later FAA approved revision with the following manual amendments:

(a) Steps outlined in 3.A.(1), (a) thru (d) and 3.A.(2) may be omitted.

(b) Before accomplishing steps 3.A.(3), (a), and (b) and (3a), (a) through (g) inspect the doors to verify that the clearance does not exceed 1.2 inches between the lower edge of the door and door jamb. If this dimension is not exceeded, steps 3.A.(3), (a) and (b) and (3a), (a) thru (g) may be omitted. Otherwise, those steps must be performed.

An equivalent procedure may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate airplanes to a base for the accomplishment of this AD.

This amendment becomes effective January 12, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Los Angeles, California on December 29, 1976.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.77-798 Filed 1-7-77;8:45 am]

[Docket No. 76-SO-113; Amdt. 39-2801]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-28-151 Series Airplanes

There has been induction system blockage due to ice accumulation on a PA-28-151 airplane that could result in power loss or engine stoppage. Since this condition is likely to develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the carburetor air filter box and the addition of a drain hole, if necessary, on PA-28-151 airplanes.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER AIRCRAFT CORPORATION. Applies to Model PA-28-151 airplanes, serial numbers 28-7415001 through 28-7715278 and 28-7715289 certificated in all categories.

Compliance required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

To detect and correct those carburetor air filter boxes that do not contain a drain hole, accomplish the following:

(a) Open the top right side engine cowl door to gain access to the carburetor air filter box, Piper Part Number 35462-00, at the right hand bottom section of the engine compartment.

(b) Check visually and by feel to determine whether the carburetor air filter box contains a drain hole in the lower rear corner of the outside half of the carburetor air filter box. (See figure.) This check may be performed by the pilot.

(c) If the box contains a drain hole, accomplish (f).

(d) If the box does not contain a drain hole, accomplish (e) and (f).

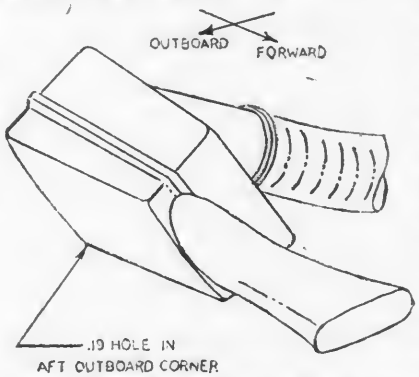
(e) Modify the carburetor air filter box as follows:

(1) Remove and disassemble the carburetor air filter box.

(2) Drill a .19 inch diameter hole in the lower rear corner of the outside half of the carburetor air filter box. (See figure.)

(3) Reassemble and reinstall the carburetor air filter box.

(f) Close the engine cowl and return the airplane to service.



This amendment becomes effective January 14, 1977.

Piper Service Bulletin 536 also pertains to this same subject.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Georgia, on December 29, 1976.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.77-800 Filed 1-7-77;8:45 am]

[Docket No. 76-NW-27-AD; Amdt. 39-2799]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 737 Series Airplanes

Amendment 39-1767 (38 FR 20818), AD 74-01-01, as amended by Amendments 39-1957 (39 FR 32091) and 39-2785 (41 FR 53778) requires inspections of the wing front spar upper chord for cracks from front spar stations 108 to 198 on Boeing Model 737 series airplanes. Amendment 39-2785 required additional inspections of previously repaired airplanes and amended the AD with respect to the latest Boeing service bulletin revision. After issuing Amendment 39-2785, an error in paragraph (C) of the AD requiring continuing inspections after repairs was discovered. Therefore, the AD is being amended to reflect the intent of Amendment 39-2785.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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

§ 39.13 [Amended]

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations, Amendment 39-1767 (38 FR 20818) AD 74-01-01, as amended by Amendment 39-1957 (39 FR 32091) and 39-2785 (41 FR 53778) is amended by striking out the sentence "Inspections required by paragraph (A) are to continue." from paragraph (C).

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

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

An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 is not required.

This amendment becomes effective January 18, 1977.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington on December 29, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.77-795 Filed 1-7-77;8:45 am]

[Docket No. 16409; Amdt. 39-2800]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation BAC 1-11 200 and 400 Series Airplanes

Amendment 39-2779 (41 FR 52292), AD-76-24-06 requires a leak test of the emergency oxygen systems, repetitive inspections, reworking, and replacement, as necessary, of the flexible hoses of the emergency oxygen system on BAC 1-11 200 and 400 series airplanes. After issuing Amendment 39-2779, due to service experience, the FAA determined that compliance times may be relaxed, and that as an alternative to the replacement of defective parts with new parts of the same part number, serviceable FAA approved parts may be installed. Therefore, the AD is being further amended to provide an alternative means of compliance, and to relax compliance times.

Since this amendment provides an alternative means of compliance, relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

[Secs. 313(a), 601 and 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).]

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2779 (41 FR 52292) AD-76-24-06, is further amended by amending paragraphs (a), (b), (c), and (d) to read as follows:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1-11 200 and 400 series airplanes, certificated in all categories.

Compliance is required as indicated.

* * * * *

(a) Within the next 250 hours time in service after the effective date of this AD, unless already accomplished in the last 2,500 hours time in service, conduct a leak test of the emergency oxygen system in accordance with paragraph 2.3 of the section entitled "Accomplishment Instructions" of British Aircraft Corporation Alert Service Bulletin 35-A-PM 5394, issue 2, dated February 2, 1976, or an FAA-approved equivalent.

(b) If, during the leak test required by paragraph (a) of this AD, a leak is found, before further flight, locate the source of the leak and replace the defective part with a new part of the same part number or with a serviceable FAA-approved part and then retest the emergency oxygen system in accordance with paragraph (a) of this AD.

(c) Within the next 1,000 hours time in service or six months after the effective date of this AD, whichever occurs sooner, unless already accomplished within the preceding 2,500 hours time in service, and thereafter at intervals not to exceed 5,000 hours time in service or two years, whichever occurs sooner, inspect and rework the flexible hoses of the emergency oxygen system in accordance with figures 1 through 3, table 1, and paragraph 2.4 of British Aircraft Corporation Alert Service Bulletin 35-A-PM 5394, issue 2, dated February 2, 1976, or an FAA-approved equivalent.

(d) If, during an inspection required by paragraph (c) of this AD, the flexible oxygen hoses are found fractured or embrittled, before further flight, replace the affected parts with new parts of the same part number or with serviceable FAA-approved parts and then retest the oxygen system for leaks in accordance with paragraph (a) of this AD.

This amendment becomes effective January 6, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on December 29, 1976.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77-789 Filed 1-7-77;8:45 am]

[Docket No. 76-EA-78; Amdt. 39-2803]

Piper Aircraft

PART 39—AIRWORTHINESS DIRECTIVE

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-23-250 type airplanes.

There has been a report wherein persistent NAV light circuit breaker tripping was found to have been caused by the wing tip mounted strobe light wire chaffing and shorting on the adjacent wing tip rib. Since this is a deficiency which can exist or develop in aircraft of similar type design, a directive is being issued which will require a repair to the electrical wiring.

Since the deficiency can cause electrical arcing with resultant unsafe conditions, notice and public procedure hereon are impractical and cause exists for making the directive effective in less than 30 days.

We have determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new airworthiness directive, as follows:

PIPER. Applies to model PA-23-250 (6 place) Aztec "F," S/Ns 27-7654001 to 27-7654049 inclusive, 27-7654051 to 27-7654099 inclusive, 27-7654101 to 27-7654116 inclusive, 27-7654118 to 27-7654131 inclusive, 27-7654133 to 27-7654146 inclusive, 27-7654148 to 27-7654160 inclusive, 27-7654162 to 27-7654164 inclusive, and 27-7654166 to 27-7654171 inclusive.

Compliance required within the next 50 hours' time in service after the effective date of this AD unless already accomplished. To prevent the hazards associated with the chaffing of the wing tip mounted strobe NAV light wire and the possible electrical arcing to the adjacent wing tip rib, accomplish the following:

(a) Apply additional insulating material to the applicable electric wiring in accordance with the instructions given in Service Bulletin No. 486, dated October 11, 1976, or with an approved alternate method.

(b) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, who must also approve alternate methods of compliance.

(Piper Service Bulletin No. 486, dated October 11, 1976, covers this subject)

NOTE.—The Federal Aviation Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

This amendment is effective January 13, 1977.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and sec. 6(c) Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Jamaica, N.Y., on December 30, 1976.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-796 Filed 1-7-77;8:45 am]

[Airspace Docket No. 76-EA-91]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Islip, N.Y., control zone (41 F.R. 392) and transition area (41 FR 517).

A new ILS Runway 24 original instrument approach procedure developed for Islip-MacArthur Airport, Islip, N.Y., requires alteration of the control zone and transition area to provide the controlled airspace necessary to protect aircraft executing the new instrument approach procedure.

Since this amendment will reduce the amount of controlled airspace, it is less restrictive and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 March 24, 1977, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to amend the description of the Islip, N.Y. control zone by deleting "within 4 miles each side of the Islip-MacArthur Airport ILS localizer northeast course, extending from the localizer to a point 8.5 miles northeast of the localizer."

2. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to amend the description of the Islip, N.Y. 700 foot floor transition area by deleting "4 miles each side of the Islip-MacArthur Airport localizer northeast course extending from the 9-mile radius area to a point 9.5 miles northeast of the localizer." and by inserting the following in lieu thereof, "4.5 miles each side of the Islip-MacArthur Airport Runway 24 ILS localizer northeast course, extending from the OM to 5.5 miles northeast of the OM."

The Federal Aviation Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on December 21, 1976.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-734 Filed 1-7-77;8:45 am]

[Airspace Docket No. 76-SO-107]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

• The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Meridian, Miss., (NAS Meridian) control zone. •

The Meridian, Miss., (NAS Meridian) control zone is described in § 71.171 (41 FR 355). It is necessary to amend the description by increasing the effective hours of operation from 0600 to 0200 hours, local time, Monday thru Friday; 0700 to 1900 hours, local time, Saturday; 1100 to 2400 hours, local time, Sunday and Federal holidays. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

§ 71.171 [Amended]

In § 71.171 (41 FR 355), the Meridian, Miss., (NAS Meridian) control zone is amended by deleting all after " • • • south of the runway end • • • " and substituting the following therefor:

This control zone is effective from 0600 to 0200 hours, local time, Monday thru Friday; 0700 to 1900 hours, local time, Saturday; and 1100 to 2400 hours, local time, Sunday and Federal Holidays.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c))).

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on December 28, 1976.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.77-793 Filed 1-7-77;8:45 am]

[Airspace Docket No. 76-SO-109]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones and Transition Area

• The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Orlando, Fla., (Herndon Airport) control zone, Orlando, Fla., (Orlando Jetport at McCoy) control zone and the Orlando, Fla., transition area. •

The Orlando (Herndon Airport) control zone and the Orlando (Orlando Jetport at McCoy) control zone are described in § 71.171 (42 FR 355). The Orlando transition area is described in § 71.181 (42 FR 440). In the descriptions, reference is made to McCoy AFB and Orlando Jetport at McCoy. Effective November 26, 1976, the name of Orlando Jetport at McCoy was changed to Orlando International Airport and it is necessary to alter the descriptions to reflect the name change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

§ 71.171 [Amended]

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

In § 71.171 (42 FR 355), the Orlando, Fla., (Herndon Airport) control zone is amended as follows:

"• • • McCoy AFB • • •" is deleted and "• • • Orlando International Airport • • •" is substituted therefor.

In § 71.171 (42 FR 355), the Orlando, Fla., (Orlando Jetport at McCoy) control zone is amended as follows:

"• • • Orlando Jetport at McCoy • • •" is deleted and "• • • Orlando International Airport • • •" is substituted therefor.

§ 71.181 [Amended]

In § 71.181 (42 FR 440), the Orlando, Fla., transition area is amended as follows:

"• • • Orlando Jetport at McCoy • • •" is deleted and "• • • Orlando International Airport • • •" is substituted therefor.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c))).

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on December 28, 1976.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.77-794 Filed 1-7-77;8:45 am]

[Airspace Docket No. 76-SO-110]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Zone

• The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Pensacola, Fla., (NAS Saufley Field) control zone. •

The Pensacola (NAS Saufley Field) control zone, described in § 71.171 (42 FR 355), was designated to provide controlled airspace protection of operations at NAS Saufley Field. The airport has been closed and aeronautical operations have been moved to another field; therefore, it is necessary to revoke the control zone. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, February 24, 1977, as hereinafter set forth.

In § 71.171 (42 FR 355), the Pensacola, Fla., (NAS Saufley Field) control is revoked.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on December 28, 1976.

PHILLIP M. SWATEK,
Director,
Southern Region.

[FR Doc.77-792 Filed 1-7-77;8:45 am]

[Docket No. 16392; Amdt. No. 1054]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW, Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

§ 97.23 [Amended].

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, *effective February 24, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., VOR Rwy 27L, Amdt. 1.

* * * *effective February 17, 1977.*

Lancaster, OH—Fairfield County Arpt., VOR–A, Orig.
Lancaster, OH—Fairfield County Arpt., VOR/DME–A, Orig., canceled.
North Kingstown, RI—Quonset State Arpt., VOR Rwy 34, Original.

§ 97.25 [Amended].

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, *effective February 24, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., LOC (BC) Rwy 9R, Amdt. 4.

* * * *effective February 3, 1977.*

Hancock, MI—Houghton County Memorial, LOC/DME (BC) Rwy 13, Amdt. 3.

* * * *effective January 20, 1977.*

Utica, NY—Oneida Co. Arpt., LOC(BC) Rwy 15, Amdt. 3, canceled.

§97.27 [Amended].

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective February 24, 1977.*

Dutch Harbor, AK—Dutch Harbor Arpt., NDB/DME–B, Original.
Williamston, NC—Martin County Arpt., NDB Rwy 21, Original.

* * * *effective February 17, 1977.*

Ogallala, NE—Searle Field, NDB Rwy 8, Amdt. 2.
Ogallala, NE—Searle Field, NDB Rwy 26, Amdt. 1.

* * * *effective February 3, 1977.*

Hancock, MI—Houghton County Memorial, NDB Rwy 31, Amdt. 4.

* * * *effective January 13, 1977.*

Washington, IA — Washington Municipal, NDB Rwy 31, Original.
Parkersburg, WV—Wood County Airport Gill Robb Wilson Field, NDB Rwy 3, Amdt. 2.

§ 97.29 [Amended]

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective February 24, 1977.*

Atlanta, GA—The Wm. B. Hartsfield ATL Int'l Arpt., ILS Rwy 8, Amdt. 49.
Atlanta, GA—The Wm. B. Hartsfield ATL Int'l Arpt., ILS Rwy 9R, Amdt. 10.
Atlanta, GA—The Wm. B. Hartsfield ATL Int'l Arpt., ILS Rwy 26, Amdt. 11.
Atlanta, GA—The Wm. B. Hartsfield ATL Int'l Arpt., ILS Rwy 27L, Amdt. 5.

* * * *effective January 20, 1977.*

Utica, NY—Oneida County Arpt., ILS Rwy 15, Original.
Pittsburgh, PA—Greater Pittsburgh Int'l Arpt., ILS Rwy 32, Original.

* * * *effective January 13, 1977.*

Parkersburg, WV—Wood County Airport Gill Robb Wilson Field, ILS Rwy 3, Amdt. 5.

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, *effective February 17, 1977.*

Minneapolis, MN — Minneapolis-St. Paul Int'l/Wold-Chamberlain Arpt., RADAR-1, Amdt. 25.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on December 31, 1976.

LEROY A. KEITH,
Acting Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.77-791 Filed 1-7-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

Reporting Requirements

On November 22, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 51424–5) which proposed certain amendments to § 369.3 and the reporting forms used to report restrictive trade practice or boycott related requests as required by § 369.4.

Interested persons were invited to submit written data, views or arguments regarding the proposed amendments prior to December 17, 1976. Twelve comments were received. Aside from one comment which expressed opposition to the reporting requirements in the Export Administration Act, none of the comments received opposed the proposed amendments and several of them expressed support for their adoption. Several comments suggested other changes in the reporting forms which could not be adopted because they would have violated the statement of U.S. policy in opposition to foreign boycotts against friendly countries reflected in section 3(5) of the Export Administration Act of 1969, as amended (50 U.S.C. 2402(5)), or were impractical. Several comments addressed provisions of 15 CFR Part 369 or the boycott reporting forms which were not the subject of the November 22, 1976 FEDERAL REGISTER notice. This Department will consider these suggestions in its continuing review of the provisions of Part 369.

In light of the comments received, this Department is adopting the substance of the proposed amendments which appeared in the FEDERAL REGISTER on November 22, 1976. However, two changes in the proposal to amend § 369.3 are being made. First, it is being made clear that requests for a positive certification of origin will be deemed not to be restrictive trade practice requests within the meaning of section 3(5) of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2402(5)), no matter what country is specified. Thus, a request or restriction which requires affirmatively that the goods or material originate in a particular country (which may, but need not be, the United States) will be deemed not to be a restrictive trade practice request. Second, the phrase "absent particular evidence to the contrary in a particular case" has been deleted as being both unclear and difficult to administer. However, where all the circumstances of a particular case show that the sole purpose of a request for a positive certificate of origin is to further or support a boycott, the Department will view the request as reportable and will take enforcement action as appropriate.

The other changes proposed in the November 22 notice have been adopted without revision, except for clarifying changes to the proposed Block 8 of Reporting Form DIB–621(P).

Accordingly, 15 CFR 369.3 and the Reporting Forms are amended as follows:

§ 369.3 [Amended]

1. Delete from the fourth sentence of § 369.3(b) the phrase "the country of origin of the goods."

2. Add at the end of § 369.3(b)(1) a new example (vi) as follows:

(b) * * *

(1) * * *

(vi) A request for information or a restriction concerning the country of origin of the goods or material utilized in their manufacture. (However, a request or a restriction requiring an affirmative statement or certification regarding the country of origin of goods or material is deemed not to be a restrictive trade practice within the meaning of Section 3(5) of the Export Administration Act of 1969, as amended, but rather a customs certification. Accordingly, requests for such "positive" certificates of origin are not included within the reporting requirements of this part.)

AMENDMENTS TO REPORTING FORMS

1. The present block 8 "Action" of Form DIB–621P (Rev. 10–76) is deleted and the following substituted therefor:

8. Action taken on request (Check one): I/We have received or been informed of a request for an action which could have the effect of furthering or supporting a restrictive trade practice or boycott, as described in § 369.3 of the Export Administration Regulations. The term "request" includes written, oral, and implied requests. The term "action" includes the furnishing of information or the signing of agreements and, with respect to related service organizations, includes the processing of documents containing such requests or evidencing actions taken.

☐ I/We have refused or will refuse to take the action requested.
☐ I/We have taken or will take the action requested.
☐ I am/We are undecided whether to refuse or take the action requested, and will inform the Office of Export Administration of my/our decision within 10 calendar days of making a decision.

2. Add a sentence above the signature space (Block 8 of Form DIB–630P (Rev. 10–76) and Block 9 of Form DIB–621P (Rev. 10–76)) as follows:

NOTE.—The firm submitting this report may, if it so desires, state on a separate sheet additional information relating to the request reported or the reporting firm's response thereto. Such statements will constitute a part of this report and will be a matter of public record.

Effective date: The amendments to § 369.3 of the Export Administration Regulations are effective immediately. The amendments to the reporting forms are also effective immediately, but since revision and reissuance of the forms will take some time, firms may make the above changes in the present forms when filing if they so desire.

(Sec. 2, E.O. 11940, September 30, 1976, 41 FR 43707.)

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-728; Filed 1-7-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release SAB–13]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

PUBLICATION OF STAFF ACCOUNTING BULLETIN No. 13

The Division of Corporation Finance and the Office of the Chief Accountant today announced the publication of Staff Accounting Bulletin No. 13. The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division and the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Staff Accounting Bulletin No. 13 deals with the following:

(1) Changes to Staff Accounting Bulletin No. 6.
(2) Real estate acquired in settlement of loans.
(3) Interpretations of ASR No. 177 (interim reporting).
(4) Interpretations of ASR No. 190 (replacement cost).
(5) Interpretations of ASR No. 188 (New York City securities).

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1977.

CHANGES TO STAFF ACCOUNTING BULLETIN No. 6

In SAB No. 6 (which interpreted ASR No. 177), Subsection I, item d, the following statement of "Facts" was given:

"I. Amendments to Regulation S–X
[New Rule 3–16(t)]

"d. Exemption from Rule 3–16(t) Requirements

"*Facts*

"In ASR No. 177, the Commission has provided exemptions for certain smaller companies and companies whose securities are not widely traded from the disclosure requirements of Rule 3–16(t). Such exemptions are based on the size of the company as measured by total assets and net income, as defined, and the extent of trading in its securities as measured by whether they are listed on a national securities exchange or quoted on the National Association of Securities Dealers Automatic Quotation System and meet the requirements for continued inclusion on the list of OTC margin stocks set forth in Regulation T of the Board of Governors of the Federal Reserve System."

In Accounting Series Release No. 197 the Commission made a technical amendment to § 210.3–16(t). Reference to the Federal Reserve System requirements was replaced by the direct inclusion of the Federal Reserve criteria, with minor changes, to allow the criteria to be considered independently. For this reason the "Facts" of this item have been changed to read as follows:

FACTS

In ASR No. 177, the Commission has provided exemptions for certain smaller companies and companies whose securities are not widely traded from the disclosure requirements of § 210.3–16(t). Such exemptions are based on the size of the company as measured by total assets and net income, as defined, and the extent of trading in its securities as measured by whether they are listed on a national securities exchange or quoted on the National Association of Securities Dealers Automatic Quotation System and meet the specified "actively traded" criteria set forth in the rule.

In addition to the above change to "Facts," Questions 4 and 5 and their related Interpretive Responses are deleted and questions 6 and 7 and their related Interpretive Responses are renumbered to become questions 4 and 5.

* * * * *

NEW INTERPRETATIONS

TOPIC 5: MISCELLANEOUS ACCOUNTING

* * * * *

I. REAL ESTATE ACQUIRED IN FORECLOSURE, SETTLEMENT, ETC.

FACTS

Bank holding companies often acquire real estate in settlement of loans through foreclosures, deeds-in-lieu of foreclosure, exchanges, etc.

QUESTION

When such properties are carried in the balance sheet of a bank holding company does the staff believe that separate disclosure is required?

INTERPRETIVE RESPONSE

Yes. The staff believes that the carrying value of such real estate should be separately shown on the balance sheets of bank holding companies. The risks and uncertainties related to such properties are generally different from those associated with loans and other assets of bank holding companies. Furthermore, current conditions of the real estate markets give cause to investors to be particularly interested in the amounts of such real estate in registrant balance sheets.

TOPIC 6: INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

H. ACCOUNTING SERIES RELEASE NO. 177—RELATING TO AMENDMENT TO FORM 10–Q AND REGULATION S–X REGARDING INTERIM FINANCIAL REPORTING.

* * * * *

I. AMENDMENTS TO REGULATION S–X [NEW RULE 3–16(t)]

* * * * *

D. EXEMPTION FROM RULE 3–16(T) REQUIREMENTS

* * * * *

QUESTION 6

Should the $200 million total assets and $250,000 net income for each of the last three fiscal years tests be made at the beginning or end of the fiscal year?

INTERPRETIVE RESPONSE

In order to facilitate the engagement of independent accountants to perform a limited review of the quarterly financial statements on a timely basis, if desired, the size and income tests of Rule 3–16(t) should be applied at the beginning of the fiscal year.

* * * * *

II. AMENDMENTS TO FORM 10–Q

* * * * *

F. REPORTING REQUIREMENTS FOR ACCOUNTING CHANGES

* * * * *

FACTS

The registrant makes an accounting change in the fourth quarter of its fiscal year. Instruction H(f) to Form 10–Q requires that the registrant file a letter from its independent accountants stating whether or not the change is preferable in the circumstances in the next Form 10–Q. Although not required, the independent accountant's preferability letter is filed as an exhibit to the registrant's annual report on Form 10–K for the fiscal year of the accounting change.

QUESTION 1

Must the independent accountant's letter also be filed with the first quarter's Form 10–Q in the following year?

INTERPRETIVE RESPONSE

No. However, if no letter is included with Form 10–K, a letter is required to be filed with the next Form 10–Q.

G. SIGNATURES

FACTS

Instruction N to Form 10–Q requires that the report be signed on the registrant's behalf by a duly authorized officer of the registrant and by the principal financial officer or chief accounting officer of the registrant.

QUESTION 1

May the form be signed by only one individual?

INTERPRETIVE RESPONSE

In the case where the principal financial officer or chief accounting officer is also duly authorized to sign on behalf of the registrant, one signature is acceptable provided that the registrant clearly indicates the dual responsibilities of the signatory.

I. ACCOUNTING SERIES RELEASE NO. 190—AMENDMENTS TO REGULATION S–X REQUIRING DISCLOSURE OF CERTAIN REPLACEMENT COST DATA

* * * * *

2. GENERAL

* * * * *

B. DISCLOSURE IN ANNUAL REPORTS TO SHAREHOLDERS

* * * * *

QUESTION 2

Are examples of "generalized" descriptions acceptable for inclusion in annual reports to shareholders available?

INTERPRETIVE RESPONSE

Two public accounting firms have drafted examples of such disclosures which the staff believes are satisfactory. They are reproduced below:

Example 1:

Asset Replacement Cost (Unaudited)—The impact of inflation on the Company's production costs was generally greater than the corresponding change in the general price-level. However, the Company has historically been able to compensate for cost increases by increasing sales prices in an amount sufficient to maintain an approximately constant gross profit percentage on sales.

Replacing items of plant and equipment with assets having equivalent productive capacity has usually required a substantially greater capital investment than was required to purchase the assets which are being replaced. The additional capital investment principally reflects the cumulative impact of inflation on the long-lived nature (approximately 10 years for machinery and 25 years for buildings) of these assets.

The Company's annual report on Form 10–K (a copy of which is available upon request) contains specific information with respect to year-end 1976 replacement cost of inventories and productive capacity (generally buildings, machinery, and equipment), and the approximate effect which replacement cost would have had on the computation of cost of sales and depreciation expense for the year.

Example 2:

General Description of the Impact of Inflation (Unaudited)—Although a substantial portion of the dollar increase in consolidated net sales is attributable to higher selling prices, competitive fatcors have restricted such price increases to amounts which are less than that required to recover escalating product costs. As a result, the company has not been able to maintain a gross margin percentage in line with the levels generally experienced in prior years. When net sales are matched with current replacement cost, reported margins are further reduced.

The rapid escalation of product costs is greater than that which would have occurred as a result of increases in the general level of prices since shortages in the supply of the basic raw materials used in production have compounded the effects of the general inflationary pressures.

Although the cumulative impact of inflation over a number of years has resulted in higher costs for replacement of existing plant and equipment, such inflationary increases have partially been offset by technological improvements and design changes which often result in increasing the productivity of the newer asset additions.

Reference is made to the company's Annual Report Form 10–K (a copy of which is available on request) for additional quantitative information with respect to the estimated replacement cost of inventories and plant and equipment at December 31, 1976, and the related estimated effect of such costs on cost of sales and depreciation expense for the year then ended.

QUESTION 3

If an annual report contains only a generalized description of replacement cost such as the above (with a cross reference to the more detailed information contained in the registrant's Form 10–K), may the annual report be incorporated by reference in a Form S–8 filing or will it be necessary to disclose the detailed replacement cost data in the Form S–8?

INTERPRETIVE RESPONSE

Incorporation by reference will be satisfactory.

* * * * *

6. Replacement Cost of Productive Capacity

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E. FINANCING LEASES

* * * * *

FACTS

In November 1976 the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 13, "Accounting for Leases" ("SFAS No. 13"). In paragraph 7 of SFAS No. 13 the FASB lists four criteria for classifying leases as capital leases. The third and fourth criteria (i.e., 75 percent of economic life and recovery of 90 percent of fair value) are similar but not identical to the SEC's definition of a financing lease for purposes of § 210.3–16(q) of Regulation S–X.

QUESTION

For purposes of complying with § 210.3–17 (c) may a registrant use SFAS No. 13's definition of a capital lease rather than § 210.3–16 (q)'s definition of a financing lease?

INTERPRETIVE RESPONSE

In general, the staff will have no objection if the SFAS No. 13 definition is employed. Registrants should disclose that the SFAS No. 13 definition has been used if the impact on the replacement cost data is materially different from that which would have resulted had the definition under § 210.3–16(q) been used.

* * * * *

10. APPLICABILITY OF § 210.3–17

A. EXEMPTIONS

* * * * *

Question 3

Are the replacement cost disclosures specified in § 210.3–17 (a) and (b) for inventories and cost of sales of registrants involved in extracting and processing minerals required for periods ending prior to December 25, 1977, or do they qualify for the one year exemption for mineral resource assets?

INTERPRETIVE RESPONSE

These disclosures do not qualify for the one-year exemption and, therefore, are required for periods ending after December 25, 1976.

QUESTION 4

How should the depreciation, depletion and amortization (DDA) of mineral resource assets be treated in the replacement cost estimations, when such DDA is included as a component of inventories and/or cost of sales?

INTERPRETIVE RESPONSE

Depreciation, depletion and amortization on a replacement cost basis for mineral resource assets is not required for fiscal years ending prior to December 25, 1977. Accordingly, when depreciation, depletion and amortization of mineral resource assets is included as a component of inventories or cost of sales, such component may be included in the replacement cost data at the historical cost amount. The approach used should be explained.

QUESTION 5

Are the disclosures specified in § 210.3–17 (a) and (b) required when the differences between estimated replacement cost of inventories and cost of sales (determined on the basis discussed in the interpretive response to Question 4 above) and the amounts included in the financial statements are immaterial?

INTERPRETIVE RESPONSE

A statement included in the replacement cost disclosures that such differences are immaterial will suffice.

QUESTION 6

Are the disclosures specified in § 210.3–17 (a) and (b) required for (1) repair parts for mineral resource assets and (2) materials and supplies which are included in the current asset caption "Inventories" in the balance sheet?

INTERPRETIVE RESPONSE

The staff's general position is that, unless immaterial, all items included in inventories in the financial statements are subject to the replacement cost disclosures.

* * * * *

g. Parent Company Financial Statements

QUESTION

Must replacement cost information be disclosed in parent company (unconsolidated) financial statements?

INTERPRETIVE RESPONSE

If replacement cost information is provided for the consolidated financial statements, the staff will raise no objection if replacement cost information is not provided for the parent company financial statements.

* * * * *

K. ACCOUNTING SERIES RELEASE NO. 188—INTERPRETIVE STATEMENTS BY THE COMMISSION ON DISCLOSURE BY REGISTRANTS OF HOLDINGS OF SECURITIES OF NEW YORK CITY AND ACCOUNTING FOR SECURITIES SUBJECT TO EXCHANGE OFFER AND MORATORIUM

GENERAL FACTS

Accounting Series Release No. 188 requires registrants who hold:

(1) New York City notes that are in moratorium;

(2) Other securities issued by the City of New York that will mature within three years;

(3) Securities of the Municipal Assurance Corporation that were issued in exchange for New York City notes in moratorium; or

(4) Securities of the Municipal Assurance Corporation that were made subject to an agreement modifying terms

to make certain disclosures in notes to financial statements if the book value of such securities amounts to more than 10 percent of stockholders' equity.

FACTS

The disclosures required in ASR No. 188 relate to securities held at the end of 1975.

QUESTION

Are these disclosures still required?

INTERPRETIVE RESPONSE

Yes. The Commission is currently considering the responses to the rule proposals

which were exposed in Release No. 33-5668 at the time ASR 188 was released. The disclosures called for in ASR No. 188 should be continued until a decision on those proposals is reached.

Registrants are reminded that the securities of other municipalities or states or political subdivisions may also represent unusual risks and uncertainties. Significant investments in such securities should be disclosed.

[FR Doc.77-778 Filed 1-7-77;8:45 am]

[Release No. 34-13125; File No. S7-609]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Uniform Net Capital Rule

The Commission today announced the adoption, effective immediately, of amendments to Rule 15c3-1 (17 CFR 240.15c3-1) ("section 240.15c3-1") under the Securities Exchange Act of 1934 ("the Act"), the uniform net capital rule. The amendments are intended to clarify the capital treatment of short term commercial paper not eligible for the reduced haircuts specified by § 240.15c3-1 (c) (2) (vi) (E) or for which there is no ready market.

The Commission also propounded for public comment certain questions designed to elicit the views of interested members of the public concerning whether and in what respects it is appropriate to modify or supplement the so-called "two ratings" requirement of § 240.15c3-1(c) (2) (vi) (E). In order to preserve the existing capital treatment of short term commercial paper throughout this public comment period, the Commission also adopted an amendment effecting a qualified suspension, effective January 1, 1977 and until April 1, 1977, of § 240.15c3-1(c) (2) (vi) (E).

INTRODUCTION

Section 15(c) (3) of the Act directs the Commission, inter alia, to establish minimum financial responsibility requirements for all brokers and dealers. On June 26, 1975, the Commission adopted [1] amendments to § 240.15c3-1 constituting a uniform net capital rule applicable to substantially all brokers and dealers, thus implementing this congressional directive.

For purposes of determining compliance with the Commission's minimum net capital requirements, § 240.15c3-1(c) (2) defines "net capital" as the net worth of a broker or dealer, adjusted in accordance with the several additions to and deductions from net worth enumerated therein. In this connection, § 240.15c3-1 (c) (2) (vi) prescribes certain deductions from the current market value of securities carried in the accounts of a broker or dealer, known as "haircuts," which are intended to enable net capital computations to reflect the market risk inherent in the positioning of the particular types of securities enumerated in paragraphs (c) (2) (vi) (A) through (c) (2) (vi) (I) of that section. In this connection, pursuant to § 240.15c3-1(c) (2) (vi) (E), short term commercial paper [2] which bears a fixed rate of interest or which is sold at a discount, and which is ranked in one of the three highest rating categories by at least two nationally recognized statistical rating services, receives haircuts graduating proportionately with time to maturity to a maximum of ⅜ of 1%. Section 240.15c3-1(c) (2) (vi) (J) applies substantially higher haircuts to securities not within the ambit of preceding paragraphs of § 240.15c3-1(c) (2) (vi). An analogous provision, § 240.15c3-1(f) (3) (ii), accomplishes the same result in the case of securities in the accounts of brokers and dealers operating under the alternative net capital requirement.

THE "TWO RATINGS" STANDARD

The "two ratings" criterion applicable to commercial paper evolved through the series of public exposures of a proposed uniform net capital rule which took place during 1972-74. During this time, the Commission considered various means, including the work of the rating services, of distinguishing for haircut purposes the less volatile and more readily marketable issues of the more creditworthy commercial paper issuers.[3] Eventually, the Commission concluded that the most appropriate available means to that end seemed to be a standard based upon commercial paper ratings. Recent experiences, however, indicated that it would be appropriate in the public interest that such a standard rely upon more than one such rating.[4] The Commission, therefore, incorporated a two ratings standard into § 240.15c3-1(c) (2) (vi) (E) as adopted.

Although the uniform net capital rule was adopted on June 26, 1975,[5] the effective date of the rule's computational provisions, including section 240.15c3-1 (c) (2) (vi) (E), was delayed until January 1, 1976, in order to provide brokers and dealers with a period of familiarization and adjustment to the rule's numerous innovations. This afforded issuers of commercial paper six months in which to secure the necessary second rating.

During this transitional period it became apparent that, despite good faith efforts to comply, many commercial paper issuers would experience difficulty in acquiring the requisite second rating by the end of calendar 1975. Consequently, brokers and dealers conducting a substantial commercial paper business would be unable to apply the reduced haircuts specified by § 240.15c3-1(c) (2) (vi) (E) to substantial numbers of highly (but singly) rated issues. In these circumstances, the Commission's staff on several occasions assumed no-action positions which permit brokers and dealers, until January 1, 1977, to apply the § 240.15c3-1(c) (2) (vi) (E) haircuts to singly rated issues. These no-action positions generally require that the commercial paper in question be rated in one of the three highest categories by one nationally recognized statistical rating service, and (in most cases) require further that another such rating service has issued a rating of specified quality on certain varieties of long term debt of the same issuer, or of an affiliate of the issuer whose credit directly or indirectly supports the commercial paper in question.

More recently, certain interested members of the public have suggested that it may be appropriate for the Commission to reevaluate its conclusion that the two ratings requirement is necessary.[6]

The Commission has determined that it is appropriate to invite the views of all interested members of the public concerning whether there is merit in the contention that it is appropriate in the public interest and for the protection of investors that § 240.15c3-1(c) (2) (vi) (E) be revised to modify or supplement that provision's two ratings standard.

As we noted above, since the end of calendar 1975, brokers and dealers effecting transactions in short term commercial paper have been operating under a series of staff no-action positions intended to provide issuers whose commercial paper these firms carry sufficient time to secure the two ratings required by § 240.15c3-1(c) (2) (vi) (E). These no-action positions, which uniformly expire at the close of calendar 1976, all condition

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[1] Securities Exchange Act Release No. 11497 (June 26, 1975), 40 FR 29795 (July 16, 1975).

[2] For purposes of § 240.15c3-1, commercial paper is "short term" if it has a scheduled maturity at date of issue not exceeding nine months, exclusive of days of grace or any renewal thereof the maturity of which is likewise limited. See § 240.15c3-1(c) (2) (vi) (E). Such commercial paper is excluded from the statutory definition of "security" found in § 3(a) (10) of the Act, 15 U.S.C. § 78c(a) (10) (1970).

[3] See Securities Exchange Act Release No. 11094 (Nov. 11, 1974), 39 FR 41540 (Nov. 29, 1974) (proposed § 240.15c3-1(c) (2) (F) (v)); Securities Exchange Act Release No. 10525 (Nov. 29, 1973), 38 FR 34331 (Dec. 13, 1973) (proposed § 240.15c3-1(c) (2) (D) (vii)); Securities Exchange Act Release No. 9891 (Dec. 5, 1972), 38 FR 56 (Jan. 3, 1973) (proposed § 240.15c3-1(c) (2) (C) (iv)).

[4] See SEC, The Financial Collapse of the Penn Central Company—Staff Report of the Securities and Exchange Commission to the Special Subcommittee on Investigations 293 (1972); *cf. id.* at 292-302. See also *SEC* v. *Coffey*, 493 F. 2d 1304 (6th Cir. 1974), cert. denied, 420 U.S. 908 (1975); In re Four Seasons Nursing Centers of America, Inc., 329 F. Supp. 647 (W.D. Okla. 1971), aff'd sub nom. Ohio v. Four Seasons Nursing Centers of America, Inc., 465 F. 2d 25 (10th Cir. 1972).

[5] Securities Exchange Act Release No. 11497 (June 26, 1975), 40 FR 29795 (July 16, 1975).

[6] In this connection, it has been suggested that the two ratings requirement would impose an undue regulatory burden upon commercial paper dealers subject to § 240.15c3-1 to the extent that there existed in the commercial paper marketplace persons conducting a business in commercial paper, but not subject to § 240.15c3-1 (and therefore able to deal in commercial paper not rated in accordance with § 240.15c3-1(c) (2) (vi) (E) without regulatory restraint and to the extent the standards of the marketplace would permit).

availability of the reduced § 240.15c3–1(c)(2)(vi)(E) haircuts upon, or among other things, one rating in the three highest categories from a nationally recognized statistical rating service.

It appears appropriate to permit all brokers and dealers effecting transactions in short term commercial paper to participate in the forthcoming public comment process without being required to alter, at the close of this calendar year, the capital treatment of their positions in such instruments. Accordingly, the Commission has determined that it is necessary and appropriate in the public interest to amend § 240.15c3–1(c)(2)(vi)(B) so as to suspend its provisions to the extent that they would foreclose application of the haircuts specified therein to positions in short term commercial paper bearing one rating in the three highest categories from a nationally recognized statistical rating service. The text of this amendment appears later in this release.

Technical Amendments to Section 240.15c3–1

The Commission has determined that it is appropriate to utilize this opportunity to clarify certain aspects of the capital treatment of positions in short term commercial paper presently prescribed by § 240.15c3–1, in order to preclude possible misconstructions thereof by members of the public during the forthcoming public comment process.

It may be arguable that short term commercial paper not eligible for the reduced § 240.15c3–1(c)(2)(vi)(E) haircuts should be treated as an unsecured loan or receivable pursuant to § 240.15c3–1(c)(2)(iv)(B) or (E).[1] This reasoning, which would result in a charge against net worth equal to the entire principal amount of such commercial paper (plus the amount of any interest accruing thereon, pursuant to § 240.15c3–1(c)(2)(iv)(C)), does not comport with the Commission's intent respecting marketable short term commercial paper. Accordingly, the Commission has determined to adopt an amendment to § 240.15c3–1(c)(2)(vi)(J) clarifying that marketable short term commercial paper not within the present contours of § 240.15c3–1(c)(2)(vi)(E) should receive the haircuts prescribed by § 240.15c3–1(c)(2)(vi)(J). A conforming amendment to section 240.15c3–1(c)(2)(vii) makes it clear that the marketability criteria applied by § 240.15c3–1 to "securities" apply as well to short term commercial paper.

Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934, and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. §§ 78o(c)(3), 78w(a), the Commission amends § 240.15c3–1 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission finds that any burden imposed upon competition by these actions is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. § 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

Public Procedure and Effective Date

Inasmuch as the amendments to § 240.15c3–1(c)(2)(vi)(J), (c)(2)(vii) and (f)(3)(ii) set forth below serve merely to clarify certain aspects of the capital treatment of short term commercial paper, and involve no alteration in financial responsibility requirements for brokers and dealers, the Commission finds, pursuant to 5 U.S.C. § 553(b)(3)(B) (1970), that notice and public procedure respecting these amendments is unnecessary to the public interest. Inasmuch as it is consistent with the public interest that § 240.15c3–1 not present a potential ambiguity to brokers and dealers, the Commission finds good cause, within the meaning of 5 U.S.C. § 553(d)(3), why these amendments should become effective immediately upon their adoption.

The amendment to § 240.15c3–1(c)(2)(vi)(E) must become effective on January 1, 1977, if the temporary qualified suspension it effects is to achieve its purpose of maintaining the presently applicable capital treatment of short term commercial paper, which treatment otherwise expires on that date. The Commission therefore finds that notice and public procedure respecting such amendment would be contrary to the public interest within the meaning of 5 U.S.C. § 553(b)(3)(B) (1970). Furthermore such amendment constitutes a substantive rule relieving a restriction within the meaning of 5 U.S.C. § 553(d)(1) (1970); therefore, publication thereof need not be made not less than thirty days before its effective date.

Request for Comments

All interested persons are invited to submit, in triplicate, their written views and comments addressed to the following questions:

1. Are there uniform criteria which could be used to identify high quality commercial paper?

2. What use does the marketplace for short term commercial paper of high quality make of the credit rating or ratings borne by long term secured or unsecured debt of an issuer in determining the advisability of dealing in short term commercial paper of that issuer?

3. In lieu of one or both of the two ratings presently required, what other criteria could be employed to judge the marketability of short term commercial paper of high quality?

4. Would it be appropriate to establish a range of short term commercial paper haircuts lying between the percentage levels contemplated by the present §§ 240.15c3–1(c)(2)(vi)(E) and 240.15c3–1(c)(2)(vi)(J)? If so, in what circumstances would it be appropriate to apply such an intermediate range of haircuts to positions in short term commercial paper? What would be the appropriate percentage levels of such an intermediate range of haircuts?

All communications should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than February 15, 1977. Reference should be made to File No. S7–609. All comments received will be available for public inspection.

Text of Amendments

Section 240.15c3–1 (c)(2)(vi) (E) and (J) are revised; (c)(2)(vii) is revised; and (f)(3)(ii) is revised as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(2) * * *

(vi) * * *

(E) *Commercial Paper, Bankers Acceptances and Certificates of Deposit.* In the case of any short term promissory note or evidence of indebtedness which has a fixed rate of interest or is sold at a discount, and which has a maturity date at date of issuance not exceeding nine months exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited and is rated in one of the three highest categories by at least two of the nationally recognized statistical rating organizations (provided, that effective January 1, 1977, and until April 1, 1977, this paragraph shall be deemed to require only one such rating), or in the case of any negotiable certificates of deposit or bankers acceptance or similar type of instrument issued or guaranteed by any bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934, the applicable percentage of the market value of the greater of the long or short position in each of the categories specified below are:

(*1*) Less than 30 days to maturity—0 percent.

(2) 30 days but less than 91 days to maturity ⅛ of 1 percent.

(*3*) 91 days but less than 181 days to maturity ¼ of 1 percent.

(*4*) 181 days but less than 271 days to maturity ⅜ of 1 percent.

(*5*) 271 days but less than 1 year to maturity ½ of 1 percent; and

(*6*) With respect to any negotiable certificate of deposit or bankers acceptance or similar type of instrument issued or guaranteed by any bank, as defined above, having 1 year or more to maturity, the deduction shall be on the greater of the long or short position and shall be the same percentage as that prescribed in subdivision (c)(2)(vi)(A) of this section.

* * * * *

(J) *All Other Securities.* In the case of all securities or evidence of indebtedness, except those described in Appendix (A), 17 CFR 240.15c3–1a and where ap-

[1] See note 2 supra.

propriate, paragraph (f) of this section, which are not included in any of the percentage categories enumerated in subdivisions (A)–(I) above or (K) (*ii*) below, the deduction shall be 30 percent of the market value of the greater of the long or short positions and to the extent the market value of the lesser of the long or short positions exceeds 25 percent of the market value of the greater of the long or short position, there shall be a percentage deduction on such excess equal to 15 percent of the market value of such excess. Provided, That no deduction need be made in the case of (*1*) a security which is convertible into or exchangeable for other securities within a period of 90 days, subject to no conditions other than the payment of money, and the other securities into which such security is convertible or for which it is exchangeable, are short in the accounts of such broker or dealer or (*2*) a security which has been called for redemption and which is redeemable within 90 days.

* * * * *

(vii) *Non-Marketable Securities.* Deducting 100 percent of the carrying value in the case of securities or evidence of indebtedness in the proprietary or other accounts of the broker or dealer, for which there is no ready market, as defined in subparagraph (c) (11) of this section, and securities, in the proprietary or other accounts of the broker or dealer, which cannot be publicly offered or sold because of statutory, regulatory or contractual arrangements or other restrictions.

* * * * *

(f) * * *

(3) * * *

(ii) *Other Securities.* In the case of all securities or evidence of indebtedness, except as provided in Appendix (A), 17 CFR 240.15c3–1a, which are not included in any of the percentage categories specifically enumerated in subdivisions (A)–(H) or (K) (*ii*) of subparagraph (c) (2) (vi) of this section, the deduction shall be 15 percent of the market value of the long positions. To the extent the market value of short positions exceeds 25 percent of the market value of long positions, there shall be a percentage deduction equal to 30 percent of the market value of such excess. Provided, that no deduction need be made in the case of (A) a security which is convertible into or exchangeable for other securities within a period of 90 days, subject to no conditions other than the payment of money, and the other securities into which such security is convertible or for which it is exchangeable are short in the account of such broker or dealer or (B) a security which has been called for redemption and which is redeemable within 90 days. Provided further, that at the option of the broker or dealer, securities described in subdivision (c) (2) (vi) (I) of this section may be included in the computation of the deductions under this subdivision (f) (3) (ii) if a lesser deduction would result.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 30, 1976.

[FR Doc.77–777 Filed 1–7–77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(Regs. No. 4, 16)

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950–)

Subpart G—Filing of Applications and Other Forms

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart C—Filing of Applications and Other Forms

CANCELLATION OF A REQUEST FOR WITHDRAWAL OF AN APPLICATION

On August 25, 1976, there was published in the FEDERAL REGISTER (41 FR 35862) a notice of proposed rulemaking with proposed amendments to Subpart G, Regulations No. 4, and Subpart C, Regulations No. 16, of the Social Security Administration. The amendments provide that the 60-day period allowed for the cancellation of an approved request for withdrawal of an application for social security benefits or supplemental security income benefits shall be measured from the date of the notice to the claimant rather than from the date of approval of the request for withdrawal. There may be a delay of several days between the approval of the request and the date the notice of the approval is released. The claimant is not aware of the date of approval, and therefore, does not know the date by which his request for cancellation must be made. By having the 60 days run from the date of the notice to the claimant, the claimant will be fully aware of the time period within which he may ask that his request for withdrawal of his application be cancelled. Interested persons were given the opportunity to submit, within 45 days, data, views, or arguments with regard to the proposed changes. Because the comment period has expired and no comments were received, the amendments are hereby adopted without change, as set forth below, and shall be effective on January 10, 1977.

(Secs. 205, 1102, 1611, and 1631 of the Social Security Act, as amended; 49 Stat. 624 and 647, as amended, 86 Stat. 1466, and 86 Stat. 1475; (42 U.S.C. 405, 1302, 1382, and 1383).)

Effective date: The amendments shall be effective on January 10, 1977.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802, Social Security—Disability Insurance; 13.803, Social Security—Retirement Insurance; 13.807, Supplemental Security Income Program.)

The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A–107.

Dated: December 13, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 4, 1977.

MAJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.615a is revised to read as follows:

§ 404.615a Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 404.603 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application or request for revision of earnings be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

2. Section 416.345 is revised to read as follows:

§ 416.345 Cancellation of request for withdrawal.

Before or after a written request for withdrawal has been approved by the Social Security Administration, the claimant (or a person who is authorized under § 416.310 to execute an application on his behalf) may request that the "request for withdrawal" be canceled and that the withdrawn application be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved by the Social Security Administration, no later than 60 days after the date of the notice to the individual of such approval. The claimant must be alive at the time the request for cancellation of the "request for withdrawal" is filed with the Social Security Administration. Where the request for cancellation of the withdrawal is approved, notice of approval shall be sent to such individual.

[FR Doc.77–724 Filed 1–7–77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2345]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Mapleton, Huntingdon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Mapleton, Huntingdon County, Pennsylvania under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the home of the Secretary, Mr. Vernon Anderson, Mapleton Depot, Mapleton, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Juniata River	East corporate limits	585		135
	State Road 655	586		160
	Northwestern corporate limits	586		340
Hares-Valley Creek	Western corporate limits	586		230
	Penn Central RR	586		20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-596 Filed 1-7-77;8:45 am]

[Docket No. FI-2282]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Hatboro, Montgomery County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Hatboro, Montgomery County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone

areas and the final elevations are available for review at the bulletin board, Municipal Building, 120 East Montgomery Avenue, Hatboro, Pennsylvania 19040.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set worth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Pennypack Creek	Upstream corporate limits	211	290	90
	Old York Rd	202	100	230
	Warminster Rd	196	365	160
Blair Mill Run	Monument Ave	226	130	(1)
	Moreland Ave	221	110	(1)
	Fairview Ave. (extended)	216	140	130
	Downstream corporate limits	214	370	125

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-598 Filed 1-7-77;8:45 am]

[Docket No. FI-2580]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Myerstown, Lebanon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Myerstown, Lebanon County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Borough Hall, 515 South College Street, Myerstown, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Tulpehocken Creek	Corporate limits	437	630	160
	Cherry St	442	110	380
	Railroad St	445	160	280
	College St	448	140	220
	Locust St	449	120	(1)

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-597 Filed 1-7-77;8:45 am]

[Docket No. FI-2349]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of West Chester, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of West Chester, Chester County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain management measures that the consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Hall, 15 South High Street, West Chester.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Goose Creek	Upstream corporate limits	421	400	190
	Along Adams St.	417	190	150
	Along Barnard St.	415	320	25
	Along Nields St.	404	170	80
	Downstream corporate limits	401	220	490

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-595 Filed 1-7-77;8:45 am]

[Docket No. FI-834]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Monroe, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Monroe, Michigan under §1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 120 South Macomb Street, Monroe, Michigan 48161.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Raisin River	Telegraph Rd	598	250	550
	Chesapeake & Ohio R.R	596	50	2,400
	Roessler St	595	50	1,300
	Monroe St	590	10	1,300
	Macomb St	588	50	1,100
	Penn Central R.R	583	50	100
	do	581	800	50
	I-75	578	1,600	(1)
Plum Creek	La Plaisance Rd	585	15	15
	Kentucky Ave	583	(1)	975
	I-75	578	(1)	25
Mississippi River	Chicago, Burlington & Quincy R.R	490-491	(2)	(2)

[1] Outside corporate limits.
[2] Entire railroad within corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-591 Filed 1-7-77;8:45 am]

[Docket No. FI-2258]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Blythe, Schuylkill County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Blythe, Schuylkill County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Municipal Building, New Philadelphia, Kaska, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Western corporate limits of the township of Blythe.	664	80	440
	Western corporate limits of the Borough of New Philadelphia.	671	20	180
	Eastern corporate limits of the Borough of New Philadelphia.	696	100	220
	Western corporate limits of the Borough of Middleport.	723	260	380
	Eastern corporate limits of the Borough of Middleport.	733	570	180
	Eastern corporate limits of the township of Blythe.	749	80	320

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-599 Filed 1-7-77;8:45 am]

[Docket No. FI-2347]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of East Goshen, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of East Goshen, Chester County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Township Hall, 1580 Paoli Pike, West Chester, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
East Branch Ridley Creek:	Confluence with Ridley Creek	379.5	400	800
	Boot Rd	383.0	50	200
	Monte Vista Dr	389.0	60	100
	Private drive	399.0	80	40
	Taylor Ave. (extended)	404.0	480	40
	Paoli Pike	414.0	100	80
	Footbridge	417.0	70	100
	Warrior Rd	432.0	40	20
	Private drive located at reference mark 20.	452.0	100	40
	Limited detailed study near Forrest Lane.	467.0	90	110
West Branch Ridley Creek:	Confluence with Ridley Creek	379.0	100	110
	Chester Rd	383.0	90	120
	Paoli Pike	391.0	200	40
	Dam	395.0	280	60
	Reference mark 10 near Linden Lane extended footbridge (from South Channel).	401.0	220	260
	Confluence with Boot Road Run	409.0	190	230
	Reference mark 14 near private road	422.0	310	100
	Green Hill Rd. at reference mark 22	441.0	160	80
	Reference mark 13 near confluence with King James Run.	458.0	220	20
King James Run	At dam near mouth	465.0	100	60
	Mill Stream Rd	484.0	30	30
	North-northwest corporate limits	501.0	80	80
Ridley Creek	Northeast corporate limits	338.0	20	120
	Ditton Mill Rd	348.0	60	80
	Strasburg Rd	354.0	380	40
	Dam (downstream)	356.0	300	80
	Ridley Creek opposite dam of tributary.	365.0	200	240
	Confluence with East and West Branches Ridley Creek.	380.0	100	110
East Branch Chester Creek.	Southeast corporate limits	306.0	100	400
	Westtown Way near reference mark 6	311.0	80	40
	West Chester Pike	328.0	100	80
	Dam and reference mark 9	332.0	[1]	90
		348.0	[2]	80
	Strasburg Rd and reference mark 4	352.0	200	20
	Footbridge	357.0	30	160
	90° turn in creek, northwest to southwest direction extend new road under construction from Paoli Pike.	368.0	600	320
	Paoli Pike and reference mark 2	382.0	260	100
	Private drive	382.0	280	160
	West corporate limits near reference mark 24.	391.0	50	50
Clarks Creek	Paoli Pike near confluence with East Branch Chester Creek.	382.0	260	100
	Linden Lane and reference mark 4	388.0	120	180
	Heather Lane (extended)	400.0	250	100
	Private road near reference mark 23, new road under construction.	442.0	120	100
Hunters Run	Southeast corporate limits	321.0	120	140
	Manley Rd	328.0	260	120
	Williams Way (extended)	350.0	120	120

[1] Downstream 100 ft.
[2] Upstream 320 ft.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–594 Filed 1–7–77;8:45 am]

[Docket No. FI–2270]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of East Penn, Carbon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of East Penn, Carbon County, Pennsylvania under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Township Building, R.D. 1, Lehighton, East Penn, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Lehigh River	Upstream corporate limits	437	(1)	240
	Route 895	425	(1)	180
	Private road near Kittatinny	415	(1)	200
	Downstream corporate limits	385	(1)	35
Lizard Creek	Con Rail tracks	423	20	20
	T354	432	70	140
	Pennsylvania Turnpike	438	80	100
	T337 (extended)	506	180	30
	T336	517	300	880
	T333	538	520	280
	T334	556	600	220
	T330	569	60	180
	Upstream corporate limits	572	460	310

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–593 Filed 1–7–77;8:45 am]

[Docket No. FI–2340]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Sugarcreek, Greene County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Sugarcreek, Greene County, Ohio under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Township Hall, 26 East Franklin Street, Bellbrook.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Little Miami River	Corporate limits (North)	789	120	700
	Upper Bellbrook Rd	784	300	410
	Washington Mills Rd	779	400	1,990
	Lower Bellbrook Rd	771	600	540
	State Highway 725	765	1,000	400
	Corporate limits (East)	761	1,350	(1)
Little Miami River bypass.	Lower Bellbrook Rd	774	670	550
Sugar Creek	Ferry Rd	779	360	210
	Upper Bellbrook Rd	774	180	70
Little Sugar Creek	Corporate limits (North)	956	100	100
	Little Sugarcreek Rd	939	90	40
	Swigart Rd	907	340	80
	Feed Wire Rd	872	20	20
Possum Run	Wilmington Pike	940	70	20
	Bellbrook corporate limits	915	100	40

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 21, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-592 Filed 1-7-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

INCOMPETENCY DETERMINATIONS—DUE PROCESS

On page 49839 of the FEDERAL REGISTER of November 11, 1976, there was published a notice of proposed regulatory development to amend § 3.353 to provide that prior to a rating determination of incompetency, the beneficiary will be notified of the proposed action and of the right to a personal hearing on the issue. This section is also amended to show that incompetency and competency determinations may be made for all Veterans Administration beneficiaries, not just veterans. Section 3.855 is also amended to prohibit routine suspension of payments due an incompetent beneficiary in order to insure that the beneficiary will not suffer financial hardship or deprivation.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA Regulations are effective January 4, 1977.

Approved: January 4, 1977.

By direction of the Administrator.

ODELL W. VAUGHN,
Deputy Administrator.

1. In § 3.353, paragraphs (b) and (d) are revised and paragraph (e) is added so that the revised and added material reads as follows:

§ 3.353 Determinations of incompetency and competency.

* * * * *

(b) *Authority.* Rating agencies are authorized to make official determinations of competency and incompetency for the purpose of existing laws, Veterans Administration regulations and Veterans Administration instructions. Such determinations will be controlling for purposes of insurance (38 U.S.C. 722), the discontinuance and payment of amounts withheld because of an estate in excess of $1,500 (§ 3.557(b)), and subject to § 13.56 of this chapter, direct payment of current benefits. Where the beneficiary is rated incompetent the Veterans Services Officer of jurisdiction will be informed of the possible necessity for the appointment or recognition of a fiduciary. The Veterans Services Officer will develop information as to the beneficiary's social, economic and industrial adjustment. If the Veterans Services Officer upon review of this evidence concurs in the rating of incompetency he or she will proceed to effect the appointment of a fiduciary, or in the case of a married beneficiary, to recommend release of payments to the beneficiary's spouse as provided in § 13.57 of this chapter, or recommend payment in accordance with § 13.56 of this chapter. The recommendation will be effectuated. If the Veterans Services Officer is of the opinion that the beneficiary is capable of administering the funds payable without limitation, the evidence on which that opinion is based will be referred to the rating agency with a statement as to his or her conclusion. The rating agency will consider this evidence together with all other evidence of record in determining whether its prior decision should be revised or continued. Reexamination may be requested as provided in § 3.327 (d) if necessary to properly evaluate the extent of disability.

* * * * *

(d) *Presumption in favor of competency.* Where there is doubt as to whether the beneficiary is capable of administering his or her funds such doubt will be resolved in favor of competency.

(e) *Due process.* Whenever it is proposed to make an incompetency determination, the beneficiary will be notified of the proposed action and of the right to a hearing as provided in § 3.103. Such notice is not necessary if the beneficiary has been declared incompetent by a court of competent jurisdiction or if a guardian has been appointed for the beneficiary based upon a court finding of incompetency. If a hearing is requested, it must be held prior to a rating decision of incompetency. Failure or refusal of the beneficiary after proper notice to request or cooperate in such a hearing will not preclude a rating decision based on the evidence of record.

2. Section 3.855 is revised to read as follows:

§ 3.855 Beneficiary rated or reported incompetent.

(a) *General.* Payments being made directly to a beneficiary who is or may be incompetent will not be routinely suspended pending certification of a fiduciary (or a recommendation that payments should be paid directly to the beneficiary) by the Veterans Services Officer or development of the issue of incompetency.

(b) *Application.* This policy applies to all cases including (but not limited to) the following:

(1) Notice or evidence is received that a guardian has been appointed for the beneficiary.

(2) Notice or evidence is received that the beneficiary has been committed to a hospital.

(3) The beneficiary has been rated incompetent by the Veterans Administration.

[FR Doc.77-781 Filed 1-7-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-193]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Remote Pickup Broadcast Stations

Adopted: December 21, 1976.

Released: January 4, 1977.

Order. In the matter of Amendment of Part 74 of the Commission's rules and regulations.

1. In a Report and Order adopted on June 29, 1976 (FCC 76-624), Part 74, Subpart D, of our rules and regulations concerning Remote Pickup Broadcast Stations was amended in its entirety.

2. The extensive amendments have raised questions with respect to certain matters which are clarified as set forth below.

3. As amended, the rules now provide for the licensing of one or more remote pickup transmitters as a system under

a single station license. This licensing procedure is similar to that used for station systems in the land mobile services. Applicants for remote pickup system licenses may select one or more frequencies for system operations from designated groups. The designated groups of frequencies may have certain special technical, operational, or geographic area restrictions applicable to each frequency within the group. Under previous rules, each remote pickup transmitter had to be covered by a separate station license, although that license could authorize the use of frequencies from more than one designated group. The rules as amended indicate that a separate system license would be required for each designated group from which the applicant would select frequencies for use. Thus, it appears under the amended rules that more than one license would be required to operate a single transmitter that previously operated under one license. In many cases there would be no operational or administrative purpose for such "dual" licensing of individual transmitters, and therefore we are amending paragraph (c) of § 74.402 to remedy this and clarify the actual system licensing requirements. System licensing was intended to be primarily on the basis of frequency band (e.g. HF, VHF, or UHF), system bandwidth requirements, and type of service.

4. Existing licensees may also find it necessary to vacate the use of existing authorized frequencies within the 450 and 455 mHz bands because of new restrictions imposed by the amended rules that set aside certain frequencies exclusively for transmissions of program material. No provision was made in the amended rules for either a transition period during which existing licensees could move to other frequencies, or for an administrative procedure to permit frequency substitutions. In this *Order*, a transition period is set (to August 31, 1978) in which existing licensees may select and move to other designated frequency groups without further authority from the Commission. It is only required that the licensees who find it necessary to change frequencies in order to comply with the restrictions of the amended rules promptly notify the Commission, in Washington, D.C., of the frequencies being vacated and those being substituted on a one-for-one basis.

5. Frequencies within the Groups I and J may be used for fixed point-to-point voice communications in connection with microwave to studio transmitter or intercity relay links. Section 73.432 of the rules provided for the licensing of a pair of fixed stations at the terminal ends of such microwave links under a single system license. It is noted that STL or intercity relay links may consist of intermediate transmitter relay sites and that more than one fixed voice transmitter facility may be necessary. We are therefore amending paragraph (c)(2) of § 74.432 to provide for authorization of one or more fixed transmitters using frequency Groups I or J under a single system license. Paragraph (1) of this section is also being amended to remove the repetitive phrase "in each system designated by the licensee" which was inadvertently included in the original amendments.

6. Since adoption of the *Report and Order* on June 29, the Commission has received numerous inquiries as to whether licensees of existing remote pickup broadcast stations may, or should, immediately file applications to consolidate under single system licenses transmitters that are now individually licensed under separate station licenses. It is neither necessary nor desired that licensees of remote pickup broadcast stations file applications for system relicensing. This consolidation of separately licensed stations under a system licensing is to be accomplished as part of the renewal process. Whenever an existing licensee wishes to obtain authorization to operate additional transmitters than those presently authorized, or to make station modifications that require specific authorization from the Commission, the application filed can include consolidation of existing licensed transmitters into the singly licensed system. In this latter case, however, the system application or applications filed should be restricted to those actually necessary to accomplish the desired operational change. A note is being added to § 74.432 at the end of paragraph (1) explaining this restriction on application filings, which is necessary to avoid the burden of licensees filing and the staff of processing license applications that are unnecessary for administrative of operational purposes. Applications filed for relicensing of existing stations which appear to be unnecessary for administrative or operational purposes will be returned to the applicant as unacceptable for filing.

7. In § 74.451 of the rules adopted on June 29, 1976, paragraph (a) omitted the actual date after which license applications must specify the use of transmitting equipment type accepted for licensing for use at remote pickup stations, and also omitted the power restrictions on the use of equipment type-accepted for other services if used at remote pickup stations. The date of August 31, 1977, is being specified, after which new stations must use type accepted transmitters. This is consistent with other provisions of the rules. Also, included in § 74.451, for clarification purposes, are the power restrictions of § 74.461(b). The date of August 31, 1977, was also omitted from paragraph (e) of this same section, however, paragraph (e) is being amended separately in a separate Report and Order in Docket No. 20195 providing for additional frequencies for use by low power auxiliary stations.

8. In establishing the new frequency tolerance specifications in the amended § 74.464, no provision was made for a period during which existing licensed transmitters could be brought into compliance, similar to the transition period allowed for compliance with the new bandwidth requirements specified in § 74.462. We realize that some licensees may find it necessary to make certain transmitting equipment modifications or substitutions in order to meet the more stringent frequency tolerance specifications. We are therefore adding a Note to § 74.464, similar to the Note in § 74.462, stating that those stations licensed prior to the effective date of this Order will have until September 1, 1978, to meet the frequency tolerances specified in the rules amended on June 29, 1976.

9. We conclude that, for the reasons set forth above, adoption of these amendments will serve the public interest. Prior notice of rulemaking, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

10. *Therefore, it is ordered,* That, pursuant to Sections 4 and 303 of the Communications Act of 1934, as amended, Part 74, Subpart D, of the Commission's rules and regulations are amended as set forth below, effective January 10, 1977.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. In § 74.402, paragraph (c) is amended, new paragraph (d) is added, existing paragraph (d) as amended, is redesignated as paragraph (e), and the Note at the end of the section is amended to read as follows:

§ 74.402 Frequency assignment.

* * * * *

(c) For licensing purposes, a single system will consist of transmitters authorized to use the following combinations of frequency groups in a single area:

(1) Group A.
(2) One group from Groups D, E, F, G, or H; and/or either I or J.
(3) Groups K_1 and K_2, and/or either L or M.
(4) Groups N_1 and R.
(5) Group N_2.
(6) Group P.
(7) Group S.

(d) License applicants shall request assignment of only those frequencies, both in number and channel bandwidth, necessary for satisfactory operation. A licensee may operate a remote pickup broadcast system only if the system is equipped to operate on all assigned frequencies. It is not necessary that each transmitter within a system be equipped to operate on all authorized system frequencies.

(e) Remote pickup broadcast stations or systems will not be granted exclusive frequency assignments. The same frequency or frequencies may be assigned to other licensees in the same area. Applicants for licenses should select the frequencies closest to the lower band edges within a group that will meet operational requirements to promote the orderly and

efficient use of the allocated frequencies.

NOTE.—Stations first licensed prior to January 10, 1977 must comply with the frequency assignment plan specified in paragraph (a) by August 31, 1978. If a licensee finds it necessary to change frequencies assigned prior to January 10, 1977 in order to comply with the restrictions of footnote 7 above, the licensee may without further authority substitute frequencies within Group N_1 or N_2. Licensees authorized to use 450.950 or 455.950 MHz may without further authority substitute frequencies within Groups N_1, N_2 or R. A notification shall be sent to the Commission in Washington, D.C. upon beginning the use of the substitute frequencies reporting those being vacated and those being activated.

2. In § 74.432, paragraph (c)(2) and paragraph (l) are amended, and a new Note is added at the end of the section to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(c) * * *

(2) Base stations may be authorized to provide one-way or two-way voice communications between the studio and transmitter of a broadcast station, the licensee of which is also the licensee of an aural or television broadcast STL station used for program transmission between the same two points, or to provide such voice communications between the point of origin and the termination of an aural or television intercity relay system. One or more fixed stations operated for these purposes will be licensed as a system and a single license will be issued for each such system. Automatic relay stations will not be authorized for use with these systems. Operation of these systems shall be limited to the frequencies listed in Groups I and J of § 74.402(a).

* * * * *

(l) Applications for renewal of authority to operate remote pickup broadcast stations filed after August 31, 1976, shall include information which identifies the stations to be included in each system designated by the licensee in accordance with the procedures set forth in this section.

NOTE.—Licensees of remote pickup broadcast stations licensed prior to August 31, 1976, should not file applications to consolidate individually licensed transmitters under a single system license until the renewal application of the associated broadcast station is filed. Applications filed between August 31, 1976, and the date of filing of the renewal applications to obtain authorization to use additional transmitters or modification of existing stations shall be restricted to a single system application necessary to accomplish the desired change, but may include consolidation of previously-licensed transmitters within the system license. Applications submitted for system licensing prior to the time when renewal applications would normally be filed which are unnecessary for either administrative or operational purposes will be returned as unacceptable for filing.

3. In § 74.451, paragraph (a) is amended to read as follows:

§ 74.451 Type acceptance of equipment.

(a) Applications for new remote pickup broadcast stations or systems or for changing equipment which are tendered after September 1, 1977, will not be accepted unless the equipment specified therein has been type-accepted for use pursuant to provisions of this subpart, or which has been type-accepted for licensing under Parts 21, 89, 91, or 93 of this chapter and which does not exceed the output power limits specified in § 74.461(b).

* * * * *

4. Section 74.464 is amended by adding the following Note to the end of the section to read as follows:

§ 74.464 Frequency tolerance.

* * * * *

NOTE.—All stations, regardless of date of original licensing must meet the frequency tolerance specifications contained in this section by August 31, 1978.

[FR Doc.77-764 Filed 1-7-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. MH-103/112; Amdt. Nos. 171-32B, 172-29B, 173-94B, 174-26B, 175-1B, 176-1B]

HAZARDOUS MATERIALS REGULATIONS AND MISCELLANEOUS AMENDMENTS

Consolidation

Correction

In FR Doc. 76-38409, appearing at page 57018, in the issue of Thursday, December 30, 1976, the following changes should be made:

1. On page 57070, column 2 the section now reading "§ 173.348" should read: "§ 173.384".

2. On page 57071, column 1, in the heading for Part 174 the word "MAIL" should read "RAIL".

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Reclassification of American Alligator to Threatened Status in Certain Parts of Its Range

The Director, United States Fish and Wildlife Service (hereinafter "the Director", and "the Service", respectively) hereby issues a Rulemaking which reclassifies the American alligator (*Alligator mississippiensis*) from its present listing as an Endangered species to the status of a Threatened species (as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884); hereinafter referred to as "the Act") in all of Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas. This Rulemaking leaves the alligator classified as "Endangered" throughout the remainder of its range (except for Cameron, Vermilion and Calcasieu Parishes in Louisiana where, although the populations biologically are neither Endangered nor Threatened, the alligators have been treated as Threatened due to their similarity in appearance to the Endangered alligators (40 FR 44412-44429)). This Rulemaking also authorizes limited, lethal removal of dangerous alligators to protect human lives and authorizes controlled takings for scientific or conservation purposes in restricted areas under a Cooperative Agreement pursuant to section 6(c) of the Act, 16 U.S.C. 1535, all to enhance long-range conservation objectives for this species as a renewable, natural wildlife resource.

This Rulemaking is identical to the Proposal published on April 8, 1976 (41 FR 14886-14888) except that in response to a comment submitted by the State of Louisiana, the boundary between Threatened and Endangered alligators has been slightly revised in the western part of that State.

BACKGROUND

In 1967, the U.S. Department of the Interior determined the American alligator to be an endangered species throughout its entire range. This determination reflected concern for alligator populations which had become drastically reduced after many years of excessive exploitation and habitat usurpation by man. Within recent years, however, alligators have increased considerably in some areas, mainly in response to intensive State and Federal protection. In 1972 and 1973, the State of Louisiana was able to allow a limited commercial hunting season on the species.

On December 28, 1973, the new Endangered Species Act (16 U.S.C. 1531-1543, 87 Stat. 884) went into effect. This Act made it a violation of Federal law to take any species listed as endangered, except under permit for scientific purposes or to enhance the propagation or survival of the species. The Act also established a new "threatened" classification, and authorized the Secretary of the Interior to issue such regulations as he deemed necessary and advisable for the conservation of such species.

On March 29, 1974, Governor Edwin Edwards of Louisiana submitted a petition to the Secretary of the Interior requesting that populations of the alligator "in the southwestern coastal marshes (Chenier Plain) in the parishes of Cameron, Vermilion, and Calcasieu of Louisiana, be removed from the Secretary of the Interior's list of threatened and endangered species; that in the south-central and southeastern coastal Louisiana marshes, the American alligator be classified as a threatened species; and that throughout the remainder of the State, the classification of the American alligator remain unchanged.

This petition, as amplified by other available information, was found by the Director to present substantial information warranting a review of the status of the alligator throughout its range. A notice to that effect was placed in the FEDERAL REGISTER on July 16, 1974 (39 FR 26050). Simultaneously, the Governors of States in which alligators are resident were notified of the review and were requested to supply data relative to the

status of the species in their respective States.

This review produced evidence that the American alligator is making encouraging gains in population over much of its known historical range and that significant losses of populations have occurred only in geographically peripheral and possibly ecologically marginal areas. Population levels in parts of South Carolina, Georgia, Florida, Louisiana, and Texas are high, and, in many areas over these regions are considered to be ecologically secure.

Available data indicate that the primary threats to alligator populations in areas named above are not biotic, but rather the absence of adequate regulatory and enforcement mechanisms:

(1) to prevent malicious killing and illicit commercially-oriented killing and

(2) to control the illegal commerce of products.

Malicious killing stems to a large degree from public hostility and fear, and to some extent could be ameliorated through public education. Illegal commercial killing currently is being held at a tolerable level by rigid enforcement programs. These programs, may soon become inadequate in the face of burgeoning alligator populations and increasing human-alligator conflicts.

THE PROPOSALS

As a result of this review, the Director found that there were sufficient data to warrant a proposed rulemaking that (1) the alligator is neither endangered nor threatened in Cameron, Vermilion, and Calcasieu Parishes, Louisiana; (2) the alligator is a threatened species in Alabama, Georgia, Louisiana (except Cameron, Vermilion, and Calcasieu Parishes), Mississippi, South Carolina, and Texas; and the alligator is an endangered species in all other parts of its range.

Accordingly, the Director proposed such a rulemaking on July 8, 1975 (40 FR 23712–23720). Despite reservations on the part of some responders with respect to the impact of a classification change on the welfare of the American alligator, and on other endangered wildlife which also may be reclassified at some future date, the sum of all responses reflected a preponderance of opinion in general support of the proposed rulemaking. It was determined to retain the alligator in the endangered status in all of its range except Cameron, Vermilion, and Calcasieu Parishes in Louisiana (40 FR 44412–44429). Alligators in those three parishes were listed as threatened, due to their similarity in appearance to the endangered alligators. The Service announced that it would re-study the distribution and density of alligator populations in the southeastern coastal areas and the problems of enforcement and administration. Based on this study, the Service would soon propose a reclassification of the endangered populations into threatened and endangered, with a new boundary line separating the classifications (40 FR 44412).

As a result of the study, the Director found that there was sufficient data to warrant a new Proposed Rulemaking that (1) the alligator is Threatened in all of Florida; and (2) the alligator is Threatened in certain coastal areas of Georgia, Louisiana (except for Cameron, Vermilion, and Calcasieu Parishes), South Carolina and Texas contained within the boundaries specified in a proposed amendment to Section 17.42(a) of Title 50, Code of Federal Regulations. A notice of this Proposed Rulemaking was published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14886–14888).

SUMMARY OF COMMENTS RECEIVED

Section 4(b)(1)(A) of the Act requires that the Governor of each State within which a resident species of wildlife is known to occur be notified and be provided 90 days to comment before any such species is determined to be a Threatened or Endangered Species. Accordingly, on April 14, 1976, the Service sent letters to the Governors of Arkansas, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Tennessee, Oklahoma, Louisiana, and Texas advising them of the proposed action and requesting their comments. In addition, on April 11, 1976, the Service issued a news release entitled "Alligator Comeback Prompts Removal from Endangered List: Now Classified Threatened" which advised that "public comments are invited through June 7, 1976."

The Service received a total of thirty-two comments regarding this proposed rulemaking, including responses from two Federal agencies, nine States, eleven private conservation organizations, one private trade association, three scientific researchers, and six private citizens.

These comments may be broadly categorized as follows:

Ten comments were received endorsing the reclassification as proposed, including those from the U.S. Department of Agriculture's Forest Service, the States of North Carolina, South Carolina, Florida, Louisiana, Arkansas, and Oklahoma, the American Association of Zoological Parks and Aquariums, the New York Zoological Society, and one private citizen. Several of these comments contained additional questions or objections to various specific points in the proposal which are discussed in detail below.

Four comments were received requesting that additional areas be included in the reclassification to Threatened status, including those comments from the States of Georgia, Alabama, and Texas, and the Zoological Action Committee, Inc. (Zoo Act).

Four comments were received supporting reclassification in some parts of the species' range, but opposing "wholesale" reclassification of alligators in the State of Florida. These included the Florida Audubon Society and three letters of support for its position from Drs. Archie Carr of the University of Florida, James N. Layne of the Archbold Biological Station, and Roy McDiarmid of the University of Florida and the Florida Committee on Rare and Endangered Plants and Animals.

Two comments were received, from the National Park Service and a private citizen, neither opposing nor supporting the proposed rulemaking, but questioning other aspects of the Service's overall efforts for protecting the species.

Ten comments were received opposing any reclassification of alligators to Threatened status at the present time. These included Monitor, Inc. (representing the Audubon Naturalist Society of the Central Atlantic States, Inc., the Fund for Animals, Defenders of Wildlife, National Parks and Conservation Association, the Wilderness Society, and Friends of the Earth), and four private citizens.

One comment was received from the National Newspaper Association which was a solicitation of advertising irrelevant to the biological and management issues of the proposal.

In these comments, a number of significant issues were raised which the Service feels it should respond to in detail. These issues are discussed in turn below.

1. *Biological justification for the proposed reclassification.* As summarized above, ten comments were received endorsing the reclassification as proposed. In its comments, the Forest Service stated that within the area of the proposed reclassification:

> Our information is that the status of the alligator has indeed improved within this portion of its range. Since reclassification from endangered to threatened would serve to advance sound scientific management of this resource, we support reclassification as proposed.

Similar comments were received from the States of South Carolina and Florida supporting the proposal. North Carolina, Arkansas, and Oklahoma, whose alligators would remain Endangered, also concurred with the proposal.

In its support of the proposed rulemaking, the New York Zoological Society stated that:

> The evidence available to our staff zoologists, coupled with that supplied by field biologists in the southeastern states, indicates that the wild populations of alligators have recovered sufficiently in much of Florida, Georgia, South Carolina, Louisiana, and Texas to warrant considering them Threatened rather than Endangered. The populations have not yet become so abundant as to be declassified totally.

The State of Louisiana supported the reclassification as proposed, but indicated the State has additional data indicating a possible need for further reclassification of populations in the southern parishes of the State in the future. The Service will consider the merits of such a further reclassification when the State submits these new data. The State also questioned the classification of the alligator in Cameron, Vermilion, and Calcasieu Parishes, indicating a misunderstanding about the meaning of the classification T(S/A). While it is true that the alligators from these three parishes are not totally delisted, but rather are classified as Threatened because of similarity of appearance to a Threatened species, this classification in no way

interferes with conducting a regulated harvest under the laws of the State of Louisiana in these three parishes. This harvest is specifically provided for in Special Rule 17.42(a)(1)(E), 50 CFR 17.42(a)(1)(E), and the present reclassification does not alter the application of that Special Rule to alligators in the three parishes. Finally, the State brought to the attention of the Service a potential problem with placement of the boundary. This problem is discussed in item 2 below.

Three States and one private conservation organization submitted comments requesting that additional populations be included in the reclassification to Threatened status.

Alabama pointed out that the alligator is considered to be a Threatened species in that State by the Alabama Department of Conservation and Natural Resources and a recent symposium on endangered species within the State. However, the State submitted no information about what criteria were used in arriving at the Threatened classification, nor were any new population data submitted. Current data available to the Service are insufficient to establish reliable population density figures or trends within the State; thus retention of the Endangered classification is necessary until new, more reliable evidence is submitted.

The State of Georgia also requested extension of the Threatened status to include the whole State, rather than just the coastal areas proposed, submitting a new population estimate of 86,892 alligators in the whole State, a 129 percent increase since 1974. However, no evidence was submitted to indicate how this population increase is distributed between proposed Endangered and Threatened areas. Until data become available documenting a substantial population increase north and west of the current proposed Threatened area, the Endangered-Threatened division within the State will remain as proposed.

The State of Texas also requested reclassification of the alligator to Threatened throughout the State, submitting new estimates of population densities of 37.10 alligators per square mile in the Threatened area and 5.33 per square mile in the Endangered area. The Service recognizes that the alligator is making substantial gains within the State of Texas. However, the figures submitted appear to justify reclassification as proposed, rather than modification to extend Threatened status to all alligators within the State. Fewer than six alligators per square mile is substantially less than the reported densities of 15–37 alligators per square mile in the areas proposed as Threatened.

The Zoological Action Committee, Inc. (Zoo Act) opposed the reclassification of the alligator into "make-believe separate populations when exactly the same control could be exercised over the animals by simply listing the entire species as Threatened." The Committee maintained that the Service's own data in the proposal do not support retention of Endangered status in any part of the alligator's range.

In contrast, Monitor, Inc. representing six conservation organizations stated that:

> In view of the facts presented in the Director's notice, the wisdom of the proposed reclassification is subject to serious question. Although the notice indicates that alligator populations in the affected areas are increasing as a result of strict federal and state protection, the notice also contains a very sober assessment of the long term prospects for survival of the alligator, because of the threatened loss of its habitat.

Thus, while agreeing with the basic facts presented in the proposal, these two organizations drew exactly opposite conclusions about the appropriate status classification for the species.

The Service maintains that the data currently available support neither complete retention of Endangered status nor complete reclassification to Threatened status throughout the species' range. The best available comprehensive estimate of the total alligator population is 734,384, with over 570,000, or approximately 75 percent, within the area of proposed reclassification. These figures are derived from a report prepared in 1974 by Ted Joanen of the Louisiana Wildlife and Fisheries Commission. The Service recognizes that the figures contained in this report must be used with care. It remains, however, the only comprehensive, state-by-state analysis of alligator population levels and trends. Since its preparation in 1974, additional data accumulated by National Wildlife Refuges, National Forests, government and private research institutions, and various states have been accumulating. While these data pertain only to local areas, they have almost without exception produced local population estimates even higher than those used in the Joanen report. With these high and expanding population levels, retention of Endangered status cannot be justified. On the other hand, reclassification of these populations to Threatened status will bring the legal status of the species into correspondence with biological reality, and will allow for more flexible management of those individual alligators which are occasional menaces to human life. The resulting reduction in human-alligator conflicts will help foster increased public tolerance, a key step in securing the future of the species. However, there is wide variation in its status in different parts of the range. It has been extirpated almost totally from Oklahoma and Virginia in historic times; it appears still severely depleted in North Carolina, Arkansas, Alabama, and Mississippi, and in parts of Georgia, South Carolina, Louisiana, and Texas. Thus the use of the Threatened category for this species throughout its entire range would be a misuse of the category over a large part of the area involved.

The National Audubon Society supported the reclassification of alligators in the designated portions of South Carolina, Georgia, Louisiana, and Texas. However, the Society strongly opposed the "wholesale" reclassification of alligators in the entire State of Florida, stating the data available are insufficient to establish that the alligator is in fact a Threatened species throughout the State. The Society questioned the validity of the estimate of 407,585 alligators in Florida contained in the Joanen Report, and cited a Fish and Wildlife Service staff report they had examined which they maintained recommended a different reclassification in Florida based on geographic features. The Report which the Society cites, which was entitled "A Review of the Status of the American Alligator in the Southeastern United States, with Recommendations for a Federal Action," was prepared by Service staff biologists in 1974. It was a draft report and in 1975 it was rewritten with a new title, "Summary of the Status of the American Alligator in the Southeastern United States with Recommendations to Reclassify Certain Populations as Threatened Species." The later version of the report makes recommendations for reclassification of alligators in the whole State of Florida which were adopted in the proposed rulemaking. The changes which were made in the later version of the report reflected the Service's biologists' views that, on the whole, the alligator does indeed qualify for Threatened status in the entire State of Florida. This report summarizes the alligator situation in Florida as follows:

> The situation is geographically complex and defies simple summarization except to note that, in general, Florida supports moderate to large alligator populations throughout the State either increasing or remaining stable in the face of increasing urbanization except in intensive development centers.
>
> Considerable inter-observer bias in numerical population estimation is evident in Joanen's report, but the supplementary data indicate that the population levels are generally high. The question is, just how high. This should be considered a problem for local management decisions, not for overall status review.

The supplementary data referred to in this excerpt include data being collected annually by the Service (at the Gainesville Field Station of the National Fish and Wildlife Laboratory, and Loxahatchee and other National Wildlife Refuges), the National Park Service (Everglades National Park), the U.S. Department of Agriculture's Forest Service (Ocala and Osceola National Wildlife Refuges), graduate research at the University of Florida, and research by the alligator biologists of the Florida Game and Freshwater Fish Commission. All of these sources indicate that the population estimates contained in the original Joanen report are conservative, and that current population levels are significantly higher. The Joanen Report itself estimated 407,585 alligators in the State of Florida, 55 percent of the entire estimated U.S. population of 734,384. Taken as a whole, these data show that alligators in Florida are more numerous than in any other State, and are in-

creasing in number annually, fully qualifying for reclassification to Threatened status.

2. *Placement of the line demarcating endangered and threatened populations.* The State of Louisiana questioned one portion of the line separating Endangered from Threatened alligators. The proposed reclassification stated, that the northern boundary of the Threatened alligators was from Ragley, Louisiana "west on Louisiana State Highway 12 to Texas State Highway 12 at Texas-Louisiana border * * *." The State correctly pointed out that adoption of this line would include within the Endangered zone a small portion of Calcasieu Parish, where alligators have been previously reclassified as Threatened by Similarity of Appearance only. This portion of the boundary has been revised in this final rulemaking to read from Ragley, Louisiana "thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border; thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12 * * *."

3. *Need to determine critical habitat for the species.* Seven respondents, the six conservation organizations represented by Monitor, Inc., and one private citizen, stated that because of the continuing threats to alligator habitat, there is an urgent need for determination of Critical Habitat for the species.

A Critical Habitat determination may eventually be desirable to assist Federal agencies in meeting their obligations under section 7 of the Act. It should be noted, however, that with or without such a determination, all Federal agencies are charged by section 7 to "insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of Endangered or Threatened Species". This reclassification in no way relieves Federal agencies of this responsibility. At the present time, the Service does not have sufficient biological data on hand to determine which areas of the species' range can be considered critical within the criteria outlined in the notice on Critical Habitat published on April 22, 1975 (40 FR 17764–17765). This notice stated that "Critical habitat" for any Endangered or Threatened species could be the entire habitat or any portion thereof, if, and only if, any constituent element is necessary to the normal needs or survival of that species. The following vital needs are relevant in determining "critical habitat" for a given species:

(1) Space for normal growth, movements, or territorial behavior;

(2) Nutritional requirements, such as food, water, minerals;

(3) Sites for breeding, reproduction, or rearing of offspring;

(4) Cover or shelter; or

(5) Other biological, physical, or behavioral requirements."

While sufficient data on population numbers and trends are available to determine its status, comparable data are not available on the specific ecological parameters and importance of different parts of its range. Collection of enough such data to determine which areas, if any, qualify as Critical Habitat will require considerable research and time.

4. *Effects of implementation of the special rules on threatened alligator populations.* Several respondents submitted comments questioning the effects of implementation of the Special Rules in § 17.42(a) on the Threatened alligators. In particular, the Florida Audubon Society, supported by Drs. Carr, Layne, and McDiarmid, and the six conservation organizations represented by Monitor, Inc., challenged the management plan submitted by the State of Florida under authorities granted in § 17.42 and its Cooperative Agreement with the Service for management of Endangered and Threatened species, signed on June 23, 1976. These respondents stated that they had information indicating that Florida planned to implement a system throughout the State in which private agents would be licensed for undertaking alligator control. Hides from the animals killed in the course of this program would be sold on the commercial market. Such a plan, these organizations maintained, would lead to the following undesirable consequences:

a. It would place alligator control in the hands of private agents, rather than State employees, many of whom might be alligator poachers, since poachers would be the most likely individuals having the skill and desire to participate in the program.

b. It would emphasize lethal control in every alligator-human conflict situation, whereas in some cases the conservation of the species would be better served by transplantation.

c. It would be in essence a commercial harvest under the guise of nuisance control and scientific research, in a State which has not yet developed sufficient scientific data to determine how much and what kind of harvesting populations in different regions of the State can support.

d. It would "perpetuate and legalize the vogue for alligator hide products which conservationists are convinced need to be eliminated if most species of crocodilian are to survive."

The National Park Service also submitted comments questioning the effects of implementation of the Special Rules, stating that this could lead to threats to American alligators and crocodiles in Everglades National Park through stimulation of the market for poached hides. Similarly, the American Association of Zoological Parks and Aquariums commented that implementation of the Special Rules could result in overemphasis on lethal control when transplantation might sometimes be a better alternative.

To clarify the ensuing discussion, reprinted below are the portions of the Special Rules already in force which would permit State management under a Cooperative Agreement:

§ 17.42 *Special rules—reptiles.*

(a) *American alligator (Alligator mississippiensis).*—(1) *Prohibitions.* The following prohibitions apply to the American alligator.

(i) *Taking.* Except as provided in this paragraph (a)(1)(i) of this section, no personma y take American alligators.

(D) Any employee or agent of the Service or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(c) of the Act, who is desingated by his agency for such purposes, may, when acting in the course of his official duties, take American alligators to carry out scientific research or conservation programs.

(F) When American alligators are taken by Service or State officials in accordance with paragraph (a)(1)(i)(D) of this section the hides may be sold by State or Federal officials: *Provided,* That the hides have first been tagged by the State of origin with a noncorrosable numbered tag inserted no more than six inches from the tip of the tail; the tag number and a description of the hide, including its length and the date and place of taking are recorded; and a shipping tag or label is affixed to the outside of any packages showing the name and address of the consignor and consignee, identifying the contents as alligator hides, and showing the number of hides in the package: *Provided further,* That such hides may be sold only to a person holding a valid Federal license, issued under this subsection, as a buyer of hides; and that the meat and other parts are not sold or offered for sale.

In a letter to the Service dated September 22, 1976, Dr. O. E. Frye, Jr., Director of the Florida Game and Freshwater Fish Commission, enclosed a copy of a document entitled "Research Proposal. A Pilot Test for Alligator Management. (Revised July 1976 from draft of 21 June 1976)." Basically, the pilot plan outlined in this proposal provides for one-year comparative study of three different types of control methods in three different, limited areas of the State: licensed agents using lethal control, regular State employees using lethal control, and State reservists using transplantation only without lethal control. All hides of alligators taken by the first two methods would be turned over to the State for later sale, in accordance with § 17.42(a)(1)(D) and (F). The Service has carefully reviewed this plan and feels that it is justifiable under provisions of the Special Rules cited above and should yield valuable information about the most efficient methods for alligator control with minimum harm to wild populations. On the basis of the data produced by this study, Florida, and other States as well, will be able to make better decisions about how to manage alligators in the future. In no way is this plan a commercial harvest under the guise of nuisance alligator control; it is a carefully planned, limited management experiment. As presently designed, the Service feels this plan obviates many of the objections cited above. Furthermore, the Service will annually review all conservation programs, including those for the alligator, to be instituted under each Cooperative Agreement with a State. This will give the Service the opportunity to seek modifications, or in the extreme case termination, of any Cooperative Agreement

which it feels violates the intent of the Act or the conservation of the resource.

Regarding the effects which institution of such a conservation program, with eventual sale of hides from legally taken alligators, could have on alligator poaching in the United States and smuggling of hides overseas, several points must be made. First, as emphasized elsewhere in this rulemaking, neither the reclassification nor institution of any State management plan will weaken the Service's commitment to enforcement of alligator protection. Furthermore, the elaborate system of tagging and registering all hides, already successfully implemented in Louisiana in the course of its extensive commercial harvest, should ensure that only legally taken hides reach the American marketplace. This system, combined with vigilant enforcement, should keep alligator poaching to tolerably low levels.

In addition, the alligator is currently included on Appendix I of the International Convention on International Trade in Endangered Species of Wild Fauna and Flora. This prevents, under Article III, section 3(c), the importation of any alligators or alligator products into a nation which has ratified or acceded to the Convention unless "a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes." Thirty-one nations so far have ratified or acceded to the Convention, and implementation of its provisions has begun; as more nations join in this effort in the future, even better control of alligator trade in the international marketplace will result. The United States will oppose any effort to remove the alligator from Appendix I and lift such trade controls until all of the principal crocodilian-hide processing nations of the world have joined in the enforcement of the Convention.

For crocodilians as a whole, the Service feels that the best long-run hope for their conservation lies in development of strong conservation programs. Such programs must include vigorous enforcement of protective laws, strong control of international trade, and economic as well as ecological incentives for the nations and peoples involved to institute such controls. Slow but steady progress is being made in each of these areas. The ecological importance of crocodilians to the aquatic ecosystems which they inhabit is being given increasing recognition by scientists and wildlife managers in many parts of the world. Several nations, including Thailand and Papua New Guinea, have made remarkable progress in development of crocodilian farms, from which future harvests may be possible with no drain on wild populations. All crocodilians of the world are included in either Appendix I or Appendix II of the Convention, with the most critically endangered species receiving the same import and export controls as the American alligator.

At the present time, 19 species and subspecies of foreign crocodilians are classified as Endangered by the United States, banning all import into this country unless a permit has been issued for "scientific purposes or for the enhancement of propagation or survival." To supplement this protection and that provided by the Convention, the Service is now in the final stages of preparation of a proposed rulemaking to treat all the remaining crocodilians of the world as Endangered because of Similarity of Appearance to Endangered crocodilians. Such treatment, when final, will throw a burden of proof on all importers to establish that any crocodilian or crocodilian product imported into the U.S. is not one of the Endangered species.

Justification for Listing the Alligator as Threatened in the Delineated Areas

In the delineated areas the alligator is relatively common. Population estimates for these areas are as follows: South Carolina, 32,500; Georgia, 15,853; Florida, 407,585; Louisiana (excluding Cameron, Vermilion, and Calcasieu Parishes), 94,779; Texas, 19,292. Altogether, 570,009 alligators are found within the area proposed as Threatened. This is more than 75 percent of all the alligators estimated to occur in the United States (734,384). By contrast, alligator numbers in areas where they will remain classified as Endangered are significantly lower. The following population numbers pertain to such areas: South Carolina, 16,200; Georgia, 14,101; Louisiana, 7,532; Texas, 7,492; Mississippi, 4,740; Alabama, 12,715; North Carolina, 1,314; Arkansas, 1,900; and Oklahoma, 10. In all areas where the alligator is proposed as a Threatened species, the population trend is reported to be increasing.

Despite these relatively high populations, alligators in the involved areas are considered "Threatened" within the definition of the Endangered Species Act of 1973. Section 4(a) of the Act states that the Secretary of the Interior may determine a species to be an "Endangered" species, or a "Threatened" species, because of any of five factors. These factors, and their application to these populations of the American alligator, are as follows:

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The alligator, even in those areas where it would be reclassified as Threatened, is not as abundant and widespread as in early times. Large parts of its range have been occupied by man or modified to such an extent as to be unusable to the species. The areas in which the reclassification would occur are entirely within the rapidly developing coastal section of the southeastern United States. Human population is increasing steadily in Florida and adjoining coastal areas, and the influx of man is sure to bring about conflicts that will threaten the survival of alligator populations. Industrial, commercial, recreational, and residential developments along the coast and major waterways of the region will take more and more of the habitat of the species. Although the alligator in this region is now numerous enough and sufficiently legally protected not to warrant Endangered status, the past history of its decline and the prospects for future habitat loss justify a Threatened classification.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Although the alligator now is Federally protected in those areas where it would be reclassified as Threatened, its past history of commercial exploitation gives cause for concern and warrants a Threatened classification. This species has high commercial value and can easily be wiped out over large areas in a relatively short time by determined hunters. In the past the alligator was greatly reduced by hide hunters. The potential for such destruction remains today, and actually is even more serious because of increased accessibility to alligator habitat.

(3) *Disease or predation.* Not applicable.

(4) *Inadequacy of existing regulatory mechanisms.* The dramatic comeback of the American alligator can be attributed to existing regulatory mechanisms. The success with respect to this species, which has little if any competition in nature, now requires that adjustments be made in the regulatory structure to provide for long-term protection. It is believed that the present regulations not only will protect current alligator populations but will permit their further enhancement, while allowing sufficient flexibility for the avoidance or amelioration of dangerous intrusions by alligators into areas occupied by humans.

(5) *Other natural or manmade factors affecting its continued existence.* Not applicable.

Effects of the Rulemaking

As alluded to in the preceding discussion, the principal effect of this rulemaking will be to bring the legal status of the American alligator into line with its biological status by reclassifying as Threatened those populations of alligators which occur in all of Florida and certain coastal areas of South Carolina, Georgia, Louisiana, and Texas contained within boundaries specified in a new § 17.92(a)(2)(iv) of Title 50, Code of Federal Regulations. This action will bring into force for the alligators which have been reclassified to Threatened status the Special Rules contained in § 17.42(a). These Special Rules provide for taking of alligators without a permit under certain clearly specified circumstances. Anyone may take an alligator in defense of human life. Designated State or Federal agents may take alligators without a permit if they are sick, injured, orphaned, or dead, and may take problem animals if done in a humane manner, to include killing only if live-capturing is not possible. Finally, employees or agents of States operative under Cooperative Agreements with the Service may take alligators for scientific research or conservation programs, and hides from such alligators may be sold, provided that they are correctly tagged and sold only to licensed buyers.

This determination of Threatened status makes the alligators in the specified areas eligible for continued protection provided by section 7 of the Act which reads as follows:

INTERAGENCY COOPERATION

Sec. 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

No Critical Habitat is presently being proposed. That action, if and when it occurs, will be a separate rulemaking.

(Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884).)

The amendments shall become effective on February 7, 1977.

Dated: January 3, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

1. Accordingly § 17.11 of Part 17 of Chapter 1 of Title 50 of the Code of Federal Regulations is amended as follows:

§ 1711 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
REPTILES							
Alligator, American	*Alligator mississippiensis.*	Wherever found in the wild, except in those areas where it is listed as threatened, as set forth below.	Southeastern United States	Entire	E	11	NA
Do	do	In the wild in Florida and in certain areas of Georgia, Louisiana (except in Cameron, Vermilion, and Calcasieu Parishes), South Carolina, and Texas, as set forth in sec. 17.42(a)(2)(iv).	United States (Florida and certain areas of Georgia, Louisiana (except Cameron, Vermilion, and Calcasieu Parishes), South Carolina, and Texas).	do	T	18	17.42(a)
Do	do	In the wild in Cameron, Vermilion, and Calcasieu Parishes in Louisiana.	United States (Cameron, Vermilion and Calcasieu Parishes in Louisiana).	NA	T(S/A)	11	17.42(a)
Do	do	In captivity, wherever found	Worldwide	NA	T(S/A)	11	NA

2. § 17.42, Special Rules—reptiles, is amended by the substitution of a new § 17.42(a)(2)(iv), and is republished as follows:

§ 17.42 Special rules—reptiles.

(a) *American alligator (Alligator mississippiensis)*—(1) *Prohibitions.* The following prohibitions apply to the American alligator.

(i) *Taking.* Except as provided in this paragraph (a)(1)(i) of this section, no person may take American alligators.

(A) Any person may take American alligators in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take American alligators without a permit if such action is necessary to:

(*1*) Aid a sick, injured or orphaned specimen; or

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove specimens which constitute a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(C) Any taking pursuant to paragraphs (a)(1)(i) (A) and (B) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(D) Any employee or agent of the Service or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take American alligators to carry out scientific research or conservation programs.

(E) Any person may take American alligators in Cameron, Vermillion and Calcasieu parishes in accordance with the laws and regulations of the State of Louisiana, including that State's marking and tagging requirements: *Provided,* That the hides of such alligators are only sold or offered for sale to a person holding a valid Federal license, issued under this subsection, as a buyer of hides; and that the meat and other parts are not sold or offered for sale.

(F) When American alligators are taken by Service or State officials in accordance with paragraph (a)(1)(i)(D) of this section the hides may be sold by State or Federal officials: *Provided,* That the hides have first been tagged by the State of origin with a noncorrosable numbered tag inserted no more than six inches from the tip of the tail; the tag number and a description of the hide, including its length and the date and place of taking are recorded; and a shipping tag or label is affixed to the outside of any packages showing the name and address of the consignor and consignee, identifying the contents as alligator hides, and showing the number of hides in the package: *Provided further,* That such hides may be sold only to a person holding a valid Federal license, issued under this subsection, as a buyer of hides; and that the meat and other parts are not sold or offered for sale.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, American alligators taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator.

(iv) *Commercial transactions.* Except as otherwise provided in this subsection or as may be authorized by a permit issued under authority of § 17.32, no person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator: *Provided,* That the hides of American alligators lawfully obtained from the State of Louisiana prior to December 28, 1973, may be sold or offered for sale in interstate (not foreign) commerce if the Director of the State wildlife conservation agency certifies to the Director that all such hides were lawfully obtained and can be identified; and such hides are sold, offered for sale, delivered, carried, transported, or shipped only to a person holding a valid Federal license, issued under this subsection, as a buyer of hides.

(2) *Definitions.* For the purposes of this paragraph (a)

(i) "Buyer" shall mean a person engaged in the business of buying and selling hides of American alligators in the wholesale market. A buyer may also be a tanner and a fabricator;

(ii) "Tanner" shall mean a person engaged in the business of processing green, untanned hides of American alligators into leather. A tanner may also be a buyer and a fabricator;

(iii) "Fabricator" shall mean a person engaged in the business of manufacturing products from American alligator leather. A fabricator may also be a buyer and a tanner.

(iv) "American alligator" shall mean any member of the species, and any part, offspring, dead body, part of a dead body or product of such species) *Alligator mississippiensis* occurring in the wild in Cameron, Vermillion and Calcasieu parishes, Louisiana, and in the wild in Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Waltersboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico.

From the Mississippi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 (including incomplete portions) to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border; thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west Shore of Laguna Madre to the Nueces-Kleberg county line; thence east along the Nueces-Kleberg county line to the Gulf of Mexico.

The prohibitions in this § 17.42(a) apply to all specimens of the "species" described in this definition, wherever they are found.

(3) *Permits and licenses.* (i) All permits available under § 17.32 (General permits—threatened wildlife) are available in relation to threatened American alligators. All the terms and provisions of § 17.32 apply to such permits issued under the authority of this paragraph (a)(3)(i).

(ii) This paragraph (a)(3) of this section applies instead of the permits available under § 17.52 (similarity of appearance). Therefore, permits issued under § 17.52 are not available in relation to threatened American alligators.

(iii) Upon receipt of a complete application, the Director may issue a license, in accordance with the issuance criteria of this paragraph (a)(3)(iii), for each of the categories defined in paragraph (a)(2) of this section.

(A) *Application requirements.* Applications for licenses under this subparagraph must be submitted to the Director by the person who wishes to engage in the activities described in paragraph (a)(2) of this section (buyer, tanner, or fabricator). Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category (buyer and/or tanner and/or fabricator) for which the license is desired;

(*2*) A description of the applicant's business organization, including: a description of the physical plant; the method of operation of the business; experience, if any, over the previous five years; all shareholders, partners, directors, officers or other parties in interest in the business organization;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for all American alligator hides and tags dealt with;

(*4*) A statement detailing any convictions or civil penalties under State or Federal laws for taking or trafficking in wildlife within the previous five years for the applicant, or any shareholder, partner, director, officer, principle, employee or agent.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a license for one or more of the three categories in paragraph (a)(2) should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the applicant's reliability and apparent ability and willingness to maintain accurate inventory and bookkeeping records of all American alligator hides and State tags dealt with.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of the subchapter, licenses issued under this provision shall be subject to the following special conditions:

(*1*) Licensees may not buy, tan or fabricate any American alligator hide except one which was taken, sold, offered for sale, delivered, carried, transported or shipped in accordance with paragraph (a)(1)(i) of this section;

(*2*) A buyer must leave all tags and shipping labels on the hides, unless the shipments are broken apart, in which case the shipping tags or labels must be removed, recorded, and returned to the issuer;

(*3*) If a buyer has broken apart original shipments and removed the shipping tags or labels as provided in (a)(3)(iii)(c)(2) of this section, he must affix a shipping tag or label to the outside of each new shipment of hides, showing the name and address of the consignor and consignee, identifying the contents of the shipment as American alligator hides, and showing the number of hides in the shipment;

(*4*) A tanner must leave all tags on the hides, but must collect, record, and return to the issuer all shipping tags;

(*5*) A fabricator must remove, record, and return to the issuer all tags;

(*6*) Every licensee must maintain complete and accurate records of all American alligator hides including all State tags, and the stub of the verification tag; capacity;

(*7*) Fabricators shall in addition maintain complete and accurate records showing the relationships of American alligator hides processed to finished American alligator products;

(*8*) Fabrictors must affix, under the supervision of the Service, a mark provided by the Service to each product made of American alligator hides.

(4) Manufactured products of American alligators which have been marked by a licensed fabricator in accordance with paragraph (a)(3)(iii)(C)(*8*) may be transported, shipped, delivered, carried or received in interstate commerce in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(5) No person shall, except as authorized pursuant to paragraph (a) duplicate or apply any mark used to identify products of American alligator hides produced by a fabricator licensed under this section.

[FR Doc.77-706 Filed 1-7-77;8:45 am]

proposed rules

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.

FARM CREDIT ADMINISTRATION

[12 CFR Part 604]

GOVERNMENT IN THE SUNSHINE ACT

Meetings of Federal Farm Credit Board; Comment Time, Extension

The notice of the proposed issuance by the Farm Credit Administration of regulations implementing the provisions of the Government in the Sunshine Act, as published in the FEDERAL REGISTER for January 3, 1977 (42 FR 55), is modified by changing the final date for the receipt of comments thereon from February 14, 1977, to February 4, 1977. This modification is necessary to permit the Federal Farm Credit Board to review at its next meeting all comments on the proposed regulations submitted by interested persons.

C. K. CARDWELL,
Acting Governor,
Farm Credit Administration.

[FR Doc.77-807 Filed 1-7-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-AL-14]

CONTROL ZONE AND TRANSITION AREA AT ANIAK, ALASKA

Proposed Revocation and Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the terminal airspace structure at Aniak, Alaska, by revoking the control zone, reconfiguring the 700-foot portion of the transition area, and deleting the 1,200-foot portion of the transition area.

Interested persons may submit such written data, views, or arguments as they desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before February 9, 1977, will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted subsequently in writing, in accordance with this notice, in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska.

The control zone at Aniak is designated part-time with traffic advisory service being provided by Bethel Flight Service Station on existing remote control air/ground outlets. The Anchorage Air Route Traffic Control Center provides air traffic control service for Instrument Flight Rule (IFR) and Special Visual Flight Rule (SVFR) operations during the effective period of the control zone.

Aviation weather observations are available on an irregular basis. During the effective period of the control zone when weather conditions are fluctuating above and below basic VFR weather miniums, it is difficult for pilots who observe weather conditions which are different than the reported weather to determine whether they need a special VFR clearance. Without current weather information, it is difficult also for Air Traffic Controllers to provide efficient and expeditious service.

Since regular hourly and special weather observations are not available on a continuous basis to support the control zone designation, it is herein proposed that the Aniak part-time control zone be revoked. Traffic advisory service and available weather information will continue to be provided to aeronautical users.

A collocated LOC/DME navigational aid has been installed to serve Runway 10 which provides lower ceiling approach minimums than the existing public and special NDB approaches. A reconfiguration of the 700-foot transition area is required to provide protected airspace for aircraft holding and executing approach/missed-approach procedures on the new LOC/DME navigational aid and recently revised NDB approaches while operating above 700 feet above the surface. The reconfiguration of the 700-foot portion of the transition area, eliminates the need for the 1,200-foot portion of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as follows:

1. In § 71.171 (41 FR 355) the Aniak, Alaska, control zone is revoked.

2. In § 71.181 (41 FR 440) the Aniak, Alaska, transition area is amended to read:

ANIAK, ALASKA

'That airspace extending upward from 700-feet above the surface within a 22.5 mile radius of the Aniak localizer (latitude 61°35' 02" N., longitude 159°33'01" W.) extending from a bearing of 238° (218° M) clockwise to 049° (029° M) from the Aniak NDB; within 4.5 miles southwest and 9.5 miles northeast of the Aniak localizer west course extending from the localizer to 25.5 miles west of the localizer; within 9.5 miles southwest and 4.5 miles northeast of the Aniak NDB 114° (094° M) bearing extending from the NDB to 22 miles southeast of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the Aniak NDB 230° (210° M) bearing extending from the NDB to 24 miles southwest of the NDB.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Anchorage, Alaska, on December 16, 1976.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc.77-735 Filed 1-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-EA-93]

DANSVILLE N.Y.

Proposed Designation of Transition Area

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Dansville, N.Y., transition area.

A VOR/DME RWY 18 instrument approach procedure developed for Dansville Municipal Airport, Dansville, N.Y., requires designation of a 700 foot floor transition area to provide controlled airspace protection for IFR arrivals and departures at that airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before February 9, 1977, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Dansville, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Dansville, N.Y., 700 foot floor transition area as follows:

DANSVILLE, N.Y.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 42°34'11" N., 77°42'43" W. of Dansville Municipal Airport, Dansville, N.Y.; within a 16-mile radius of the center of the airport, extending clockwise from a 025° bearing from the airport to a 090° bearing from the airport; within 5 miles each side of the Geneseo, N.Y. VORTAC 178° radial, extending from the 10.5-mile radius area to the VORTAC, excluding the portion that coincides with the Hornell, N.Y., 700 foot floor transition area.

The Federal Aviation Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Sec. 307(a) Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on December 21, 1976.

L. J. CARDINALL,
Acting Director,
Eastern Region.

[FR Doc.77-736 Filed 1-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WE-34]

Alteration of Transition Area

PALM SPRINGS MUNICIPAL AIRPORT, PALM SPRINGS, CALIF.[1]

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Palm Springs, California, Transition Area.

An ASR-5 radar will be commissioned for the Palm Springs Municipal Airport, Palm Springs, California, on or about March 1, 1977. Radar vector procedures are being developed to expedite arrival and departure procedures. The proposed additional transition area is necessary to provide controlled airspace for these radar vector procedures.

[1] Map filed as part of original.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before February 9, 1977 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conference must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

§ 71.181 [Amended]

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (42 FR 440) the description of the Palm Springs, California, Transition Area is amended to read as follows:

NOTE: That airspace extending upward from 700 feet above the surface beginning at latitude 34°08'00" N., longitude 116°30'00" W., to latitude 33°44'00" N., longitude 115°44'00" W., to latitude 33°24'00" N., longitude 116°-05'00" W., to latitude 33°34'00" N., longitude 116°16'30" W., to latitude 33°34'00" N., longitude 116°36'00" W., to latitude 33°51'00" N., longitude 116°36'00" W., to latitude 33°55'-00" N., longitude 116°46'00" W., to point of beginning.

The rule proposed herein has been reviewed in accordance with Executive Order 11821, titled "Inflationary Impact Statements," (39 FR 41501, November 29, 1974), and it has been determined that the preparation of an inflationary impact statement is not necessary.

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

Issued in Los Angeles, California, on December 22, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.77-790 Filed 1-7-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 4]

GOVERNMENT IN THE SUNSHINE ACT

Notice of Proposed Rulemaking

Correction

In FR Doc. 76-37800 appearing at page 55885 in the issue of Thursday, December 23, 1976 the following corrections should be made:

1. On page 55886, third column, 1st full paragraph in § 4.15(a)(2)(ii), sixth line, the paragraph reference should read "(a)(2)(i)(A)".

2. In the same column, in § 4.15(a)(3), seventh line, the paragraph reference should read "(a)(3)(ii)".

FEDERAL POWER COMMISSION

[18 CFR Parts 1 and 3]

[Docket No. RM77-4]

OBSERVATION OF COMMISSION MEETINGS AND EX PARTE COMMUNICATIONS

Extension of Comment Time

DECEMBER 30, 1976.

On November 15, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM77-4 (published November 29, 1976, 41 FR 52303), calling for comments by January 5, 1977. On December 28, 1976, the Federal Power Bar Association filed a motion for an extension of time within which comments may be filed.

Upon consideration, notice is hereby given that the time for filing comments in the above-designated rulemaking proceeding is extended to and including January 26, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-806 Filed 1-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Reductions, Suspensions, and Terminations—Advance Notice of Proposed Action

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments eliminate three exceptions to the requirement for advance notice prior to reduction, suspension, or termination of benefits; set forth criteria by which it will be determined that a multiple payment has been made; and add two limited exceptions to the requirements for continuation of payment, in accordance with the decision of the United States District Court for the District of Columbia in *Cardinale* v. *Mathews* (Civil Action No. 74-930). As these amendments are proposed in order to implement this court order, we believe that preparation of a regulation implementation plan and publication of a Notice of Intent regarding these proposed policies as described in the Secretary's regulation development policies announced on July 25, 1976, (41 FR 34811, August 17, 1976)

would be impractical. This notice of proposed rulemaking, which provides adequate notice and ample time for the public to comment on the proposed rules, fulfills the spirit and intent of the Secretary's July 25 announcement on regulation development policies. Interested parties are given 45 days from the date of publication of this notice to submit any data, views, or arguments.

Prior to the *Cardinale* decision, the Social Security Administration, before effectuation of an action to discontinue or reduce payment because of an event requiring suspension, reduction, or termination of payments, would give advance written notice of that intent in all cases except where (1) the Social Security Administration had factual information confirming the death of the recipient, (2) amendments to a Federal law or an increase in other Federal benefits required an automatic suspension, reduction, or termination, (3) a clerical or mechanical error had been made in effectuating the determination, or (4) the facts prompting the suspension, reduction, or termination were supplied by the recipient, were not subject to conflicting interpretations, and were complete. In the four above-listed situations, neither advance notice nor opportunity for continuation of payment was given to the recipient.

In the *Cardinale* decision the district court, citing the U.S. Supreme Court decision in *Goldberg* v. *Kelly* (397 U.S. 254 (1970)) and the requirements of due process, struck down all of the existing exceptions to advance written notice and opportunity for continuation of payment other than where the action to be taken is due to the death of the recipient. However, the court afforded the Social Security Administration an opportunity to evolve procedures, consistent with due process, to meet program needs. Subsequently, the court ordered, as stipulated by the parties, that the Social Security Administration could reduce, suspend, or terminate benefits in cases involving multiple checks or payments that exceeded certain dollar maximums. These provisions are explained in detail below.

The proposed changes to the regulations will effectuate the court's decision and order. Under the proposed rules no reduction, suspension, or termination action (unless due to death of the recipient) can be taken unless prior written notice and opportunity to request continued payment pending a decision on appeal have been given. Where the recipient has timely requested continuation of payment, such payment will be made at the previously established amount except where multiple checks had been issued or the payment exceeded the dollar maximums.

The advance written notice of intent to discontinue or reduce payment allows 60 days after the date of receipt of the notice for the recipient to request the appropriate level of administrative review (i.e., reconsideration or hearing). Current regulations allow 30 days in which to request administrative review. The change to allow 60 days is pursuant to Pub. L. 94–202 (enacted January 2, 1976) which increased the period for requesting a hearing under title XVI of the Social Security Act. In accordance with Congressional intent as reflected in the legislative history of Pub. L. 94–202, the Social Security Administration has made this 60-day time limit applicable also to the reconsideration level of administrative review. Where the request for review is filed within 10 days after the date the notice is received, payment will be continued at the previously established payment level (subject to the exception in § 416.1337) until a decision on the appeal is issued. The date of receipt of such notice shall be presumed to be 5 days after the date on the face of the notice. While the proposed rules (and the "Cardinale" order) do not permit any waiver of advance notice by the recipient, they do permit waiver of his right to continuation of payment at the previously established level to avoid overpayment. Such a waiver can be made only if initiated by the recipient and put in writing.

While the rights of the recipient must be protected, the Social Security Administration is also under an obligation to limit the number of incorrect payments that might be issued. To continue to pay amounts which are incorrect on their face would be to disregard this obligation. A new section is, therefore, added to the regulations providing for two situations in which, pending appeal pursuant to recipient's timely request, payment may be made at other than the previously established rate. Both of these exceptions cover only situations in which there is no doubt that the payment amount is incorrect. In these two situations, no action will be taken to suspend, reduce, or terminate payment before advance written notice of intent is given the recipient with an opportunity to request the appropriate appellate review within 60 days. If an appeal is filed within 10 days after the individual's receipt of the notice, payment will be continued (except where an individual's benefits have been correctly suspended) but not at the obviously incorrect level. The date of receipt of such notice shall be presumed to be 5 days after the date shown on the face of the notice.

The first exception covers instances of two or more payments in one month to the same person. Where it is determined that a recipient has received two or more regular monthly payments in one month, pursuant to criteria set forth in the proposed § 416.1337(a), payment will be made at the correct amount for the next month, after sending a notice of planned action to the beneficiary. If the recipient believes he is entitled to a higher amount of benefits, and appeals the determination within 10 days, he will be paid the highest of the two or more monthly payment amounts (or the correct amount if higher) until a decision on such appeal is issued.

The second exception involves amounts which exceed defined dollar limits above which payment is not possible. Where a payment exceeds these defined dollar limitations, a notice of planned action will be sent to the recipient and payment for the next month will be in the correct amount as reflected in the notice. If the individual appeals the action within 10 days, and the appeal cannot be disposed of prior to the first of the next month, the amount of the payment will be determined as set out in the proposed §§ 416.1337(b)(3)(i) and 416.1337(b)(3)(ii).

If there are any questions concerning this regulation, you may contact Marval Cazer, Legal Assistant, 6401, Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7463. Mr. Cazer will respond to questions but will not accept comments on this regulation.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before February 24, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW, Washington, D.C. 20201.

(Secs. 1102, 1601, and 1631 Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1465, as amended, 86 Stat. 1475, as amended, 42 U.S.C. 1302, 1381, and 1383.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: November 19, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 4, 1977.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1336 is revised to read as follows:

§ 416.1336 Notice of proposed adverse action affecting recipient's payment status.

(a) Advance written notice of intent to discontinue payment because of an event requiring suspension, reduction (see Subpart D of this part), or termination of payments shall be given in all cases, prior to effectuation of the action, except where the Social Security Admin-

istration has factual information confirming the death of the recipient.

(b) The written notice of intent to suspend, reduce, or terminate payments shall allow 60 days after the date of receipt of the notice for the recipient to request the appropriate appellate review (see Subpart N of this part). If appeal is filed within 10 days after the individual's receipt of the notice, the payment shall be continued or reinstated at the previously established payment level (subject to the effects of intervening events on the payment which are not appealed within 10 days of receipt of a required advance notice) until a decision on such appeal is issued, unless the individual specifically waives in writing his right to continuation of payment at the previously established level in accordance with paragraph (c) of this section. (See § 416.1337 for exceptions to the continuation of payment level.) Where the request for the appropriate appellate review is filed more than 10 days after the notice is received but within the 60-day period specified in § 416.1410 or § 416.1426, there shall be no right to continuation or reinstatement of payment at the previously established level, unless good cause is established under the criteria specified in § 416.1474 for failure to appeal within 10 days after receipt of the notice. For purposes of this paragraph, the date of receipt of the notice of intent to suspend, reduce, or terminate payments shall be presumed to be 5 days after the date on the face of such notice, unless there is a reasonable showing to the contrary.

(c) Notwithstanding any other provision of this section, the recipient, in order to avoid the possibility of an overpayment of benefits, may waive continuation of payment after having received a full explanation of his rights. The request for waiver of continuation of payment shall be in writing, state that waiver action is being initiated solely at the recipient's request, and state that the recipient understands his right to receive continued payment.

2. Section 416.1337 is added to read as follows:

§ 416.1337 Exceptions to the continuation of previously established payment level.

(a) *Multiple payments exception.* (1) Where it is determined that a recipient is receiving two or more regular monthly payments in one month, the Social Security Administration shall determine the correct payment amount and, as soon as practicable thereafter, send the recipient an advance written notice of intent to make subsequent payment in that amount. Payment for the following month shall be made in the correct amount, except as provided in paragraph (a) (3) of this section.

(2) The advance notice shall explain:

(i) That multiple payments were made in one or more months;

(ii) The correct amount of monthly benefits that the recipient is eligible to receive; and

(iii) The recipient's appeal rights.

(3) If an appeal is filed within 10 days after receipt of the written notice of intent, the highest of the two or more check amounts, or the correct amount if higher (subject to the dollar limitation provisions), shall be continued until a decision on such appeal is issued. See § 416.1474 for criteria as to good cause for failure to file a timely appeal. For purposes of this paragraph, the date of receipt of the notice of intent shall be presumed to be 5 days after the date on the face of such notice, unless there is a reasonable showing to the contrary.

(4) The fact that a recipient is receiving multiple payments is established if the records of the Social Security Administration show that:

(i) Two or more checks are being sent to an individual under the same name or a common logical spelling variation of the name;

(ii) The social security number is the same or a pseudo number appears;

(iii) The checks are being sent to the same address;

(iv) The sex code for such individual is the same; and

(v) The date of birth for such individual is the same.

(b) *Dollar limitation exception.* (1) Where it is determined that a recipient is receiving an erroneous monthly payment which exceeds the dollar limitation applicable to the recipient's payment category, as set forth in paragraph (b) (4) of this section, the Social Security Administration shall determine the correct payment amount and, as soon as practicable thereafter, send the recipient an advance written notice of intent to make subsequent payment in that amount. Payment for the following month shall be made in the correct amount, except as provided in paragraph (b) (3) of this section.

(2) The advance notice shall explain:

(i) That an erroneous monthly payment which exceeds the dollar limitation applicable to the recipient's payment category was made in one or more months;

(ii) The correct amount of monthly benefits that the recipient is eligible to receive; and

(iii) The recipient's appeal rights.

(3) If an appeal is filed within 10 days after receipt of the written notice of the intent (see § 416.1474 for criteria as to good cause for failure to file a timely appeal), the amount of payment to be continued, pending decision on appeal, shall be determined as follows:

(i) *Recipient in payment status.* Where the recipient is in payment status, the payment shall be in the amount the recipient received in the month immediately preceding the month the dollar limitation was first exceeded (subject to intervening events which would have increased the benefit for the month in which the incorrect payment was made. in which case the higher amount shall be paid).

(ii) *Recipient in nonpayment status.* If the recipient's benefits were suspended in the month immediately preceding the month the dollar limitation was first exceeded, the payment shall be based on that amount which should have been paid in the month in which the incorrect payment was made. However, if the individual's benefits had been correctly suspended and they should have remained suspended but a benefit that exceeded the dollar limitation was paid, no further payment shall be made to him at this time and notice of the planned action shall not contain any provision regarding continuation of payment pending appeal. For purposes of this paragraph, the date of receipt of the notice of planned action shall be presumed to be 5 days after the date on the face of such notice, unless there is a reasonable showing to the contrary.

(4) The payment categories and dollar limitations are as follows:

Payment category:	*Dollar limitation*
(i) *Federal supplemental security income benefit only.* Recipients whose records indicate eligibility for Federal supplemental security income benefits for the month before the month the dollar limitation was first exceeded.	$200
(ii) *Federal supplemental security income benefit and optional supplementation, or optional supplementation only.* Recipients whose records indicate they were eligible for Federal supplemental security income benefits plus Federally-administered optional supplementation, or eligible for Federally-administered optional supplementation only. for the month before the month the dollar limitation was first exceeded.	$700
(iii) *Federal supplemental security income benefit and mandatory or other supplementation, or mandatory supplementation only.* Recipients whose records show eligibility for Federal supplemental security income benefits and Federally-administered mandatory supplementation or essential person increment for the month before the month the dollar limitation was first exceeded. This category also includes those eligible for Federally-administered mandatory supplementation only and those eligible for Federal supplemental security income benefits plus an essential person increment and Federally-administered optional supplementation.	$2,000

[FR Doc.77-723 Filed 1-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2541]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the County of Outagamie, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the County of Outagamie, Wisconsin.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the County of Outagamie, Wisconsin must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Outagamie County Courthouse, 410 South Walnut Street, Appleton, Wisconsin 54911.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John R. Schreiter, Chairman, Board of Supervisors, Outagamie County Courthouse, 410 South Walnut Street, Appleton, Wisconsin 54911. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Embarrass River	Spurr Rd	766
Bear Creek	State Highway 76	763
Wolf River	County Highway M	763
	County Highway S	765

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 11, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-600 Filed 1-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2542]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Shawano County, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for Shawano County, Wisconsin.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, Shawano County must adopt sound flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Shawano County Courthouse, Shawano, Wisconsin 54166.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. George Grill, Chairman, Board of Supervisors, Shawano County Courthouse, Shawano, Wisconsin 54166. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level
Wolf River	County Highway A	809
	State Highway 29	808
Embarrass River	County Highway G	896
	County Highways D and M	839
North Embarrass River	Regina Culvert Bridge	1,124
	County Highway D	959
	County Highway D	945
	Leopolis Bridge	895
	Town Road Bridge	855
Middle Branch Embarrass		
South Branch Embarrass	Town Road Bridge	904
Red River	County Highway A	837
Oconto River	County Highway C	770
Shioc River	County Highway W	793

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 15, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.77-601 Filed 1-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Adoption of Cooperative Agreement With New Mexico for the Enforcement and Administration of Surface Coal Mine Reclamation Standards

On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally owned coal resources. 41 FR 20252 (1976). These regulations authorize the Department of the Interior to enter into Cooperative Agreements with States in which Federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mining reclamation operations. 30 CFR 211.75.

The Secretary and the Governor of New Mexico have completed the negotiation of a Cooperative Agreement under this authority. The Agreement provides that the State of New Mexico will be the principal entity, wherever possible, responsible for the administration and enforcement of surface coal mine reclamation operations on Federal coal leases in New Mexico.

The Department of the Interior's surface mining regulations require a Federal coal lessee to conduct mining operations in a manner which ensures the effective reclamation of mined lands.

An operator must, in particular, meet all the performance standards in 30 CFR 211.40 (1976). The Department's regulations require this degree of protection to be maintained, and the Department cannot enter into a Cooperative Agreement which compromises the degree of environmental protection established under Federal laws and regulations. The proposed Cooperative Agreement maintains this degree of environmental protection.

The State of New Mexico's reclamation regulations do not contain mandatory requirements that afford general protection of environmental quality and values at least as stringent as would occur under the exclusive application of Federal law. However, the State of New Mexico has the authority to administer its reclamation laws and regulations in a manner that provides the same degree of environmental protection as required by Federal law. The proposed Cooperative Agreement commits the State of New Mexico to this degree of environmental protection on

Federal coal leases and requires the State of New Mexico to ensure that "all mining plans approved under this Agreement shall afford general protection of the environmental at least as stringent as would occur under the exclusive application of 30 CFR 211." The proposed Agreement also requires that the procedures of the State are as effective as the procedures of the Department of the Interior to enforce the requirements of the mining plan. If the State of New Mexico is unable to meet these assurances, the Department has the duty, under the proposed Agreement, to notify New Mexico that it intends to cancel the Agreement. The Department of the Interior will require reports from the State of New Mexico and will conduct inspections to determine whether the State of New Mexico is complying with the assurances of the Agreement.

Article III, paragraph H of the Cooperative Agreement requires the State of New Mexico to devote adequate funds to administer and enforce reclamation requirements on Federal coal leases in that State. It is the understanding of both the Secretary of the Interior and the Governor of New Mexico that the Department of the Interior will provide funds to the State of New Mexico under a separate procurement agreement on a cost-of-service basis. The Department intends to reimburse the State of New Mexico for services, such as certain types of inspections, that the State will be performing for the Federal government. The language of Article III shall be construed in a manner consistent with this understanding.

In the regulations promulgated on May 17, 1976, the Department also established a procedure by which the Department could adopt the principal substantive, on-the-ground standards of a state's reclamation law as the Federal standards for operations on federal coal leases in the State, as long as the states' requirements afforded "general protection of environmental quality and values at least as stringent as would occur under exclusive application of the Federal standards." 30 CFR 211.75(a). In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a State's reclamation law. 41 FR 27993 (1976). This rulemaking takes no action under this section, and does not affect the requirements of 30 CFR 211.40, or the standards the Department of the Interior will use to approve a mining plan.

The Department regards four elements as central to a Cooperative Agreement for the administration and enforcement of surface coal mine reclamation standards: mine plans; inspections; enforcement provisions; and bonding requirements. The Department believes that the State of New Mexico is capable of administering and enforcing reclamation operations on Federal coal lease in New Mexico in such a way that Federal interests are protected.

Although the proposed Agreement grants the State the principal authority for administering and enforcing reclamation operations, we note the following. First, the Federal Coal Leasing Amendments Act of 1975, Pub. L. 94-377, requires the Secretary to approve the mining plan of a Federal Lessee. Article IV, section C of the Cooperative Agreement states the Secretary's duty to review and approve mining plans independently from state review and approval. The Agreement does avoid the application of conflicting standards by allowing the submission of one mining plan to the State and the Department.

Second, the Department retains its authority to establish the amount of the performance bond to be imposed. Article VII, section A avoids the imposition of double bonds by providing that the Department's bond requirement, if higher than the State's, will only be for the amount of the difference between the two amounts.

Variance procedures are treated in Article IV of this Agreement, which requires the Department to use, in New Mexico, its existing variance procedures.

The proposal contains the text of the Cooperative Agreement but it also contains proposed technical changes in 30 CFR 211.10 and 211.74(a) to conform those rules to the adoption of the Cooperative Agreement.

This proposed rulemaking does not explicitly amend 43 CFR Subpart 3041, but the Department wishes to state that the enforcement and administration provisions of that Subpart will be administered consistently with the change in 30 CFR Part 211 proposed here.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 CFR Subpart 3041) and Coal Mining Operation Regulations (30 CFR Part 211) (1976).

NEPA does not require and the Department has not prepared a separate impact statement for this action.

The Department believes that this Cooperative Agreement can promote both coal production and proper surface coal mine reclamation by eliminating duplication in the administration and enforcement of reclamation laws.

The Department will accept and consider written comments on the proposed rulemaking until February 10, 1977. Comments should be directed to Deputy Under Secretary Lyons, Chairman, Task Force on the Determination of State Role in Federal Surface Coal Mine Programs, Department of the Interior, Washington, D.C. 20240.

Dated: January 5, 1977.

THOMAS S. KLEPPE,
Secretary of the Interior.

1. Accordingly, it is proposed that 30 CFR 211.10 be amended by the addition of a subsection (e)(3) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * * * *

(e) States with 211.75(b) agreements. * * *

(3) New Mexico. A Federal coal lessee in the State of New Mexico who must submit a mining plan or permit under both State and federal law shall submit, in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) New Mexico Stat. § 63-34-1 et seq. NMSA 1953.;

(ii) New Mexico Coal Surface Mining Commission Regulations;

(iii) 30 C.F.R. § 211.10(c); and

(iv) A statement certifying that a copy of the plan or permit application has been given to both the New Mexico Coal Surface Mining Commission and the Secretary.

2. It is proposed that 30 CFR 211.74 be amended by the addition of a subsection (g)(3) to read as follows:

§ 211.74 Variances.

* * * * * * *

(g) States with 211.75(b) agreements. * * *

(3) New Mexico. A Federal coal lessee in the State of New Mexico shall request and receive variance from the State of New Mexico and the Secretary under the provisions of 30 C.F.R. 211.74

3. It is proposed that the Department enter into and approve a Cooperative Agreement to designate the State of New Mexico as the principal party to administer surface coal mine reclamation operations on federal leases in New Mexico.

Cooperative agreement between the United States Department of the Interior and the State of New Mexico under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 C.F.R. 211.75(b).

This agreement (referred to as the Cooperative Agreement) is made between the State of New Mexico, acting by and through Governor Jerry Apodaca (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

ARTICLE I

PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of New Mexico with respect to the administration and enforcement of surface coal reclamation requirements conducted under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements, by designating the State of New Mexico, to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in New Mexico.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the __ day of _____, 19__, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor affirms that the State will comply with all of the provisions of this Cooperative Agreement and will continue to

meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Coal Surface-mining Commission (referred to as the State Agency) is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 C.F.R. Part 211, and that the standards used to approve a mining plan of a Federal Lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The procedures of the State Agency shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamation requirements of 30 C.F.R. Part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State will devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulation, 30 C.F.R. 211.10(c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The Governor and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include the following information:

1. The information required by:

a. New Mexico Stat. Section 63-34-1 et seq. NMSA 1953 Comp.;

b. New Mexico Coal Surfacemining Commission Regulations;

c. 30 C.F.R. 211.10(c).

2. A Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information, the operator shall submit the information to both the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan or permit or request for an amendment or a variance from the plan or permit.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit, as provided in New Mexico Stat. Sections 63-34-4(E) and 7(B), NMSA 1953 Comp., or request for an amendment, as provided in Sections 4 and 16 of the New Mexico Coal Surface mining Commission Regulations. The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 C.F.R. 211.10(d), or request for a variance as required by 30 C.F.R. 211.74, or an amendment to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action and the State Agency shall reconsider the action if necessary to comply with this Cooperative Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by New Mexico Stat. Section 63-34-14, NMSA 1953 Comp., as frequently as necessary but at least quarterly the operations area of all Federal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of mined lands. The State Agency shall also perform all inspections required under 211.41. Such inspections performed in accordance with 30 C.F.R. 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with regular inspection by the State Agency.

D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by New Mexico Stat., Section 63-34-17, NMSA 1953 Comp.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by New Mexico Stat. Sections 63-34-17 and 20, NMSA 1953 Comp.

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under New Mexico Stat., Sections 63-34-17 and 20, NMSA 1953 Comp. with respect to such violations.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 C.R.F. Part 211 to submit a bond as provided in New Mexico Stat., Section 63-34-18, NMSA 1953 Comp. The Secretary shall reduce the Federal bond required for reclamation purposes under 43 C.F.R. 3041.3 and 30 C.F.R. 211.3, by the amount of the bond required by the Governor only if the release of all or any portion of the State Agency's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond provided for in New Mexico Stat., Section 63-34-18, NMSA 1953 Comp. for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advise and consent of the Secretary.

C. *Release of Bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by New Mexico Stat., Section 63-34-8, NMSA 1953 Comp.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the

State upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing:

1. That the State has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State has failed to comply with any assurance given by the State upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or New Mexico laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall be not less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the FEDERAL REGISTER containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection. Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after rulemaking.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior and/or the State of New Mexico may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the change. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No member of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decisionmaking, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The State Agency and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of department or division, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The State Agency and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution of the State of New Mexico.

JERRY APODACA,
Governor, State of New Mexico.

THOMAS S. KLEPPE,
Secretary, Department of the Interior.

[FR Doc.77-822 Filed 1-7-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 903]

MILITARY TRAINING AND SCHOOLS

Air Force Academy Preparatory School; Correction

In FR Doc. 76-38083, appearing at 41 FR 56336, Tuesday, December 28, 1976,

the comment date, given as January 31, 1976 should be "January 31, 1977."

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-787 Filed 1-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 158]

FOLLOW THROUGH PROGRAM

Notice of Proposed Rulemaking

Correction

In FR Doc. 76-35217, appearing at page 52488 in the issue for November 30, 1976, make the following changes:

1. In the fifth line from the top of the second column on page 52489, "Federal", should be added to the end thereof.

2. On page 52491, in § 158.65(c), the third line should read "Through grantee is being supported wholly or in * * *".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21036]

UNITED STATES-MEXICO FM BROADCAST AGREEMENT

Noncommercial Educational Channel Assignments, Oxnard, Calif.

Adopted: December 23, 1976.
Released: January 6, 1977.

In the matter of amendment of § 73.507(a), noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement. (Oxnard, California), Docket No. 21036, RM-2738.

1. The Commission here considers a petition for rulemaking,[1] filed on behalf of Faith Media, Inc. ("Faith Media"), a non-profit corporation,[2] which seeks the assignment of noncommercial educational FM (Class B) Channel 212 to Oxnard, California. No oppositions to the petition have been received. Since Oxnard is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican Government.

2. Oxnard (pop. 71,225)[3] is located in Ventura County (pop. 376,430), approximately 97 kilometers (60 miles) west of Los Angeles.

3. Faith Media asserts that the assignment of Channel 212 would be consistent with the Commission's policy of granting educational broadcast facilities to areas not presently served by such facilities, provided that the grant of such an assignment is technically feasible. In its engineering statement Faith Media shows that the requested assignment conforms to the minimum distance separation requirements. It notes that from 1960–1970 Oxnard's population increased 75 percent from 40,265 to 70,128, and the Oxnard master plan for the city calls for a planned growth to a population of 146,000 in 1990. We are told that Oxnard is in the center of a rich agricultural area which produced $306,000 worth of agricultural products in 1974. Faith Media submittted information regarding the type of city government and municipal facilities, civic, medical and recreational facilities, and also stated that it has an abundance of educational institutions. It points out that the assignment of Channel 212 to Oxnard would provide the city and surrounding area with a first local educational radio service which is needed to serve the area's fast growing educational interests and can assist the city in meeting its stated goals of planned development. Faith Media claims that such a noncommercial station in the area would provide a balanced medium of expression, cultural exchange, and vital information for a more unified community.

4. We propose the amendment of the Table of Assignments for noncommercial educational FM channels, as requested by Faith Media, Inc. Issuance of this Notice of Proposed Rulemaking is tentative for the Commission is presently considering a series of significant policy questions[4] involving the assignment of noncommercial educational FM channels, the resolution of which could conceivably require a result different than that which is proposed herein.

5. Comments are invited on the following proposal to amend the Table of Assignments for noncommercial educational FM channels located within 320 kilometers (199 miles) of the U.S.–Mexican border (§ 73.507(a) of the Commission's rules) with regard to the community of Oxnard, California, as follows:

City	Channel No.	
	Present	Proposed
Oxnard, Calif.		212

6. The Commission's authority to institute rule making proceedings; showings required, cut-off procedures; and filing requirements are contained below and are incorporated herein.

7. Interested parties may file comments on or before February 11, 1977, and reply comments on or before March 3, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend § 73.507(a), Noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement, of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments should be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an orig-

[1] Public Notice of the filing of the petition was issued on August 17, 1976 (Report No. 997).

[2] Before a permit could be granted, Faith Media would have to establish that it is an educational organization within the meaning of the Commission's rules and that it would use the station in furtherance of an educational program.

[3] Population figures for Oxnard and Ventura County are taken from the 1970 U.S. Census.

[4] See Notice of proposed rulemaking in Docket No. 20735, 41 FR 16973, April 23, 1976. Discussion of some of these issues as they relate to the showings involved in educational FM assignment cases can be found in the Notice of proposed rulmaking in Moorpark, California, 41 FR 7428, February 4, 1976.

inal and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.77-757 Filed 1-7-77;8:45 am]

[47 CFR Part 74]

[FCC 76-1156, Docket No. 21020, RM-2741]

FM TRANSLATOR STATIONS

Unattended Operation

Adopted: December 15, 1976.

Released: December 28, 1976.

In the matter of amendment to 47 C.F.R. 74.1266, Unattended Operation of FM Translator Stations.

1. The Commission has before it a petition for rule making filed by the National Translator Association ("NTA") seeking an amendment to the Commission's rules to permit the unattended operation of FM translator stations. A response to the petition was filed by the National Cable Television Association, Inc. ("NCTA") in which it opposed the rule amendment proposed in the petition. Alternatively, it argued that any such action should be considered only in connection with review of a whole range of other translator issues in a consolidated proceeding. NTA filed a reply to NCTA's opposition.

2. Petitioner explained that the filing of the subject pleading grew out of the enactment earlier this year of Pub. L. 94-335 which amended section 318 of the Communications Act to permit FM translators to be operated without having a licensed operator in attendance. Until the law was amended, only television translators were exempted from the statutory requirement in section 318 that all broadcast stations shall be operated only with licensed operators in attendance. Now that the Act no longer requires licensed operators to be in attendance, petitioner seeks to have the operator requirement in the Commission's rules removed. Petitioner points to the House Report 94-1261 on the Bill which amended Section 318 as indicating that the Committee believed that the valuable service to underserved areas rendered by FM translators could more feasibly be provided if these stations could operate on an unattended basis. The Senate Report No. 94-919 also is quoted to a similar effect. Petitioner urges us to implement the change in the law by a change in our rules which would put FM translators on the same footing as television translators.

3. The NCTA opposition filing asks consideration of the subject of unattended operation, if at all, only as part of a consolidated proceeding that would include consideration of two other petitions filed by NTA.[1] The three petitions are said to be best considered together so that the Commission can fully examine the broad subject of the role these FM translator stations are to play in an overall communications policy. Reference also is made to the proceeding in Docket No. 20539 which is concerned with the transport of signals to television translators. NCTA argues that any change in the rules in advance of such a broad policy review, even one limited to operator requirements, would be premature. However, if the Commission were to disagree with the need for following this suggestion, NCTA states that it has objections to raise on the merits of the petition itself. NCTA indicates that it is particularly concerned about the potential for interference from FM translators, and it asserts that this is connected to a tendency of translators to drift from their authorized frequency. It also expresses concern about what it says has been the sporadic nature of television translator operations. This in turn has been said to cause problems for cable systems which carry the signals of television translators. This problem has been related to television translators only and not to experience with FM translators. NCTA also states that it is conducting a survey on various points thought to be relevant to the issues raised in the petition, but it notes that the survey has not yet been completed.

4. Although NCTA is correct in observing that there are other rule making petitions pending which deal with translator stations, this fact in itself does not provide a reason for joining all these petitions for action in a consolidated proceeding. The subject matter differs entirely, and the present petition does not raise any basic question regarding overall communications policy. The question is simply whether FM translators, like television translators, should be allowed to operate on an unattended basis. We think this is a matter worthy of inquiry, and we invite comments on such a proposal. NCTA objects to unattended operation on the basis of alleged interference problems relating to frequency drift, but it offers no evidence to show that any such problem exists or that it could be expected to result from unattended operation. In the absence of any data, we see no reason not to proceed with consideration of unattended operation. NCTA's survey results when completed (and other submissions as well) are welcome to the extent they offer guidance on the points at issue in this proceeding. Since the inquiry here is limited to the unattended operation of FM translators, NCTA's observations regarding television translators are not on point.

5. When the FM translator rules were being developed, they were adapted from the rules already in force governing television translators. At that time, through inadvertence, a rule (§ 74.1234) was included which allowed unattended operation. Since the Communications Act did not then allow unattended operation, this Section could not be given effect, and § 74.1266 governed instead. The latter Section contained the requirements for attended operation, including use of licensed operators. These concepts are not identical, although they do overlap. Until section 318 of the Communications Act was amended, licensed operators had to be on duty at FM translator stations. Now that the Act has been amended, the Commission has two options. It could simply remove the requirement that the operator in attendance be licensed or it could permit unattended operation, as is allowed with television translators. It is the latter possibility we contemplate. We propose to do this through use of rule provisions paralleling those already in force for television translators. See §§ 74.734 and 74.766. The former covers unattended operation and § 74.1234 already contains equivalent language for FM translators. However, § 74.1266 which governs operator requirements does not agree with the equivalent television translator provision (§ 74.766). To remedy matters we propose to amend § 74.1266 to bring it into agreement with § 74.766. Thus, both television and FM translators could be operated on an unattended basis but only if the required showing in that regard were provided. Comments from all interested parties on the issues raised are welcome, as are any other suggestions on format or approach to use in clarifying the operator standards which should apply.

6. Authority for the institution of this proceeding, and adoption of the rules proposed herein, is contained in sections 4(i), 303(g) and (r) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in sections 1.415 and 1.416 of the Commission's Rules, interested parties may file comments on or before January 28, 1977, and reply comments on or before February 7, 1977. All relevant and timely comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with the provisions of section 1.419 of the Rules, an original and five copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street, NW).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-769 Filed 1-7-77;8:45 am]

[1] RM-2739 proposes FM translator program originations, and RM-2740 proposes to allow FM translators to originate oral emergency announcements.

[47 CFR Part 83]

[Docket No. 21028; FCC 76-1177]

VHF TRANSMITTING APPARATUS AND TRANSMITTER MEASUREMENT

Proposed Requirements Governing Instalation and Performance; Inquiry

Adopted: December 21, 1976.

Released: January 4, 1977.

In the matter of amendment of Part 83 of the rules regarding the installation of VHF transmitting apparatus and the performance of transmitter measurements, Docket No. 21028.

1. The Commission's rules and regulations specify several requirements governing the installation of transmitting equipment in a ship station. Section 83.111 requires that transmitter measurements be made upon installation; § 83.162 states that all adjustments to transmitting equipment during or coincident with installation which may affect proper operation must be performed by the proper license holder; and § 83.368 requires that pertinent details of the installation must be logged by the responsible licensed operator.

2. The Commission has interpreted these rules to allow the licensee of a ship station to install a pre-tested VHF transmitter in his ship station, without performing additional transmitter measurements at the time and place of installation. This was done to encourage the transition from the 2 MHz DSB system to the VHF system. Further, in light of the technical characteristics of VHF equipment, it is unlikely that the performance of this equipment would be adversely affected by the installation procedure. This interpretation has provided impetus to the growth of the VHF radiotelephone system and has served the public interest.

3. We now propose the rules be amended, as set forth below, to more clearly reflect this policy in regard to radiotelephone installations operating in the marine VHF band, 156 to 162 MHz. We further propose that these rules apply to emergency position radiobeacons (EPIRB's) which operate on the VHF frequencies, 121.5 and 243 MHz. Due to the large number of potential users of EPIRB's and due to the physical and technical characteristics of these devices, it is felt that this action would be in the public interest. EPIRB's are small, readily portable devices that operate from a self-contained power source. There are generally no electrical connections of any type to be made during the installation of the device in the ship station.

4. Furthermore, to assure that the transmitter tests are performed as required, the Commission proposes that these measurements be made mandatory for all channels installed by the manufacturer. Since the manufacturer may not supply the radio with full channel capacity, a method of indicating which channels have been factory installed and tested must be developed. Therefore, the Commission solicits particular comments on the following:

(a) Whether the present system of including with the radio a log or data sheet, containing a record of the measurements made and signed by the appropriately licensed operator, be continued;

(b) Whether a labeling system, indicating the channels installed and tested and which can be easily attached to the radio, be developed;

(c) The type of information that should be included on the label, if such a system is developed; and

(d) Any other methods which may be used to indicate the channels installed and tested by the manufacturer.

5. The proposed amendments of the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i), 303(l), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before February 7, 1977, and reply comments on or before February 22, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.111 paragraphs (a), (c) and (d) are amended to read as follows:

§ 83.111 Transmitter measurements.

(a) Except as provided for in paragraph (d) of this section, a determination shall be made that the carrier frequencies of each transmitter are within prescribed tolerance as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequencies or stability thereof;

(3) Upon receipt of an official notice of off-frequency operation.

* * * * *

(c) Except as provided for in paragraph (d) of this section, a determination shall be made that each radiotelephone transmitter produces peak modulation between 75 and 100 percent insofar as practicable as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect its modulation characteristics.

(d) The determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: *Provided,* The load conditions are equivalent to those of actual operation. In the case of transmitters operating in the VHF band, the determinations specified in paragraphs (a)(1), (a)(2) and (c) of this section are required to be performed by the manufacturer for each channel or frequency installed at the point of manufacture for all transmitters manufactured after _____. This shall be in lieu of these measurements being performed when the transmitter is initially installed.

* * * * *

2. Section 83.162 is amended to read as follows:

§ 83.162 Adjustment of transmitting apparatus.

Notwithstanding any other provisions of this subpart (except § 83.164(a)(2), (b), and (e), which has specific applicability to ship radar stations, survival craft stations, and VHF transmitter installations), all adjustments of radio transmitting apparatus in any station subject to this part during or coincident with the installation, servicing, or maintenance of such apparatus which may affect the proper operation of such station, must be performed by or under the immediate supervision or responsibility of a person holding a first- or second-class operator license, who shall be responsible for the proper functioning of the station equipment: *Provided, however,* That only persons holding a radiotelegraph first- or second-class operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse code.

3. Section 83.164 is amended by the addition of a new paragraph (e) to read as follows:

§ 83.164 Waivers of operator requirement.

* * * * *

(e) No operator license is required for the installation of a VHF transmitter in a ship station, where the installation is performed by or under the immediate supervision of the licensee of the ship station. This does not authorize the licensee of the ship station to add or substitute channels or to make any modifications to the transmitter, with the exception that where the Commission has type accepted a transmitter in which factory sealed "plug-in" modules are used for the addition or substitution of channels in a transceiver, the licensee may add or substitute channels using these "plug-in" modules.

[FR Doc.77-759 Filed 1-7-77;8:45 am]

[47 CFR Part 97]

[Docket No. 21033; RM-2664, 2780 FCC 76-1198]

AMATEUR RADIO STATIONS

Inquiry and Licensing; or Operation of Complex Systems and Modification of Repeater Sub-Bands

Adopted: December 22, 1976.

Released: January 6, 1976.

In the matter of deregulation of Part 97 of the Commission's rules to simplify the licensing and operation of complex systems of Amateur Radio stations and modification of repeater sub-bands, Docket No. 21033, RM-2664, RM-2780.

1. The Commission has before it the two above-captioned Petitions for rule making, submitted in accordance with the Administrative Procedure Act, 5 U.S.C. 553(e), and the Commission's rules, 47 CFR 1.401. Each of these Petitions for rulemaking seeks revision of Part 97 of the Commission's rules, 47 CFR 97.1, et. seq., concerning the licensing or operation of stations in the Amateur Radio Service.

2. The petitioners in RM-2664, Mr. Gordon Schlesinger and Mr. William F. Kelsey, request explicit recognition in the rules of so-called "remotely controlled base stations". They state that considerable confusion exists concerning the definition and operation of remotely controlled base stations, and that there is a need for specific rules to regulate the operation of such stations. Petioners have proposed specific rules which, if adopted, would both add to the rules several provisions concerning remotely controlled base stations and substantially relax the requirements for the operation of such stations. We have also received several comments from interested parties supporting the basic proposals of RM-2664.

3. The Middle Atlantic FM and Repeater Council (T-MARC), petitioner in RM-2780, seeks simplification of the Amateur Radio Service logging requirements, particularly the rules requiring the notation of all third party traffic sent and received, the retention of station logs for one year, and the recording of transmissions from "open access" automatically controlled repeater stations. T-MARC states that much of the logging required by the rules is of little benefit to either Amateur operators or the Commission and requests that logging requirements be relaxed accordingly.

4. We believe some of the proposals in the petitions we have received merit serious discussion, and we are herein proposing revisions of Part 97 of the rules which, if adopted, would result in a substantial simplification of the licensing and operation of stations in the Amateur Radio Service presently licensed as repeater stations, control stations, auxiliary link stations, and all other remotely controlled stations, such as remotely controlled base stations. The revisions we are considering, which are discussed at greater length below, would both accommodate many of petitioners' wishes and would be a significant step in the Commission's program of deregulation of the Amateur Radio Service.

5. Since adopting rules governing the operation and licensing of repeater and associated stations in 1972 in Docket 18803, 37 FCC 2d 225 (1972), the Commission has steadily reduced the burden placed on applicants for and licensees of complex systems of amateur radio stations and has afforded such licensees increasingly greater flexibility in the operation of such stations. For example, in Orders adopted January 10, 1974 and November 17, 1975, we deleted the requirements that certain technical showings be submitted with license applications for repeater and remotely controlled stations. In Reports and Orders in Dockets 20073, 20112, and 20113, adopted May 28, 1975, June 11, 1975, and October 29, 1975, respectively, the Commission revised its rules to permit the linking, automatic control, and crossband operation of amateur repeater stations.

6. Our experience since adoption of the rules regulating the licensing and operation of repeater and associated stations in Docket 18803 has demonstrated that amateur radio operators are fully capable of developing and operating complex systems of stations with a minimum of regulation by the Commission. We are aware of no compelling reason why amateurs wishing to operate repeater, auxiliary, control, or remotely controlled stations should continue to be required to obtain Commission permission before beginning such operation, as they have in the past. For this reason, we propose to delete those provisions of §§ 97.40, 97.41, and 97.43 of the rules requiring that licensees obtain prior approval of the Commission to operate a remotely controlled station and requiring that repeater stations, control stations, and auxiliary link stations be separately licensed. We would discontinue the issuance of station licenses with "combined" station privileges: All amateur station licenses would convey authority to operate as repeater, control, auxiliary link, and remotely controlled stations now operate. Functions now conducted by repeater stations would be conducted under a form of station operation known as "repeater operation". Functions now conducted by control stations and auxiliary link stations would be combined in a single form of station operation known as "auxiliary operation". Auxiliary operation would serve to meet the need for point to point links within a system of stations, including the transmissions of control and communication signals to other stations within a system, and the need for the automatic relaying of signals received at one location in a system of stations to stations at other locations within the system. Section 97.3 of the rules would be revised to include new definitions of repeater and auxiliary operation.

7. Similarly, we believe that operators of other remotely controlled stations, such as remotely controlled base stations, have demonstrated the capability of adequately controlling the emissions of such stations, and that the prohibition against the operation of such stations from control points in portable or mobile operation, presently contained in § 97.110 (b) of the rules, may be unduly restrictive. Accordingly, we propose to revise the rules to permit the portable and mobile operation of all primary, secondary, and club stations when such stations are in repeater or auxiliary operation.

8. Because no new station licenses would be issued to repeater stations, as such, we propose to discontinue our policy of assigning call signs prefixed with the letters "WR". Stations presently assigned such call signs would be permitted to retain them indifinitely. A licensee wishing to engage in repeater operation and wishing to obtain a "WR" call sign would be required to request that prefix. Stations with "WR" call signs would be restricted to repeater operation, however.

9. Because stations in repeater or auxiliary operation would be taking advantage of specialized modes of operation, we believe the transmissions of such stations should be distinctively identified. We propose to require that auxiliary or repeater operations conducted by stations with "traditional" call signs (that is, call signs not prefixed with the letters "WR") be identified by the addition of a distinctive suffix to the station call sign. Stations in repeater operation would be identified by the addition of the suffix "R", "RPT", or the word "repeater" to the regular call sign. Stations in auxiliary operation would be identified by the addition of the suffix "A", "AUX", or the word "auxiliary" to the regular call sign. We also propose to revise the station identification requirement for stations in repeater operation or stations in auxiliary operation automatically relaying the signals of other stations in a system to require identification at intervals of at least ten, rather than five, minutes.

10. Petitioner in RM-2780 seeks relaxation of certain logging requirements, and we are considering deletion of the requirement found in § 97.111(g)(2) of the rules that communications from open access stations in repeater operation under automatic control be either monitored in real time by the duty or control operator or recorded and the recordings retained for a period of thirty days. This requirement, which was originally intended to ensure that licensees have the capability of determining whether their stations were being used properly during periods when no control operator was on duty, has proven to be of little benefit to the Commission and may unduly burden licensees operating "open" repeater stations under automatic control. Of course, the licensee of a station would continue to be responsible for its proper operation, and we wish to receive comments addressing the issue of the continued usefulness to the Amateur Service of the recording requirement in ensuring the proper operation of "open" automatically controlled repeater stations.

11. We are proposing to revise the present rule that all remotely controlled stations have entered in their logs a list of all authorized control points and copies of all control and auxiliary link station licenses to require the entering of the names, addresses, and primary call signs of all authorized control operators. Such a revision would be based on the proposition that the responsibility for the proper operation of a remotely controlled station should be traceable to specific control operators rather than specific land locations. We also propose to require the posting of a list of authorized control operators at the remotely controlled transmitter site. We are not proposing to delete the requirements that the logs of stations in repeater or auxiliary operation contain certain specialized technical information, however.

12. Additionally, it appears that many Amateur operators seek greater flexibility in the choice of frequencies for repeater and auxiliary operation. Operators of remotely controlled base stations, for example, are not restricted to the repeater frequency subbands listed in § 97.-61 of the rules, although remotely controlled base stations closely resemble repeater stations, and it may be that such stations should be treated identically. We are therefore proposing to permit both repeater and auxiliary operation on all frequencies allocated to the Amateur Radio Service, except 435 to 438 MHz, and to delete the requirement that frequencies below 225 MHz used for auxiliary operation be monitored by the control operator before and during periods of operation. We would revise § 97.63 of the rules, however, to emphasize the two principles which have made possible the efficient operation of many amateur radio stations in relatively small spectrum space, namely, that a station using a frequency has first priority in such use over other stations, and that all frequencies allocated to the Amateur Service are shared on a non-exclusive basis. It is presently the responsibility of amateur licensees to strike an appropriate balance between these principles to ensure the fair and efficient use of available spectrum.

13. The Commission is aware that adoption of the rules proposed herein could result in a significant increase in the number of repeater, remotely controlled station, and associated activities pursued by amateur licensees. We are also aware that severe frequency congestion is presently being experienced in some parts of the country, and that the possibility exists that increased interference might result from adoption of these revisions. Many amateurs have voluntarily established techniques for managing available spectrum, and we commend such efforts. We are not prepared to make specific recommendations in this area at the present time, but we are nonetheless interested in receiving comments concerning present and future anticipated interference patterns, whether present techniques used by amateur operators to limit interference are adequate or could be improved, and whether present levels of voluntary cooperation are sufficient to justify continuation of the existing cooperative system. In this regard, we wish to receive comments concerning the utility of the limitations on the effective radiated power of stations in repeater operation contained in § 97.67 of the rules. Should such limitations be eliminated in their entirety, modified, or retained without change? What limitations, if any, should be placed on the effective radiated power of stations in repeater operation operating on frequencies not currently listed in § 97.67 of the rules?

14. The specific rule revisions we are proposing are set forth below. Authority for these proposals is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. We invite interested parties to submit comments concerning our proposals on or before April 1, 1977 and reply comments on or before April 15, 1977. An original and five copies of all comments submitted shall be furnished the Commission, pursuant to § 1.419 of the rules. Respondents wishing each Commissioner to have a personal copy of the comments may submit an additional six copies. Members of the public wishing to express interest in our proposals may participate informally by submitting one copy of their comments, without regard to form, provided the correct Docket number is specified in the heading of the comments.

15. Individuals wishing to inspect the comments and reply comments filed in this proceeding may do so during regular business hours, 8:00 a.m. to 4:30 p.m., in the Commission's Public Reference Room, 1919 "M" Street, N.W., Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended, as follows:

1. In § 97.3, paragraphs (i), (m) and (n) are revised, as follows:

§ 97.3 Definitions.

* * * * *

(i) *Additional station.* An amateur radio station, other than a primary station, including the following:

Secondary station. An amateur radio station licensed for a land location other than the primary station location. A station assigned a call sign prefixed with the letters "WR" is also considered to be a secondary station.

Special event station. An amateur radio station licensed for a specific land location for operation designed to bring public notice to the Amateur Radio Service and related to the celebration of an event, past or present, which is unique and of general interest to either the public at large or amateur radio operators.

* * * * *

[1] Commissioner Quello absent.

(m) *Amateur radio operation.* Amateur radio communication conducted by amateur radio operators from amateur radio stations, including the following:

* * * * *

Mobile operation. Radiocommunication conducted while in motion or during halts at unspecified locations.

Repeater operation. Radiocommunication, other than auxiliary operation, for retransmitting automatically the radio signals of other amateur radio stations.

Auxiliary operation. Radiocommunication for remotely controlling other amateur radio stations, for automatically relaying the radio signals of other amateur radio stations in a system of stations, or for intercommunicating with other amateur radio stations in a system of stations.

(n) *Control.* Techniques used to operate an amateur radio station. Must be one or more of the following:

* * * * *

Automatic control. The use of devices and procedures for control so that a control operator does not have to present at the control point at all times. (Only rules for automatic control of repeater operation have been adopted. Automatic control of all other types of amateur radio operation must be approved by the Commission in advance on a case by case basis.)

* * * * *

2. In § 97.40, paragraphs (d) and (e) are deleted, and paragraph (c) is revised, as follows:

§ 97.40 Station license required.

* * * * *

(c) An amateur radio operator may be issued one or more additional station licenses. A secondary station license shall not be issued to an amateur radio operator for a land location where a primary station license has been issued to the same amateur radio operator. This section does not apply to stations assigned call signs prefixed by the letters "WR".

3. In § 97.41, paragraph (c) is deleted, paragraphs (d), (e), (f), and (g) are redesignated paragraphs (c), (d), (e), and (f), respectively, and paragraph (b) is revised, as follows:

§ 97.41 Application for station license.

* * * * *

(b) Except for applications for club stations and military recreation stations, each application must state whether the proposed station is a primary or additional station. If the proposed station is an additional station, the application must state the type of additional station.

* * * * *

4. Section 97.43 is revised, as follows:

§ 97.43 Location of station.

Every amateur radio station must have one land location, the address of which appears on the station license, and at least one control point.

5 In § 97.53, paragraph (j) is redesignated paragraph (k), and a new paragraph (j) is added, as follows:

§ 97.53 Policies and procedures applicable to assignment of call signs.

• • • • •

(j) A station only engaging in repeater operation may be assigned a call sign prefixed by the letters "WR".

• • • • •

6. In § 97.61, introductory text of paragraph (a) and paragraph (c) are revised and a new paragraph (d) is added, as follows:

§ 97.61 Authorized frequencies and emissions.

(a) The following frequency bands and associated emissions are available to amateur radio stations for amateur radio operation, other than repeater and auxiliary operation, subject to the limitations listed in paragraph (b) of this section and § 97.65:

• • • • •

(c) All frequency bands and the associated emissions authorized by paragraph (a) of this section, except 435 to 438 mHz, are available for repeater operation, including input (receiving) and output (transmitting).

(d) All amateur frequency bands, except 435 to 438 mHz, are available for auxiliary operation.

7. In § 97.63, the headnote is revised and the text amended, as follows:

§ 97.63 Selection and use of frequencies.

(a) Although an amateur station occupying a frequency listed in § 97.61 has first priority in the use of that frequency over other amateur stations, such frequencies shall not be assigned for the exclusive use of any amateur licensee or licensees and must be shared.

(b) All Amateur Radio Service licensees shall cooperate in the selection and use of authorized frequencies and shall take such other steps as may be necessary to minimize interference to other amateur radio stations. Licensees making prolonged use of a particular frequency or frequencies shall cooperate with other licensees in the use of such frequency or frequencies.

(c) Sideband frequencies resulting from keying or modulating a carrier wave shall be confined within the authorized amateur band.

(d) The frequencies available for use by control operators of amateur stations are dependent on the operator license classification of the control operator and are listed in § 97.7.

8. In § 97.67, paragraph (c) is revised, as follows:

§ 97.67 Maximum authorized power.

• • • • •

(c) Within the limitations of paragraphs (a) and (b) of this section, the effective radiated power of an amateur radio station in repeater operation shall not exceed that specified for the antenna height above average terrain in the following table: • • •

• • • • •

9. Section 97.83 is redesignated § 97.82 as follows:

§ 97.82 Availability of operator license.

• • • • •

10. Section 97.85 is redesignated § 97.83, as follows:

§ 97.83 Availability of station license.

• • • • •

11. Section 97.87 is redesignated § 97.84, and paragraphs (c), (d), and (e) are revised, as follows:

§ 97.84 Station identification.

• • • • •

(c) Amateur radio stations in repeater operation or stations in auxiliary operation used to relay automatically the signals of other stations in a system, shall be identified by radiotelephony or radiotelegraphy at intervals not to exceed ten minutes.

(d) When an amateur radio station is in repeater or auxiliary operation, the following additional information shall be transmitted:

(1) When identifying by radiotelegraphy, a station in repeater operation shall transmit the word "repeater" at the end of the station call sign. When identifying by radiotelegraphy, a station in repeater operation shall transmit the fraction bar $\overline{DN}$ followed by the letters "R" or "RPT" at the end of the station call sign. (The requirements of paragraph (d)(1) of this section do not apply to stations having call signs prefixed by the letters "WR".)

(2) When identifying by radiotelegraphy, a station in auxiliary operation shall transmit the word "auxiliary" at the end of the station call sign. When identifying by radiotelegraphy, a station in auxiliary operation shall transmit the fraction bar $\overline{DN}$ followed by the letters "A" or "AUX" at the end of the station call sign.

(e) A station in auxiliary operation may be identified by the call sign of its associated station.

• • • • •

12. A new § 97.85 is added, as follows:

§ 97.85 Repeater operation.

(a) Emissions from a station in repeater operation shall be discontinued within five seconds after cessation of radiocommunications by the user station. Provisions to limit automatically the access to a station in repeater operation may be incorporated but are not mandatory.

(b) Except for automatic control operations, as provided in paragraph (e) of this section, the transmitting and receiving frequencies used by a station in repeater operation shall be continuously monitored by the control operator immediately before and during peirods of operation.

(c) A station in repeater operation may concurrently receive and retransmit amateur radio signals on one or more frequency bands authorized for repeater operation. A station in repeater operation, operating in conjunction with one or more stations in auxiliary operation relaying radio signals received at other locations to stations in repeater operation, may use input frequencies not available for repeater operation, provided the input frequencies to the stations in auxiliary operation are in frequency bands authorized for repeater operation.

(d) A station in repeater operation shall be operated in a manner ensuring that the station is not used for one-way communications, except as provided in § 97.91.

(e) A station in repeater operation, either locally controlled or remotely controlled, may also be operated by automatic control when devices have been installed and procedures have been implemented to ensure compliance with the rules when the duty control operator is not present at the control point of the station. Upon notification by the Commission of improper operation of a station under automatic control, such operation shall be immediately discontinued until all deficiencies have been corrected.

(f) A station assigned a call sign prefixed by the letters "WR" shall engage only in repeater operation.

13. A new § 97.86 is added, as follows:

§ 97.86 Auxiliary operation.

A station in auxiliary operation, either locally controlled or remotely controlled, may also be operated by automatic control when it is operated as a part of a system of stations in repeater operation operated under automatic control.

14. Section 97.88 is retitled and revised, as follows:

§ 97.88 Operation of stations by remote control.

An amateur radio station may be remotely controlled when there is compliance with the following:

(a) A photocopy of the remotely controlled station license and a list of authorized control operators, their names, addresses, and primary call signs, must be posted in a conspicuous place at the remotely controlled station transmitter location and the primary station location of each authorized control operator, or shall be carried in the possession of any control operator controlling the remotely controlled station from a station in auxiliary operation being operated portable or mobile. The transmitting antenna, transmission line, or mast, as appropriate, associated with the remotely controlled transmitter must bear a durable tag marked with the station call sign, the names of the station licensee and all authorized control operators and such other information as may be necessary to enable the Commission to quickly contact the control operators.

• • • • •

(c) Except for operation under automatic control, a control operator desig-

nated by the licensee must be on duty when the station is being remotely controlled. Immediately before and during the periods the remotely controlled station is in operation, the frequencies used for emission by the remotely controlled station must be monitored by the control operator. The control operator shall terminate all transmissions upon any deviation from the rules.

* * * * *

(e) A station in repeater operation shall be operated by radio remote control only when the control link uses frequencies other than the station's receiving frequencies.

§ 97.89 [Amended]

15. In § 97.89, paragraphs (c) and (d) are deleted.

16. In § 97.103, paragraph (c)(5) is deleted, and paragraph (c), (d), and (e) are revised, as follows:

§ 97.103 Station log requirements.

* * * * *

(c) The log of a remotely controlled station shall have entered the names, addresses, and primary call signs of all authorized control operators and a functional block diagram of a technical explanation sufficient to describe the operation of the control link. Additionally, the following information shall be entered:

(1) A description of the measures taken for protection against access to the remotely controlled station by unauthorized persons;

(2) A description of the measures taken for protection against unauthorized station operation, either through activation of the control link, or otherwise;

(3) A description of the provisions for shutting down the station in case of control link malfunction; and

(4) A description of the means for monitoring the transmitting frequencies.

(d) When a station has one or more associated stations, that is, stations in repeater or auxiliary operation, a system network diagram shall be entered in the station log.

(e) The log of a station in repeater operation shall have the following information entered for each frequency band in use:

(1) The location of the station transmitting antenna, marked upon a topographic map having a scale of 1:250,000 and contour intervals; [1]

(2) The antenna transmitting height above average terrain [2];

(3) The effective radiated power in the horizontal plane for the main lobe of the antenna pattern, calculated for maximum transmitter output power;

(4) The transmitter output power;

(5) The loss in the transmission line between the transmitter and the antenna, expressed in decibels;

(6) The relative gain in the horizontal plane of the transmitting antenna; and

(7) The horizontal and vertical radiation patterns of the transmitting antenna, with reference to true north (for horizontal pattern only), expressed as relative field strength (voltage) or in decibels, drawn upon polar coordinate graph paper, and the method used in determining these patterns.

(f) The log of a station in auxiliary operation shall have the following information entered:

(1) A system network diagram for each system with which the station is associated;

(2) The station transmitting band(s);

(3) The transmitter power input; and

(4) If operated by remote control, the information required by paragraph (c) of this section.

(g) Notwithstanding the provisions of §97.105, the log entries required by paragraphs (c), (d), (e), and (f) of this section shall be retained in the station log as long as the information contained in those entries is accurate.

§ 97.109 [Deleted]

17. Section 97.109 is deleted.

§ 97.110 [Deleted]

18. Section 97.110 is deleted.

§ 97.111 [Deleted]

19. Section 97.111 is deleted.

20. Section 97.126 is revised, as follows:

§ 97.126 Retransmitting radio signals.

No amateur radio station, except a station in repeater or auxiliary operation or a radio remotely controlled station, may automatically retransmit the radio signals of other amateur radio stations. A remotely controlled station, other than a remotely controlled station in repeater or auxiliary operation, shall retransmit only the radio signals of stations in auxiliary operation shown on the station's system network diagram.

21. Section 97.181(b) is revised, as follows:

§ 97.181 Availability of RACES station license and operator licenses.

* * * * *

(b) In addition to the operator license availability requirements of § 97.82, a photocopy of the control operator's amateur radio operator license shall be posted at a conspicuous place at the control point of the RACES station.

[FR Doc.77-760 Filed 1-7-77;8:45 am]

[1] Indexes and ordering information for suitable maps are available from the U.S. Geologic Survey, Washington, D.C. 20242, or from the Federal Center, Denver, Colorado 80255.

[2] See Appendix 5.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 523]

[Docket No. FE 76-05; Notice 2]

AUTOMOTIVE FUEL ECONOMY

Vehicle Classification; Correction

In FR Doc. 76-37339 appearing at page 55368 in the issue of December 20, 1976, two inadvertent errors were made in the preamble concerning the average fuel economy level proposed for nonpassenger automobiles and the year in which such standard would become effective. The errors appear on page 55370, in the 5th and 6th lines of the first full paragraph in the center column.

In line 5, "18.5 mpg" should read "18.7 mpg." In line 6, "1978" should read "1979."

(Sec. 301, Pub. L. 94-163, 80 Stat. 901 (15 U.S.C. 2001).)

Issued on December 29, 1976.

CHARLES E. DUKE,
Acting Administrator.

[FR Doc.77-725 Filed 1-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1251]

[No. 35345 (Sub-No. 2]

FREIGHT LOSS AND DAMAGE CLAIMS

Freight Forwarders Report

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of December 1976.

This proceeding is being instituted on our own motion to consider adoption of a requirement for the filing of a quarterly report of freight loss and damage claims by freight forwarders, and adoption of an annual report schedule of freight loss and damage claims by freight forwarders. The quarterly reports would be filed by freight forwarders within the scope of section 412, part IV, of the Interstate Commerce Act, whose rights are not limited to traffic having prior or subsequent movement in air freight forwarder service, with annual gross revenues of $10 million or more, effective with the quarterly report period beginning July 1, 1977. Freight forwarder claims for forwarders with rights limited to services and shipments having prior or subsequent movement by air are to be reported to the Civil Aeronautics Board, in accordance with Part 239 of its Economic Regulations (14 CFR Part 239), to eliminate any duplication of reporting. The annual report schedule would be included in all freight forwarder annual reports, Forms F-1 and F-2, (49 CFR 1251.-1; 1251.2), effective with the year ending December 31, 1977. The 1977 annual report schedule would cover the 6-month

period beginning July 1, 1977; beginning with 1978, and thereafter, the schedule would include claims for the full year.

The quarterly report under consideration would be similar to the report prescribed for motor carriers in Quarterly Report of Freight Loss and Damage Claims, Docket No. 35345, and railroads in Railroad Quarterly Report of Freight Loss and Damage Claims, Docket No. 35345 (Sub-No. 1). The freight forwarder report would require a detailed quarterly summary of (1) all freight claims received, paid, denied or closed, and other information analyzing freight claims processed; and (2) an analysis of theft-related claims paid, including cause of loss and loss location data. The quarterly reports would be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, within 40 days after the close of the quarter and be prepared in accordance with the instructions and format of the attached proposed report Form QLD–FF.

The annual report schedule under consideration would be included in all freight forwarder annual reports, Forms F–1 and F–2. The annual report schedule would furnish data from all freight forwarders regulated by the Interstate Commerce Commission, excluding revenues and claims incurred in connection with freight forwarder services and shipments which have a prior or subsequent movement by air and are reported to the Civil Aeronautics Board, CAB Form 239. This complete reporting would provide basic statistical facts regarding theft-related losses sustained by freight forwarders. The annual report schedule, as part of the freight forwarder's annual report, would be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, on or before March 31 of the year following the year to which it relates.

Theft of cargo moving in interstate commerce is a serious threat to the reliability, efficiency and integrity of the Nation's transportation system. It is intended that these reports provide the Congress, the Commission, other government agencies, shippers and the general public with information regarding freight loss and damage claims filed with freight forwarders. The emphasis of the reporting is cargo theft, a problem shared by freight forwarders as well as all other modes of transportation. The proposed reports will provide data for analysis of loss data, and publication of reports on the extent and nature of theft-related cargo losses, local and national trends, and other information necessary for development of theft prevention measures. The information is needed to support activities under Executive Order 11836, Increasing the Effectiveness of the Transportation Cargo Security Program, (40 FR 4255). Benefits to the freight forwarder industry and the shipping public should more than compensate for any burden imposed by the systematic reporting of data. Respondents to this Notice are invited to submit estimates of the reporting burden in man-hours per proposed report or schedule.

Upon consideration of these matters and for good cause:

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of section 412 of the Interstate Commerce Act, and pursuant to sections 553 and 559 of the Administrative Procedure Act, with a view to adopting the proposed quarterly report and annual report schedule set forth in Appendices A and B of this Notice, and for the purpose of making such other and further actions as the facts and circumstances may justify and require.

It is further ordered, That all freight forwarders subject to part IV of the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of fact, views and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any interested person wishing to submit written statements of fact, views and arguments shall file an original (and, if possible, 15 copies) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, by February 28, 1977, and that all such statements will be considered as evidence and as part of the record in the proceeding.

It is further ordered, That material or suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. during regular business hours.

And it is further ordered, That statutory notice of the institution of this proceeding be given to all respondents and to the general public by mailing a copy of this order to the Governor of every state having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

ROBERT L. OSWALD,
Secretary.

APPENDIX A

GENERAL INSTRUCTIONS

1. Under order of the Commission, all freight forwarders with annual gross revenues of $10,000,000, or more, are required to file quarterly reports of freight loss and damage claims, Form QLD–FF.

2. The reports must be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 40 days after the close of each quarter.

3. The order contemplates the inclusion of all claims incurred in connection with freight forwarder services and shipments, except those claims incurred in connection with such services and shipments which have a prior or subsequent movement by air and are reported to the Civil Aeronautics Board.

4. Reports should be prepared for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year.

5. Dollar amounts reported should be rounded to the nearest whole number. Omit cents.

6. The Certification must be completed by an officer of the freight forwarder filing the report.

7. In preparing the report, be certain to show the carrier's correct name and mailing address. The carrier's mailing address is the address where correspondence relating to accounting and reporting is to be directed, including P.O. Box Number, if applicable. The third copy of the report should be retained by the carrier in his files.

8. Suggestions from users for improving the scope, presentation or utility of this report are invited.

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS - FREIGHT FORWARDERS

Approved by GAO
B_____
EXPIRES

SCHEDULE A - ANALYSIS OF CLAIMS PROCESSED

FORM QLD-FF

FULL NAME AND ADDRESS OF REPORTING CARRIER

QUARTER ☐ 1st ☐ 2nd ☐ 3rd ☐ 4th YEAR 19___

ITEMS	LINE NO.	A NUMBER	B AMOUNT
Claims on hand at beginning of quarter	1		
Claims received or reopened during quarter	2		
Net amount of increases (decreases) during quarter	3		
Total (Lines 1 through 3)	4		
Billed underlying carrier for portion of claim during quarter	5		
Claims disposed of during quarter:			
Paid in full to claimants	6		
Paid in part to claimants	7		
Denied in full	8		
Denied in part	9		
Other claims disposed of (closed)	10		
Total (Lines 6 through 10)	11		
Claims on hand at end of quarter (Line 4 less line 11)	12		
Number of claims disposed of within 30 days	13		
Number of claims disposed of within 30 and 120 days	14		
Number of claims disposed of over 120 days	15		
Number of unsettled claims older than 120 days, on hand at close of quarter	16		
Amount recovered during quarter:			
From underlying carriers	17		
Salvage	18		
Insurance	19		
Miscellaneous adjustments	20		
Total (Lines 17 through 20)	21		
Dollar amount paid during quarter (Lines 6 and 7 less line 21)	22		

	Line No.	AMOUNT
Total freight forwarder operating revenues for quarter	23	
Ratio net claims paid to revenues, percent (Line 22÷23, two decimal places	24	%
Cost of cargo insurance paid to outside insurance companies for quarter	25	

Did respondent pay any claim for robbery, theft and pilferage, or other shortage during quarter? ( ) Yes ( ) No

If yes, complete and file Schedule B.

CERTIFICATION

I, the undersigned _____ of _____ certify that this report
(Print or type name and title of officer) (Full name of reporting company)
was prepared by me or under my supervision; that I have carefully examined it; and on the basis of my knowledge, belief, and verification (where necessary) I declare it to be a full, true and correct statement of the freight loss and damage statistics named, and that the various items here reported were determined in accordance with effective rules promulgated by the Interstate Commerce Commission.

Signature _____ Telephone No. _____ Date _____

INSTRUCTIONS FOR SCHEDULE A

1. On lines 1 and 2, report the number of claims on hand at the beginning of the quarter and the number received or reopened during the quarter in column A; report the total dollar amount of the claims in column B. The total number of claims on hand at the beginning of the quarter, line 1, should agree with the total number of claims on hand at the close of the quarter, line 12 of the report for the prior quarter.
2. Line 3 is provided for reporting dollar adjustments applicable to claims filed for uncertain amounts, such as, $100 more or less, or other adjustments in dollar amounts made by claimants to previously filed claims.
3. Report on line 5 the total number and dollar amount of all claims billed underlying carriers during the quarter, for their portion of amounts paid. Report the number and dollar amount of all claims paid during the quarter on lines 6 and 7, including amounts paid by insurance companies.
4. Report the number and dollar value of all claims denied or closed during the quarter on lines 8 through 10.
5. Excess dollar amounts of claims paid in part, i.e., the difference between claims as reported on line 4, and the amounts actually paid on line 7, should be shown on line 9 column B.
6. Lines 13 through 25 should report details, as applicable. Line 20 is to be used when there is a cancellation of a draft issued in settlement of a claim, a refund of an amount paid, or other recovery not properly identified as amounts recovered from salvage, underlying carriers or insurance companies.
7. The Certification should be completed by all carriers filing the report. The Certification should be made by the company officer responsible for processing and payment of claims.

INTERSTATE COMMERCE COMMISSION
QUARTERLY REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS

FORM QLD-FF

Approved by GAO
B_____
Expires

SCHEDULE B - ANALYSIS OF CLAIMS PAID

This schedule to be used for reporting claim payments, due to robbery, theft and pilferage, or shortage.

CARRIER NAME AND ADDRESS

QUARTER
☐ 1st ☐ 2nd ☐ 3rd ☐ 4th Year 19__

	A	B	C	D	E	F
Line No.	STCC Code	COMMODITY DESCRIPTION	Loss Code	No. of Claims	Location Code	Amount (Omit cents)
1	3720	Aircraft, missle engines, parts				
2	1960	Ammunition for small arms, 30 MM & under				
3	3714	Auto, bus, truck parts, accessories				
4	3860	Camera, photo equipment, supplies				
5	2070	Candy & confectionery				
6	2800	Chemicals & allied products, N.O.I.				
7	3260	China or pottery products				
8	2110	Cigarettes				
9	2300	Clothing				
10	2830	Drugs, medicines, biological products				
11	3600	Electrial machinery equipment, supplies, N.O.I.				
12	3640	Electric lighting equipment, lamps				
13	2892	Explosives, except ammunition				
14	1950	Firearms, small arms, 30MM & under				
15	2000	Food & allied products, N.O.I.				
16	2030	Food, canned, dried, preserved, pickled				
17	2500	Furniture and fixture				
18	3220	Glassware & glass products				
19	3420	Hardware, except power tools				
20	3630	Household appliances				
21	3800	Instruments, laboratory & other, N.O.I.				
22	3910	Jewelry, silverware, platedware				
23	3500	Machinery, N.O.I.				
24	3400	Metal products, fabricated, N.O.I.				
25	3300	Metal sheet casting, forgings, stampings				
26	3570	Office machines				

Line No.	A STCC Code	B COMMODITY DESCRIPTION	C Loss Code	D No. of Claims	E Location Code	F Amount (Omit cents)
27	1900	Ordnance N.O.I.				
28	2850	Paints, varnishes, enamels, lacquers				
29	2600	Paper and paper products				
30	3652	Phonograph records, recording tapes				
31	3000	Plastic and rubber products				
32	3430	Plumbing and heating fixtures, supplies				
33	2700	Printed matter				
34	3140	Shoes				
35	2200	Textiles, woven knit, misc. mill prod.				
36	3010	Tires and tubes				
37	2844	Toilet preparations, cosmetics				
38	3540	Tools, power and machine				
39	3940	Toys, games and sporting goods				
40	3651	TV & radio sets, recorders, amplifiers, parts				
41	3870	Watches, clocks, parts				
42	9900	All other, N.O.I.				
43	-	TOTALS	XXXXXXXXXX		XXXXXXXXXX	

INSTRUCTIONS FOR SCHEDULE B

1. Schedule B should show freight claims paid during the quarter, includable in the commodity codes shown, because of robbery, theft and pilferage, or other shortage, as defined by instruction 2. Columns A and B shows the reportable numeric code numbers and commodity descriptions as defined by the Standard Transportation Commodity Code (STCC). Code numbers are expanded to 4 digits by the addition of 0's where necessary. N.O.I. means not otherwise indexed in this list.

2. The loss code, column C, should be one of the following:

Code 1 *Robbery:* Failure to deliver all or part of a shipment as the result of stealing, including hijacking, *with* the use of force or threat of force against a person or persons. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from robbery should be reported under Robbery).

Code 2 *Theft and Pilferage:* Failure to deliver all or part of a shipment as the result of known stealing, or under circumstances indicating the probable cause was stealing, *without* use of force or threat of force against a person or persons, when it is known the freight was in the carrier's custody. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from theft or pilferage should be reported under Theft and Pilferage).

Code 3 *Other Shortage:* Failure to deliver all or part of a shipment for unknown reasons. (Note: Includes the unexplained disappearance of all or part of a shipment for reasons other than Robbery, or Theft or Pilferage, as defined above).

3. Column D should indicate the number of claims. Usually this will be one, but if the freight forwarder has more than one claim within the same STCC Code, Loss Code and Location Code, the claims should be summarized.

4. Column E should indicate the location where each loss occurred to the best of your belief by showing one of the standard codes shown in Table 1. The commercial zones are defined and described in 49 CFR 1048. Otherwise show the appropriate State, Country or unknown code.

5. Column F should show the dollar amount, rounded to the nearest dollar. Omit cents.

6. A computer generated printout report listing all the information requested may be filed in lieu of the furnished form, providing the report is accompanied by a machine-language card deck or data on magnetic tape in conformity with programs available from the Commission. The programs are in COBOL. The computer printout must be a clear copy capable of duplication, and must include full identification of the respondent, schedules and column headings.

TABLE 1 LOCATION CODES

States (Include District of Columbia)	Code
Alabama	01
Alaska	02
Arizona	04
Arkansas	05
California (except codes 69, 74 and 79)	06
Colorado	08
Connecticut	09
Delaware	10
District of Columbia (except code 81)	11
Florida (except code 70)	12
Georgia (except code 60)	13
Hawaii	15
Idaho	16
Illinois (except code 63 and 77	17
Indiana (except code 64)	18
Iowa	19
Kansas	20
Kentucky	21
Louisiana (except code 71)	22
Maine	23
Maryland (except code 61)	24
Massachusetts (except code 62)	25
Michigan (except code 67)	26
Minnesota	27
Mississippi	28
Missouri (except code 78)	29
Montana	30
Nebraska	31
Nevada	32
New Hampshire	33
New Jersey (except codes 72 and 75)	34
New Mexico	35
New York (except code 73)	36
North Carolina	37
North Dakota	38
Ohio (except code 65)	39
Oklahoma	40
Oregon	41
Pennsylvania (except code 76)	42
Rhode Island	44

Schedule B, Form QLD-FF	Code
South Carolina	45
South Dakota	46
Tennessee	47
Texas (except codes 66 and 68)	48
Utah	49
Vermont	50
Virginia (except code 81)	51
Washington (except code 80)	53
West Virginia	54
Wisconsin	55
Wyoming	56
COMMERCIAL ZONES	
Atlanta, Georgia	60
Baltimore, Maryland	61
Boston, Massachusetts	62
Chicago: Illinois Area	63
Chicago: Indiana Area	64
Cleveland, Ohio	65
Dallas, Texas	66
Detroit, Michigan	67
Houston, Texas	68
Los Angeles, California	69
Miami, Florida	70
New Orleans, Louisiana	71
New York: New Jersey Area	72
New York: New York Area	73
Oakland, California	74
Philadelphia: New Jersey Area	75
Philadelphia: Pennsylvania Area	76
St. Louis: Illinois Area	77
St. Louis: Missouri Area	78
San Francisco, California	79
Seattle, Washington	80
Washington, D.C.: Virginia Area (incl. Potomac Yard)	81
FOREIGN	
Canada	91
Mexico	92
Unknown	00

TABLE 2

NUMERIC COMMODITY LISTING, SCHEDULE B, FORM QLD-FF

STCC CODE	LINE NO.	COMMODITY DESCRIPTION
1900	27	Ordnance, N.O.I.
1950	14	Firearms, small arms, 30MM & under
1960	2	Ammunition for small arms, 30MM & under
2000	15	Food & allied products, N.O.I.
2030	16	Food, canned, dried, preserved, pickled
2070	5	Candy & confectionery
2110	8	Cigarettes
2200	35	Textiles, woven knit, miscellaneous mill products
2300	9	Clothing
2500	17	Furniture & fixtures
2600	29	Paper and paper products
2700	33	Printed matter
2800	6	Chemicals & allied products, N.O.I.
2830	10	Drugs, medicines, biological products
2844	37	Toilet preparations, cosmetics
2850	28	Paints, varnishes, enamels, lacquers
2892	13	Explosives, except ammunition
3000	31	Plastic and rubber products
3010	36	Tires and tubes
3140	34	Shoes
3220	18	Glassware & glass products
3260	7	China or pottery products
3300	25	Metal sheet casting, forgings, stampings
3400	24	Metal products, fabricated, N.O.I.
3420	19	Hardware, except power tools
3430	32	Plumbing and heating fixtures, supplies
3500	23	Machinery, N.O.I.
3540	38	Tools, power and machine
3570	26	Office machines
3600	11	Electrical machinery, equipment, supplies
3630	20	Household appliances
3640	12	Electric lighting equipment, lamps
3651	40	TV & radio sets, recorders, amplifiers, parts
3652	30	Phonograph records, recording tapes
3714	3	Auto, bus, truck parts, accessories
3720	1	Aircraft, missle engines, parts
3800	21	Instruments, laboratory & other, N.O.I.
3860	4	Camera, photo equipment, supplies
3870	41	Watches, clocks, parts
3910	22	Jewelry, silverware, platedware
3940	34	Toys, games & sporting goods
9900	42	All other, N.O.I.

APPENDIX B

SCHEDULE XX
Summary of Freight Loss and Damage Claims

Line		
1.	Freight revenue (Account 501)	$_____
2.	Number of theft related claims paid	_____
3.	Number of other claims paid	_____
4.	Net dollars paid (See instructions below)	$_____
5.	Claims expense/revenue ratio: (Line 4 ÷ Line 1)	_____%

INSTRUCTIONS TO SCHEDULE XX

Exclude from this schedule the revenues and claims incurred in connection with freight forwarder services and shipments which have a prior or subsequent movement by air, and are reported to the Civil Aeronautics Board, CAB Form 239. Line 1 should show all freight forwarder revenue in Account 501. Line 2 should show the number of claims paid during the year for robbery, theft and pilferage, and other shortage as defined below:

Robbery - Failure to deliver all or part of a shipment as the result of stealing, including hijacking, with the use of force or threat of force against a person or persons. (Note: Claims for physical damage to freight in the same or other shipments resulting from robbery should be reported undery Robbery).

Theft and Pilferage - Failure to deliver all or part of a shipment as the result of known stealing, or under circumstances indicating the probable cause was stealing, without use of force or threat of force against a person or persons, when it is known the freight was in the carrier's custody. (Note: Claims for physical damage to freight in the same or other shipments resulting directly from theft or pilferage should be reported under Theft and Pilferage).

Other Shortage - Failure to deliver all or part of a shipment for unknown reasons. (Note: Includes the unexplained disappearance of all or part of a shipment for reasons other than robbery or theft and pilferage, as defined above).

Line 3 should show the number of all other claims paid in full or in part during the year not reported on line 2.

Line 4 should include the net dollar amount of claims paid during the year. This includes claims paid in full or paid in part, less amounts recovered from underlying carriers, salvage, insurance, and claim refund cancellations.

Line 5 should show the ratio in percentage form (two decimal places).

[FR Doc.77-626 Filed 1-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the Giant Anole

The Director, U.S. Fish and Wildlife Service (hereinafter, the "Director" and the "Service", respectively), hereby issues a proposed rulemaking, pursuant to sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884; hereinafter the "Act"), which would determine the Giant Anole (*Anolis roosevelti*) to be an Endangered Species and which would determine Critical Habitat for this species. This lizard occurs on Culebra Island, Commonwealth of Puerto Rico.

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes.

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

Although originally described in 1931, very few specimens of this lizard are known to exist. There is considerable speculation among herpetologists as to its continued existence; searches by various individuals have failed to locate any of the lizards. However, this species is a canopy lizard, and inhabits an area extremely difficult to penetrate, especially by casual visitors. Herpetologists familiar with Culebra Island believe it may still exist on Mt. Resaca in small numbers. Unless definitely established to be extinct, protection should be afforded to both the lizard and its habitat.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the Giant Anole are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Giant Anole is a rare lizard which may survive only in the canopy of mountain forest on Mt. Resaca. The fan-leaved palm is the tallest tree in such forest, and, as with the semi-moist forest in general, is quickly disappearing because of man's activities. Unless the remaining forest on the slopes of Mt. Resaca is preserved, the specialized habitat of this lizard is threatened with destruction.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* Unknown.

(4) *The inadequacy of existing regulatory mechanisms.* There are no existing regulatory measures to protect this species.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of [E]ndangered species and [T]hreatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). The areas delineated below do not necessarily include the entire Critical Habitat of the Giant Anole and modification to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the Giant Anole found within the areas delineated below.

The areas delineated below (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) do not necessarily include the entire Critical Habitat of the Giant Anole, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the Giant Anole found within the areas delineated below.

Until the promulgation of section 7 regulations, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

CRITICAL HABITAT DETERMINATION

Based upon letters to the Fish and Wildlife Service from Herb Raffaele and Noel Snyder, Critical Habitat for the Giant Anole includes the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

I. A circular area of land with a 1.4 kilometer radius, the center being the summit of Mt. Resaca on Culebra Island, Commonwealth of Puerto Rico.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking would include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c) (1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carriers a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Puerto Rico with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) of the Giant Anole.

(2) The location of the reasons why any habitat of the Giant Anole should or should not be determined to be "Critical Habitat" as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the Giant Anole.

Final promulgation of the regulations on the Giant Anole will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street, NW, Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments and other documents, preferably in triplicate, to Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received no later than April 7, 1977, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street, NW, Washington, D.C.

(Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884)

Dated: December 22, 1976.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend §17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
REPTILES							
Anole, Giant	*Anolis roosevelti*	NA	Culebra Island, Puerto Rico.	Entire	E		NA

It is further proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec.
17.95 Critical habitat—fish and wildlife.

2. By adding new §17.95(c) (4) reading as follows:

§ 17.95 Critical habitat—fish and wildlife.

(c) Reptiles * * *

(4) Giant Anole. (a) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the Giant Anole:

[1] A circular area of land with a 1.4 kilometer radium, the center being the summit of Mt. Resaca on Culebra Island, Commonwealth of Puerto Rico.

[FR Doc.77-727 Filed 1-7-77;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the St. Croix Ground Lizard

The Director, U.S. Fish and Wildlife Service (hereinafter, the "Director" and the "Service," respectively), hereby issues a proposed rulemaking, pursuant to sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884: hereinafter the "Act"), which would determine the St. Croix Ground Lizard

(*Ameiva polops*) to be an Endangered Species and which would determine Critical Habitat for that species. This species occurs on Green and Protestant Cays, U.S. Virgin Islands.

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the St. Croix Ground Lizard are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The St. Croix Ground Lizard is presently confined in small numbers to Green and Protestant Cays near St. Croix, U.S. Virgin Islands. About 200 individuals have been reported from Green Cay, thirteen acres in area and presently undeveloped. Protestant Cay, four acres in area, supports about 100 individuals; there is some development in the form of a hotel. Expansion of development on Protestant Cay or the start of development on Green Cay could seriously reduce available habitat for this lizard. A sea wall constructed in 1963 in Frederiksted was apparently responsible in part for the elimination of the last population of the St. Croix Ground Lizard on St. Croix.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Not applicable for this species.

3. *Disease or predation.*—This is probably a significant factor contributing to the current plight of the species.

Strong but circumstantial evidence indicates that the introduced Indian mongoose has played a significant role in the decline of the St. Croix Ground Lizard. The mongoose was introduced to St. Croix in 1884 and populations of *Ameiva polops* have declined ever since. The last individuals were reported from Christiansted in 1920 and Frederiksted in 1968. St. Croix now supports a dense mongoose population which may be as high as one individual per acre. Both Green and Protestant Cays, which support populations of the lizard, are not populated by mongooses. An introduced population of *A. polops* on Buck Island has apparently been exterminated because of mongoose predation; the National Park Service is currently conducting studies to determine if there is a direct correlation between numbers of mongooses and the decline in *Ameiva* populations. If mongooses are released on Green or Protestant Cay, existing populations of *A. polops* could be eliminated.

4. *The inadequacy of existing regulatory mechanisms.*—There currently exist no regulations pertaining to the protection and conservation of this species.

5. *Other natural or manmade factors affecting its continued existence.*—None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of [E]ndangered species and [T]hreatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The areas delineated below (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) do not necessarily include the entire Critical Habitat of the St. Croix Ground Lizard, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the St. Croix Ground Lizard found within the areas delineated below.

Until the promulgation of section 7 regulations, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

CRITICAL HABITAT DETERMINATION

Based upon literature reviews and conversations with Dr. Richard Philibosian who has looked for populations over the former range and conducted studies on remaining populations, Critical Habitat for the St. Croix Ground Lizard includes the following areas:

(i) Green Cay, U.S. Virgin Islands, Entire Island.

(ii) Protestant Cay, U.S. Virgin Islands, Entire Island.

It is emphasized that the areas delineated below may not necessarily include all of the potential Critical Habitat of the St. Croix Ground Lizard, and modifications may be proposed in the future. In particular, Buck Island Reef National Monument may be considered, but at present lacks any individuals of St. Croix Ground Lizards, and harbors a large mongoose population, despite past attempts to reintroduce the lizard there and past attempts to eliminate mongooses.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking would include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner: the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the third in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship and endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carriers a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Regulations published in the FEDERAL REGISTER of September 26, 1975, (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits, involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of the Virgin Islands with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the St. Croix Ground Lizard;

(2) The location of and reasons why any habitat of the St. Croix Ground Lizard should or should not be determined to be "Critical Habitat" as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the St. Croix Ground Lizard.

Final promulgation of the regulations on the St. Croix Ground Lizard will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street, NW, Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments and other documents, preferably in triplicate, to Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received no later than April 8, 1977, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street, NW, Washington, D.C.

(Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).)

Dated: December 29, 1976.

GEORGE W. MILIAS,
Acting Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend Section 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
REPTILES							
Lizard, St. Croix Ground.	*Ameiva polops*	NA	Virgin Islands: Green Cay, Protestant Cay.	Entire	E		NA

It is further proposed to amend 50 CFR Part 17:

1. By amending the Table of Sections for Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec.
17.95 Critical habitat—Fish and wildlife.

2. By adding new § 17.95(c)(2) reading as follows:

§ 17.95 Critical habitat—fish and wildlife.

(c) Reptiles • • •

(2) St. Croix Ground Lizard. (a) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the St. Croix Ground Lizard (*Ameiva polops*):

(i) Green Cay, U.S. Virgin Islands, Entire Island.

(ii) Protestant Cay, U.S. Virgin Islands, Entire Island.

[FR Doc.77-726 Filed 1-7-77;8:45 am]

notices

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

Animal and Plant Health Inspection Service

ADVISORY COMMITTEE ON POULTRY HEALTH, MYCOPLASMOSIS SUBCOMMITTEE

Meeting

The first meeting of the Advisory Committee on Poultry Health was held at 9 a.m. on October 5, 1976, in the EPIC Room, Federal Building, 7th Floor, United States Department of Agriculture, Hyattsville, Md.

The functions of the committee include: advising the Secretary of Agriculture on outbreaks of avian diseases; studying and recommending extension of new and existing research; assisting in planning and disseminating information; recommending plans for eradication and control of avian diseases; and assisting in attaining the necessary cooperation from all segments of the poultry industry.

At this first meeting three subcommittees were appointed: Mycoplasmosis, Fowl Plague, and Area Quarantine.

The first meeting of the Mycoplasmosis Subcommittee will be held on January 25, 1977, from 9 a.m. to 4 p.m., in Room 643A, United States Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland.

The purpose of this meeting is to examine problems encountered by the poultry industry because of mycoplasmosis infections, field programs, testing and diagnosis, and antigen production, and to make recommendations for possible resolution of these problems.

The meeting is open to the public. Written statements may be filed with the subcommittee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. F. J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 316E, Washington, D.C. 20250, Area Code (202) 447-3668.

Dated: January 6, 1977.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-1021 Filed 1-10-77;8:45 am]

Agricultural Research Service

NATIONAL PLANT GENETICS RESOURCES BOARD

Public Meeting

Pursuant to the provisions of the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-799) notice is hereby given that a meeting of the National Plant Genetics Resources Board will be held on Thursday, February 3, 1977, in Room 2W, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C. 20250. The meeting is open to the public and will convene at 9:00 a.m. Members of the public may submit comments before or after the meeting.

The purpose of the meeting is to advise the Secretary and leaders of the National Association of State Universities and Land Grant Colleges on actions and policies regarding the collection, maintenance, and utilization of plant genetic resources; the coordination of plant germplasm collection plans among several national agencies and international organizations; the assessment of national needs and identification of high priority programs for conserving and utilizing plant genetic materials to minimize genetic vulnerability.

Copy of the agenda and further information concerning the meeting may be obtained by contacting Dr. C. F. Lewis, National Program Staff, Agricultural Research Service, U.S. Department of Agriculture, BARC West, Beltsville, Maryland 20705. His phone number is (301) 344-3884.

Done at Washington, D.C., this 5th day of January, 1977.

T. W. EDMINSTER,
Administrator.

[FR Doc.77-817 Filed 1-7-77;8:45 am]

Forest Service

COOPERATIVE GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM 1977 ACTIVITIES

Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, and Animal and Plant Health Inspection Service, Department of Agriculture, have prepared a Draft Environmental Statement for 1977 Activities which is an addendum to the 1974 Final Environmental Statement on the Cooperative Gypsy Moth Suppression and Regulatory Program, USDA, FS-APHIS (Adm.) 77-01.

The Draft Environmental Statement concerns a cooperative suppression program with the States of Pennsylvania, New York, and New Jersey, to treat approximately 146,800 acres of high-value forest land. Four insecticides will be used. Some areas will be treated with carbaryl, some with trichlorfon, some with Dimilin, and some with acephate, to protect forest resources from damage by the gypsy moth. The cooperative regulatory program is to prevent artificial, long-distance spread and to eradicate remote infestations in the United States.

This Draft Environmental Statement was filed with CEQ on January 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3230, 12th St. & Independence Avenue SW, Washington, D.C. 20250.
USDA, Animal and Plant Health Inspection Service, Administration Building, Room 302-E, 12th St. & Independence Ave., SW, Washington, D.C. 20250.
USDA Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C. 20250.

Copies of the Draft Environmental Statement 1977 Gypsy Moth Suppression and Regulatory Program have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. John R. McGuire, Forest Service, South Agriculture Building, 12th Street and Independence Avenue, SW, Washington, D.C. 20250. Telephone 202/447-4710. Comments must be received by March 4, 1977, in order to be considered in preparation of the final Environmental Statement.

R. MAX PETERSON,
Deputy Chief, Programs and Legislation.

DECEMBER 20, 1976.

[FR Doc. 77-819 Filed 1-7-77;8:45 am]

FOREST SERVICE GRAZING ADVISORY BOARDS

Two-Year Renewal

The Assistant Secretary for Conservation, Research, and Education has renewed 47 Forest Service Grazing Advisory Boards for an additional 2-year period ending January 5, 1979.

These are local boards established by the Secretary of Agriculture on March 5,

1975, under his own authority (36 CFR 231.10). Their purpose is to provide National Forest Service grazing permittees a means for expressing their recommendations concerning management and administration of the range resources of the National Forest System.

The Assistant Secretary has determined that continuation of these boards is necessary and in the public interest in connection with the duties imposed on the Department by law.

J. W. DEINEMA,
Deputy Chief.

[FR Doc.77-818 Filed 1-7-77;8:45 am]

ROCKY MOUNTAIN ENERGY CO.

Availability of Draft Environmental Statement for Bear Creek Uranium Mining and Milling Project

CROSS REFERENCE: For a document relating to the above-mentioned subject issued by the Nuclear Regulatory Commission, see FR Doc. 77-425 appearing in the Notices Section of this issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INDUSTRY ADVISORY GROUP IN EUROPE (DIAGE)

Closed Meeting

The Defense Industry Advisory Group in Europe (DIAGE) will hold a closed meeting on February 24, 1977, in the United States Mission to the North Atlantic Treaty Organization, Brussels, Belgium, on matters involving classified defense information and proprietary company data which come under the purview of subparagraph (4), section 552(b) Title 5 U.S.C.

The agenda topics will be status of NATO projects, and discussion of activities of U.S. defense industry firms in Europe.

Any person desiring information about the advisory group may telephone Brussels 241.44.00 ext. 5727, or write to the Executive Secretary, Defense Industry Advisory Group—Europe, USNATO HQS NATO, 1110 Brussels, Belgium.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

JANUARY 4, 1977.

[FR Doc.77-739 Filed 1-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1183; Docket No. 21047]

AMERICAN TELEVISION AND COMMUNICATIONS CORP.

Memorandum Opinion and Order Instituting Investigation

Adopted: December 21, 1976.

Released: December 23, 1976.

In the matter of American Television and Communications Corporation, revisions to Tariff F.C.C. No. 2, Transmittal No. 17.

1. The Commission has before it Transmittal No. 17 of American Television and Communications Corporation (ATC) and the accompanying revised pages to its Tariff F.C.C. No. 2 filed on September 30, 1976 to become effective January 1, 1977. A petition to suspend, investigate, and to order an accounting with respect to the proposed tariff was filed by TelePrompter Corporation (TelePrompter) and ATC has filed a reply to TelePrompter's petition.

2. ATC provides point-to-point common carrier microwave transmission of Minneapolis television signals to 12 cable television systems located in the State of Minnesota. The microwave system consists of a pickup station at Rockford, Minnesota and ten repeater-drop stations. There have been no recent modifications to the existing system, and no new microwave facilities have been constructed since 1969. However, ATC must install new high powered radio equipment at over 50% of its stations by June 1, 1977 in order to meet the frequency tolerance requirements provided in 47 C.F.R. 21.101(a). ATC's estimate of the total costs for this equipment change is approximately $315,000. Such a substantial outlay of capital funds, coupled with a desire to expand its existing system, caused ATC to reevaluate its present rate structure.

3. Under its revised tariff, ATC has introduced a rate structure which is designed to cover the expenditures necessary to replace present equipment, create a standardized schedule for all existing and potential customers, and encourage small cable systems to take common carrier service from ATC. All present customers, except one, will incur rate increases of varying amounts. This would be the first rate increase for six of ATC's cable customers in over ten years. The revised tariff provides that monthly customer charges will be calculated on the basis of two factors: (1) a flat per-channel charge and (2) the population of the community served. The charges for each channel transmitted to the customer are as follows: first channel, $600; second channel, $500; each channel thereafter, $200. The population component is calculated by dividing 3.5 (average persons per home) into the actual population of the community served by the cable operator to arrive at an "adjusted homes per community" factor. ATC then multiplies the number of adjusted homes times $.10 for the first channel transmitted to its customers and $.05 for the second channel. There are no per-home charges for any additional channels. The base channel charge is then added to the adjusted homes per community figure to arrive at the customer's total monthly charge. However, the first 2,000 homes of every community are disregarded, states ATC, "for economic reasons and to attract small cable operators." ATC maintains that this new rate structure will yield an increase in its annual revenues from its present $189,300 to $211,116 or 11.5 percent. ATC's costs for maintaining its existing facilities increased from $57,380 during fiscal year 1975 to $73,622 during the fiscal year 1976. ATC initially projected that its rate of return under this new rate srtucture would be 9.9 percent in 1977, 12.5 percent in 1978, and 12.2 percent in 1979. However, ATC states in its reply to the petition to suspend that a serious error was made in calculating its anticipated operating expenses for inclusion in the section 61.38 material and that the impact of the corrections changes its pro forma rate of return to 6.69 percent in 1977, 6.93 percent in 1978 and 6.17 percent in 1979.

4. TelePrompter is the owner and operator of the cable television system serving the communities of Brainard and Baxter, Minnesota. It provides its subscribers with the signals of five television stations transmitted to Brainard by ATC's common carrier point-to-point microwave facilities. ATC's tariff revisions will increase the rate charged to TelePrompter by 12.4 percent. TelePrompter contends that ATC's use of a rate structure predicated in part upon the population of the community served by ATC's cable system customers departs from cost of service ratemaking principles and therefore raises the very questions of lawfulness under Section 201(b) and 202(a) of the Act as are presently being considered by the Commission in American Television Relay, Inc., Docket No. 19609, 37 FCC 2d 751 (1975). TelePrompter urges the Commission to follow the rulings with regard to other tariffs which have incorporated population elements, citing Mountain Microwave Corp., Docket No. 20493, 56 FCC 2d 63 (1975), Western Tele-Communications, Inc., Docket No. 20493, 55 FCC 2d 203 (1975), In the Matter of United Video, Inc., Docket No. 20198, 49 FCC 2d 878 (1974) and to suspend ATC's revised tariff and designate the matter for a hearing and an accounting pending completion of the proceeding in Docket 19609. Furthermore, TelePrompter contends that ATC has not substantially complied with section 61.38 of the Commission's Rules. In this regard, TelePrompter alleges that ATC has failed to submit a cost of service study for the specified three year period, has made no effort to estimate the effects of the tariff changes on its traffic and revenues, and has omitted the required working papers.

5. In its reply, ATC contends that because TelePrompter is involved in other Commission proceedings involving novel rate structures not based upon cost of service principles, and which have been suspended pending the ATR decision, that it has filed this petition to suspend because TelePrompter is more concerned with presenting "a consistent front to the Commission" then in examining the justness and reasonableness of ATC's new rates. ATC maintains that this particular rate structure does not warrant similar treatment because it is a just and reasonable structure distinguishable from those suspended in ATR, United Video, Mountain Microwave and Western Tele-Communications. The distinguishing factors, states ATC, are: (1)

that ATC's rate revisions only produce an increase in annual revenues of 11.5 percent, while those involved in United Video, Mountain Microwave and Western Tele-Communications produced increased annual revenues of 35 percent, 44 percent and 47 percent respectively, (2) that only one cable customer has petitioned for suspension of ATC's rate structure, while more than one objected in the other cases, (3) that the ATC structure does not incorporate geographic zones as did the other suspended structures, and (4) that the business relationship which exists between ATR, Mountain Microwave, and Western Tele-Communications is absent in this situation. Finally, ATC refutes TelePrompter's contention that it has not substantially complied with the requirements of section 61.38.

6. Upon consideration of the revised tariff structure, ATC's 61.38 material and the pleadings of the parties, we are of the opinion that substantial questions have been raised as to whether ATC's proposed tariff revisions are lawful within the meaning of sections 201(b) and 202(a) of the Communications Act. Because ATC's rate structure increases its customer charges as the actual population of the community to be served by the customer increases, the questions of lawfulness raised by this tariff are generally the same as those presently under review in Docket 19609. First, such a rate structure apears to establish a value of service arrangement based upon what the traffic will bear. Whether and if such a departure from cost of service ratemaking principles can be a just and reasonable practice within the meaning of Section 201(b) is being deliberated in the ATR case. Second, the "adjusted homes per community" factor results in cable system operators in communities with large populations paying a higher rate than smaller communities for the same communication service. Whether such a discrimination can be considered just and reasonable under Section 202(a), or justifiable for other public interest reasons is also under consideration in Docket 19609. Regardless of the motive ATC imputes to TelePrompter's petition to suspend, or the fact that ATC's rate structure does not incorporate a geographic zone concept, or the absence of a special business relationship that was present in other cases cited by ATC, the questions of lawfulness outlined above nevertheless persist. Furthermore, it makes no difference that only one customer has filed an objection to ATC's proposed tariff revision. When questions of lawfulness arise, the Commission can suspend a tariff without any formal complaints. Section 204 of the Act empowers the Commission to suspend such a filing "upon its own initiative." We also believe that ATC has substantially complied with the requirements of section 61.38 of our rules, with one exception. ATC has failed to submit the working papers and statistical data required by 61.38(b). We must therefore order ATC to comply with the rules by submitting these materials within 30 days of the release of this order. Otherwise, we will reject ATC's tariff on these grounds.

7. In view of the foregoing, we shall suspend the effectiveness of the proposed tariff changes for the maximum five month statutory suspension period; order an investigation into the lawfulness of such tariff changes; and impose an accounting order providing for possible refunds. In the event we granted TelePrompter's petition to suspend, ATC has requested that we limit the period of suspension to one day. Based upon our evaluation of the data submitted by ATC in its section 61.38 attachment, we find no evidence indicating that the revenues generated under the present rate structure will result in future operating losses, nor do we find a pressing need for current or prospective rate relief. Although ATC is required to expend over $300,000 to replace equipment in 1977, it negates its assertion that imposition of the maximum period of suspension would be inequitable by stating that the new rate structure will yield only a "modest increase in revenues." It thus appears evident that ATC will not be unduly burdened if we suspend the effective date of its revised tariff for the period authorized by section 204(a) of the Act. See In the Matter of Midwestern Relay Co., 59 FCC 2d 477, 479 (1976). However, we shall defer establishing procedures for the above ordered investigation pending resolution of the proceeding in Docket No. 19609. That docket, in which we anticipate a final decision in the near future, should lead to resolution of the similar issues in this case.

8. Accordingly, *it is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by ATC with Transmittal No. 17 including any cancellations, amendments or re-issues thereof;

9. *It is further ordered*, That, pursuant to the provisions of Section 204 of the Act, the revised tariff schedules filed by ATC with Transmittal No. 17 are hereby suspended until May 31, 1977 and that ATC, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reasons of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision herein, the Commission may by further order, require the refund thereof, with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require;

10. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) whether the charges, classifications, practices and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of Section 201(b) of the Act;

(2) whether such charges, classifications, practices and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of Section 202(a) of the Act;

(3) if any such charges, classifications, practices, or regulations are found to be unlawful whether the Commission, pursuant to Section 205 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed;

11. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act, hearings in this investigation are deferred during the pendency of Commission proceedings in Docket No. 19609 or until further Commission order;

12. *It is further ordered*, That, American Television and Communications Corporation is made a party Respondent herein and that TelePrompter Corporation and the Trial Staff are made parties pursuant to section 1.221(d) of the Commission's Rules, and that all other interested persons wishing to participate may do so by filing a notice of intention to participate within 30 days of the date of publication of this order in the FEDERAL REGISTER.

13. *It is further ordered*, That ATC shall submit the working papers and statistical data required by 47 C.F.R. 61.38 (b) within 30 days of the release of this order;

14. *It is further ordered*, That, the Secretary shall send a copy of this order by certified mail, return receipt requested, to the parties identified in paragraph 12 above, and shall cause a copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-770 Filed 1-7-77;8:45 am]

[FCC 76-1194; RM-2579]

PUBLIC INSPECTION OF BROADCAST STATION FILES

Memorandum Opinion and Order Denying Petition for Rulemaking

Adopted: December 21, 1976.

Released: January 4, 1977.

In the matter of petition for rule making to amend Part 73 of the rules concerning public inspection of broadcast station files.

1. The Commission has before it the petition for rule making filed by Solomon O. Battle in which he argues in favor of changes in the Commission's rules relating to the viewing of public inspection files at broadcast stations. Under section 1.526 of the rules, broadcast stations are required to maintain files for public inspection. The rule also specifies what material the file is to contain and provides for public access to the file during regular business hours.

2. Mr. Battle asserts that a need exists for changes in these rules in order to facilitate public access to these files and to avoid the possibility of station harassment or interference with the public's access. To this end he would require (1) that a sign be posted at each station listing the location of the file, hours of inspection and the public's right to view the files without interference, (2) that the files "be kept in an easily accessible rather than remote location at the station," (3) that the file "shall be available at all times the licensee is entitled to operate the station (during such hours of business as are posted)"[1] and (4) that a notice be posted informing the public that penalties can attach for failure to allow proper access by members of the public.

3. It is not entirely clear why Mr. Battle believes such changes are necessary to vindicate the right of public access. Admittedly problems can arise in connection with access of the public to these files, but it has not been the Commission's experience that such problems are widespread or that they necessitate any basic restructuring of the rule requirements. Mr. Battle does not offer evidence that this impression is an inaccurate one or that problems are widespread. Rather, his premise seems to be that stations generally cannot be relied upon to provide access or to do so willingly or without imposing obstacles. This has not been our experience, and a basic change in the rule must rest on more than the doubts implicit in Mr. Battle's filing.

4. The proposal to require the posting of signs regarding public inspection files has not been shown to be necessary. While the Commission would have no objection to a station's decision to post such a sign, it does not follow that we should impose such a requirement. Since these signs would only be visible to visitors at the station, they would not inform the public at large. Except for the chance that a person visiting the station for another purpose might be made aware of the opportunity to view the file, it is not clear why there is the need for such signs unless the argument is that stations otherwise would not observe their obligations. We reject the premise that such a step is necessary to guarantee access. No doubt occasional misunderstandings can and do develop as to the public access issue. However, we do not believe that a rule of the sort proposed should be imposed on all stations. This is not the way to address this issue. Such isolated problems as do develop can better be dealt with on their own terms.

5. Separate from the sign posting aspect of Mr. Battle's proposal, we are offered several suggestions for changes in the access requirements themselves. Here, too, we do not find ourselves persuaded. In fact, we believe that this approach would introduce new problems and possibly create unfairness. Clearly this would be the case with the proposed requirement of access during all hours the station is allowed to operate. This would be most burdensome if by this it is meant that the licensee would have to provide 24 hour access to all FM and television stations simply because all licenses permit 24-hour operation. On the other hand, if it means no more than there must be posted business hours, it is not clear how the present rule calling for access during this time is inadequate. The insistence that access be on a totally non-interrupted basis is not entirely realistic. A rule foreclosing any suspension, no matter how brief, for renovation, cleaning, or lunch time appears neither necessary nor fair. Absent some question of abuse or an attempt to defeat access, there is no reason to reject these explanations out of hand. That would be far to rigid a stance. We are confident that good faith efforts by stations would obviate any problems in this regard even if the file should for the moment not be available. As to specifying where at the station the file is to be viewed, we do not agree that there is a need for the Commission to adopt additional requirements. The location for storage and the means of security are matters for station discretion consistent with the intent of section 1.526 and the right of public access. No evidence has been provided to show that station practices are at odds with the intent of the section. Thus, even if some occasional problem exists, it has not been shown that an adoption of a rule is the answer. Stations are expected to fulfill their obligations in good faith, and by and large they do so. Unsupported assertions that such is not the industry practice, an assertion that appears to be at the heart of these proposals, cannot be accepted. This is especially true for the final proposal to require the posting of a sign telling the public of the sanctions to the station which could result from rule violations. Such an approach virtually assumes noncompliance; it invites complaints, and it expresses the faulty view that stations cannot be trusted to discharge their obligations. If violations do occur which warrant a Commission response, we do not have to rely on the posting of a sign in order to proceed.

6. Under these circumstances, the relief sought has not been shown to be warranted, and as a result, the subject petition for rule making is denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary

[FR Doc.77-771 Filed 1-7-77;8:45 am]

[1] A requirement that the file be available at all times the licensee is entitled to operate the station seems to be in conflict with "during business hours"—see discussion below.

WKZL, ET AL.

FM Broadcast Applications Ready and Available for Processing Pursuant to Section 1.573(d) of the Commission's Rules

Adopted: December 15, 1976.

Released: December 30, 1976.

Notice is hereby given, pursuant to section 1.573(d) of the Commission's Rules, that on February 15, 1977, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on February 14, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on February 14, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to section 1.573(d) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-9951 (WKZL), Winston-Salem, N.C., Golden Circle Broadcasting Corp., Has: 107.5 mHz; Channel No. 298C. ERP: 40 kW; HAAT: 280 ft. (Lic). Req: 107.5 mHz; Channel No. 298C. ERP: 100 kW; HAAT: 499 ft.

BPH-9978 (New), Oakdale, Calif., Goldrush Broadcasting, Inc., Req: 95.1 mHz; Channel No. 236B. ERP. 50 kW; HAAT: 477.7 ft.

BPH-9982 (New), Dubuque, Iowa, Tower Power Corp., Req: 102.3 mHz; Channel No. 272A. ERP; 1.4 kW; HAAT; 437 ft.

BPH-9985 (New), Waynesville, N.C., Waynesville Broadcasting Co., Req: 104.9 mHz; Channel No. 285A. ERP: .100 kW; HAAT: 1638 ft.

BPH-9986 (New), Farmerville, La., Union Broadcasting Co., Inc., Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 268 ft.

BPH-9988 (New), Covert, Mich., Robert B. Taylor, Req: 98.3 mHz; Channel No. 252A, ERP: 3 kW; HAAT: 300 ft., (allocated to South Haven, Mich.)

BPH-10004 KSPL-FM Diboll, Tex., William L. Walling, Has: 95.5 mHz; Channel No. 238C. ERP: 6 kW; HAAT: 455 ft. (Lic.). Req: 95.5 mHz; Channel No. 238C. ERP: 50 kW; HAAT: 326 ft.

BPH-10011 (New), Monte Vista, Colo., Colorado Radio Corp., Req: 96.7 mHz; Channel No. 244A. ERP: 2.8 kW; HAAT: 311 ft.

BPH-10013 (New), Terrell, Tex., Direct Broadcasting Co., Req: 107.1 mHz; Channel No. 296A. ERP: 3 kW; HAAT: 300 ft.

BPH-10028 WZTA Tamaqua, Pa., Z Broadcasting, Inc., Has: 105.6 mHz; Channel No. 288A, ERP: 3 kW; HAAT: −11 ft. (Lic.). Req: 105.5 mHz; Channel No. 288A. ERP: 1 kW: HAAT: 480 ft.

BPH–10049 (New), Portland, Tex., Media Properties, Inc., Req: 105.5 mHz; Channel No. 288A, ERP: 3 kW; HAAT: 300 ft. (allocated to Taft, Tex.).

BPH–10052 (New), Largo, Fla., BIE Broadcasting Co., Req: 92.1 mHz; Channel No. 221A, ERP: 3 kW; HAAT: 300 ft. (allocated to Dunedin, Fla.).

BPH–10054 KBRO–FM Bremerton, Wash., Bremerton Broadcast Co., Has: 106.9 mHz; Channel No. 295C, ERP: 30 kW; HAAT: 86 ft. (Lic.), Req: 106.9 mHz; Channel No. 295C. ERP: 30 kW; HAAT: 1,377 ft.

BPH–10058 (New), Billings, Mont., Mattco, Inc., Req: 102.9 mHz; Channel No. 275C. ERP: 100 kW; HAAT: 500 ft.

BPH–10069 (New), Palm Springs, Calif., KPSI Radio Corp., Req: 100.9 mHz; Channel No. 265A. ERP: .525 kW; HAAT: 640 ft.

BPH–10103 (New), Taos, N. Mex., Taos Communications Corp., Req: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: —283 ft.

BPH–10107 (New), Redding, Calif., Carroll E. Brock, Req: 104.3 mHz; Channel No. 282C. ERP: 22 kW; HAAT: 3538 ft.

BPH–10122 WRFS–FM Alexander City, Ala., Piedmont Service Corp., Has: 106.1 mHz; Channel No. 291C. ERP: 4.6 kW; HAAT: 240 ft. (Lic.). Req: 106.1 mHz; Channel No. 291C. ERP: 27 kW; HAAT: 254 ft.

BPH–10128 WAIV Jacksonville, Fla., Rounsaville of Jacksonville, Inc., Has: 96.9 mHz; Channel No. 245C. ERP: 100 kW; HAAT: 230 ft. (Lic.). Req: 96.9 mHz; Channel No. 245C. ERP: 100 kW; HAAT: 583 ft.

BPH–10158 KGRD–FM Las Cruces, N. Mex., KGRT, Inc., Has: 103.9 mHz; Channel No. 280A. ERP: 2.2 kW; HAAT: 150 ft. (Lic.). Req: 103.9 mHz; Channel No. 280A. ERP: 3 kW; HAAT: 150 ft.

BPH–10213 WCAR–FM Detroit, Mich., WCAR, Inc., Has: 92.3 mHz; Channel No. 222B. ERP: 10 kW; HAAT: 480 ft. (Lic.). Req: 92.3 mHz; Channel No. 222B. ERP: 50 kW; HAAT: 475.6 ft.

BPH–10238 (New), Goleta, Calif., Span-Amer Wireless Talking Machine, Req: 106.3 mHz; Channel No. 292A. ERP: 3 kW; HAAT: 482.9 ft.

BPH–10239 (New), Portage, Mich., The Air-Bourne Group, Ltd., Req: 107.7 mHz; Channel No. 299B ERP: 50 kW; HAAT: 500 ft., (allocated to Kalamazoo, Mich.).

BPH–10240 (New), Saugerties, N.Y., Kingston Broadcasters, Inc., Req: 100.1 mHz; Channel No. 261A, ERP: 2.11 kW; HAAT: 349 ft., (allocated to Woodstock, N.Y.).

BPH–10241 (New), Portage, Mich., Sear Broadcasting Co., Req: 107.7 mHz; Channel No. 299B. ERP: 50 kW; HAAT: 500 ft., (allocated to Kalamazoo, Mich.).

BPH–10242 (New), Scottsbluff, Nebr., The Hilliard Co., Req: 92.9 mHz; Channel No. 225C. ERP: 100 kW; HAAT: 940 ft.

BPH–10243 KKOS Carlsbad, Calif., Tri-Cities Broadcasting, Inc., Has: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 96 ft. (Lic.). Req: 95.9 mHz; Channel No. 240A, ERP: 2.75 kW; HAAT: 312 ft.

BPH–10259 (New), Beaufort, N.C., Emerald Communications, Inc., Req: 103.3 mHz; Channel No. 277C. ERP: 100 kW; HAAT: 457 ft., (allocated to Moorehead-Beaufort, N.C.).

BPH–10265 KIOQ–FM Bishop, Calif., Inyo-Mono Broadcasting Co., Has: 100.7 mHz; Channel No. 264B. ERP: 5 kW; HAAT: —880 ft. (Lic.). Req: 100.7 mHz; Channel No. 264B. ERP: 1 kW; HAAT: 2,960 ft.

BPH–10266 (New), Palm Springs, Calif., Westminster Broadcasting Corp., Req: 100.9 mHz; Channel No. 265A. ERP: 3 kW; HAAT: 300 ft.

BPH–10267 (New), Key, Ohio, Jacobsburg Bible Church, Inc., Req: 105.5 mHz; Channel No. 288A. ERP: 1.61 kW; HAAT: 423 ft., allocated to Moundsville, W. V.).

BPH–10268 (New), Bastrop, La., Cotton & Montgomery Enterprises, Inc., Req: 100.1 mHz; Channel No. 261A. ERP: 3 kW; HAAT: 300 ft.

BPH–10269 (New), Alachua, Fla., Alachua Broadcasting, Inc., Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 ft., (allocated to High Springs, Fla.).

BPH–10271 (New), St. Ignace, Mich., Mighty-Mac Broadcasting Co., Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 262 ft.

BPH–10273 (New), Redding, Calif., Colgan Communications Corp., Req: 104.3 mHz; Channel No. 282C. ERP: 25 kW; HAAT: 3582 ft.

BPH–10315 (New), Galesburg, Ill., Coleman Broadcasting Co., Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 300 ft.

BMPH–14867 KRSY–FM Roswell, N. Mex., Troy Raymond Moran, Has: 97.1 mHz; Channel No. 246C. ERP: 25.5 kW; HAAT: 155 ft. (CP). Req: 97.1 mHz; Channel No. 246C. ERP: 25 kW; HAAT: 235 ft.

BPED–2266 (New), Girard, Penn., Board of Education Girard School District, Req: 88.3 mHz; Channel No. 202D. TPO: .01 kW.

BPED–2275 (New), Palm Springs, Calif., Palm Springs Unified School District, Req: 88.3 mHz; Channel No. 202D. TPO: .01 kW.

BPED–2278 KCWC Riverton, Wyo., Central Wyoming College, Has: 88.1 mHz; Channel No. 201D. TPO: .01 kW. (Lic.). Req: 88.1 mHz; Channel No. 201A. ERP: 3kW; HAAT: 143.8 ft.

BPED–2280 KLLU Riverside, Calif., Loma Linda University Broadcasting Co., Has: 89.7 mHz; Channel No. 209A. ERP: 1.4 kW; HAAT: 73 ft. (Lic.). Req. 89.7 mHz: Channel No. 209A. ERP: 3kW; HAAT: 300 ft.

BPED–2289 (New), Birmingham, Ala., Glen Iris Baptist School, Req: 91.9 mHz; Channel No. 220A. ERP: .6 kW; HAAT: 680 ft.

BPED–2291 (New), Rensselaer, Ind., St. Joseph's College, Req: 90.5 mHz; Channel No. 213D. TPO: .01 kW.

BPED–2295 (New), Petersburg, Alaska, Narrows Broadcasting Corp., Req: 100.9 mHz; Channel No. 265A. ERP: .01 kW; HAAT; ft.

BPED–2300 WAUS Berrien Springs, Mich., Andrews Broadcasting Corp., Has: 90.9 mHz; Channel No. 215B. ERP: 17 kW; HAAT: 290 ft. (Lic.). Req: 90.7 mHz; Channel No. 214B. ERP: 47.6 kW; HAAT: 318 ft.

BPED–2303 WLSU La Crosse, Wis., Board of Regents of University of Wisconsin system, Has: 88.9 mHz; Channel No. 205A. ERP: .69 kW; HAAT: 490 ft. (Lic.). Req: 88.9 mHz; Channel No. 205A. ERP: 8.3 kW; HAAT: 414 ft.

BPED–2306 (New), Bangor, Maine, Craig Bible Institute, Req: 88.5 mHz: Channel No. 203A. ERP: .45 kW; HAAT: —15 ft.

BPED–2309 WERG Erie, Penn., Gannon College, Has: 89.1 mHz; Channel No. 206D. TPO: .01 kW. (Lic.). Req: 89.9 mHz; Channel No. 210B. ERP: 5 kW: HAAT: —288 ft.

BPED–2310 WYSO Yellow Springs, Ohio, Antioch College of Yellow Springs, Has: 91.5 mHz; Channel No. 218B. ERP: 2.4 kW; HAAT: 400 ft. (Lic.). Req: 91.3 mHz; Channel No. 217B. ERP: 10 kW; HAAT: 400 ft.

BPED–2317 (New), Wrangell, Alaska, Wrangell Radio Group, Req: 101.7 mHz; Channel No. 269A. ERP: .01 kW; HAAT: ft.

BPED–2320 (New), Alpena, Mich., Central Michigan, University, Req: 91.7 mHz; Channel No. 219C. ERP: 100 kW; HAAT: 1,171 ft.

BPED–2330 (New), St. Louis Park, Minn., Independent School District No. 283, Req: 91.7 mHz: Channel No. 219D. TPO: .01 kW.

BPED–2331 (New), University City, Mo., Counterpoint Bicepting Asso., Req: 91.1 mHz; Channel No. 216D. TPO: .01 kW.

BPED–2335 (New), Birmingham, Ala., Jefferson State Junior College, Req: 91.1 mHz; Channel No. 216D. TPO: .01 kW.

BPED–2339 WDAV Davidson, N.C., The Trustees of Davidson College, Has: 90.5 mHz; Channel No. 213D. TPO: .01 kW. (Lic.).
Req: 89.9 mHz; Channel No. 210C. ERP: 18.5 kW; HAAT: 302 ft.

BPED–2340 (New), San Jose, Calif., Fremont Union High School, Req: 88.1 mHz; Channel No. 201D. TPO: .01 kW.

BPED–2341 (New), Marietta, Ga., Southern Technical Institute, Req: 91.7 mHz; Channel No. 219D. TPO: .01 kW.

BPED–2342 (New), Mount Vernon, Ohio, Knox County Community Education Biceptors, Req: 89.3 mHz; Channel No. 207B. ERP: 10.5 kW; HAAT: 96 ft.

BPED–2343 (New), Edmond, Okla., Oklahoma Foundation for Research and Development, Req: 90.9 mHz; Channel No. 215D. TPO: .01 kW.

BPED–2344 (New), Goodwell, Okla., Panhandle State University, Req: 91.7 mHz; Channel No. 219A. ERP: .376 kW; HAAT: 121 ft.

BPED–2346 (New), State College, Penn., Central Pennsylvania Christian Institute, Inc., Req: 89.9 mHz; Channel No. 210B. ERP: 5 kW; HAAT: 670 ft.

BPED–2347 (New), Traverse City, Mich., Northwestern Michigan College, Req: 90.9 mHz; Channel No. 215A. ERP: .01 kW; HAAT: 120 ft.

BPED–2348 (New), Murfreesboro, Tenn., Franklin Road Christian Schools, Req: 91.5 mHz; Channel No. 218A. ERP: .855 kW; HAAT: 575 ft.

BPED–2349 (New), Brooklyn, N.Y., Kingsborough Community College, Req: 90.9 mHz; Channel No. 215D. TPO: .01 kW.

BPED–2350 (New), Houghton, N.Y., Houghton College, Req: 90.3 mHz; Channel No. 212D. TPO: .01 kW.

BPED–2353 (New), Chicago, Ill., Lakeside Communications, Inc., Req: 88.1 mHz; Channel No. 201D. TPO: .01 kW.

BPED–2354 (New), Angola, Ind., Tri-State College, Req: 88.3 mHz; Channel No. 202A. ERP: .2 kW; HAAT: 151 ft.

BPED–2355 (New), Fort Wayne, Ind., Purdue University, Req: 89.1 mHz; Channel No. 206B. ERP: 4 kW; HAAT: 117 ft.

BPED–2370 (New), Hingham, Mass., Hingham Massachusetts Public Schools, Req: 88.3 mHz; Channel No. 202D. TPO: .01 kW.

BPED–2376 (New), New Orleans, La., Nora Blatch Educational Communications Foundation, Req: 90.7 mHz; Channel No. 214D. ERP: 25.7 kW; HAAT: 298.7 ft.

BPED–2377 (New), Malvern, Pa., Delaware Valley Noncommercial Broadcasting, Req: 88.1 mHz; Channel No. 201B. ERP: 2 kW; HAAT: 511 ft.

BPED–2378 WUSO Springfield, Ohio, Board of Directors of Wittenberg University, Has: 89.1 mHz; Channel No. 206D. TPO: .01 kW. (Lic.). Req: 88.1 mHz; Channel No. 201D. TPO: .01 kW.

BPED–2379 (New), Fort Davis, Tex., Blue Mountain School and College, Inc., Req: 90.7 mHz; Channel No. 214A. ERP: .018 kW; HAAT: 23 ft.

BMPED–1412 WPIO Titusville, Fla., Florida Public Radio, Inc., Has: 89.9 mHz; Channel No. 210D. TPO: .01 kW. (Lic.). Req: 89.3 mHz; Channel No. 207A. ERP: 1.58 kW, HAAT: 120 ft.

BMPED–1433 KUHF Houston, Tex., University of Houston, Has: 88.7 mHz; Channel No. 204C. ERP: 12 kW; HAAT: 110 ft. (Lic.). Has: 88.7 mHz; Channel No. 204C. ERP: 27 kW; HAAT: 970 ft. (CP). Req: 88.7 mHz; Channel No. 204C. ERP: 100 kW; HAAT: 970 ft.

[FR Doc.77–768 Filed 1–7–77;8:45 am]

WRBD, ET AL.

Standard Broadcast Applications Ready and Available for Processing Pursuant to Section 1.571(c) of the Commission's Rules

Adopted: December 23, 1976.

Released: December 30, 1976.

Notice is hereby given, pursuant to section 1.571(c) of the Commission's Rules, that on February 15, 1977, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on February 14, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on February 14, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to section 1.571(c) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BMP-14,112 WRBD, Pompano Beach, Fla., Radio Broward, Inc., Has: 1470 kHz, 5 kW, DA-D (Lic and CP), Req: 1470 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

BP-19,957 WJPC, Chicago, Illinois, Atlass Communications, Inc., Has: 950 kHz, 1 kW, D, Req: 950 kHz, 5kW, 1 kW-LS, DA-N, U.

BP-20,000 WCMQ, Miami, Florida, WCMQ, Inc., Has: 1220 kHz, 250 W, D, Req: 1220 kHz, 1 kW, D.

BP-20,118 (New), Farmville, Virginia, Everette Broadcasting Company, Req: 1490 kHz, 250 W, 1 kW-LS, U.

BP-20.673 WCHL, Chapel Hill, North Carolina, Village Broadcasting Co. Inc., Has: 1360 kHz, 1 kW, DA-N, U, Req: 1360 kHz, 1 kW, 5 kW-LS, U.

BP-20,155 WNOO, Chattanooga, Tennessee, W.M.F.S., Inc., Has: 1260 kHz, 1 kW, D, Req: 1260 kHz, 5 kW, D.

BP-20,173 (New), Bemidji, Minnesota, KNOX Radio, Inc., Req: 1360 kHz, 5 kW, DA-N, U.

BP-20,174 KAKC, Tulsa, Oklahoma, Mark/Way, Inc., Has: 970 kHz, 500 W, 1 kW-LS, DA-2, U, Req: 970 kHz, 1 kW, DA-2, U.

BP-20,175 WEYY, Talladega, Alabama, Talladama Broadcasting Co., Inc., Has: 1580 kHz, 1 kW, D, Req: 1580 kHz, 2.5 kW, D.

BP-20,176 KCGS, Marshall, Arkansas, Marshall Broadcasting Company, Has: 1600 kHz, 1 kW, D, Req: 1600 kHz, 5 kW, D.

BP-20,178 KSIR, Estes Park, Colorado, Estes Park Broadcasting Co., Inc., Has: 1470 kHz, 500 W, D, Req: 1470 kHz, 1 kW, D.

BP-20,179 (New), Orocovis, Puerto Rico, Radio Sol Broadcasting Corp., Req: 1470 kHz, 1 kW, DA-N, U.

BP-20,180 WBAF, Barnesville, Georgia, Barnesville Broadcasting Company, Has: 1090 kHz, 500 W, D, Req: 1090 kHz, 1 kW, D.

BP-20,183 (New), Hemphill, Texas, Sabine Broadcasting Company, Req: 1530 kHz, 1 kW, D.

BP-20,187 (New), Paynesville, Minnesota, Mid-Minnesota Broadcasting Company, Req: 1060 kHz, 5 kW, DA-D.

BP-20,188 (New), Bryan, Texas, Brazos Metro, Inc., Req: 1510 kHz, 250 W, D.

BP-20,192 (New), Frankfort, Kentucky, D & R Broadcasting, Inc., Req: 1130 kHz, 500 W, DA-D.

BP-20,195 KBUH, Brigham City, Utah, Community Broadcasting Company, Has: 600 kHz, 250 W, D, Req: 800 kHz, 500 W, D.

BP-20,198 WIXC, Fayetteville, Tennessee, Lincoln County Broadcasters, Inc., Has: 1140 kHz, 1 kW, D, Req: 1140 kHz, 5 kW, (2.5 kW-CH), D.

BP-20,200 (New), Long Island, Alaska, Valley Radio Corp., Req: 1150 kHz, 5 kW, U.

BP-20,206 (New), Norfolk, Massachusetts, Norfolk County Broadcasting Company, Inc., Req: 1170 kHz, 1 kW, DA-D.

BP-20,217 WDLA, Walton, New York, Delaware County Broadcasting Corporation, Has: 1270 kHz, 1 kW, D, Req: 1270 kHz, 5 kW, D.

BP-20,218 WAKS, Fuquay-Varina, North Carolina, Wake County Broadcasting Company, Inc., Has: 1460 kHz, 1 kW, D, Req: 1460 kHz, 5 kW, DA-D.

BP-20,220 WIXE, Monroe, North Carolina, Monroe Broadcasting Company, Inc., Has: 1190 kHz, 500 W, D, Req: 1190 kHz, 1 kW, D.

BP-20,222 KTHO, South Lake Tahoe, California, Emerald Broadcasting Co., Has: 590 kHz, 500 W, 1 kW-LS, DA-N, U, Req: 590 kHz, 500 W, 2.5 kW-LS, DA-N, U.

BP-20,223 (New), Swainsboro, Georgia, WSJ Radio, Inc., Req: 1590 kHz, 2.5 kW, D.

BP-20,224 (New), Clinton, Arkansas, Victor R. Weber, Req: 1110 kHz, 250 W, D.

BP-20,228 WHIC, Hardinsburg, Kentucky, Breckinridge Broadcasting Co., Inc., Has: 1520 kHz, 250 W, D, Req: 1520 kHz, 1 kW (500 W-CH), D.

BP-20,229 (New), Saint Louis, Michigan, Siefker Broadcasting Corp., Req: 1540 kHz, 1 kW, (250 W-CH), D.

BP-20,634 (New), Minocqua, Wisconsin, Frederick H. Bierbaum, Req: 1570 kHz, 1 kW, D.

BP-20,636 (New), Monticello, Minnesota, Tri-County Radio, Inc., Req: 1070 kHz, 2,5 kW, 10 KW-LS, DA-2, U.

BP-20,652 (New), Omaha, Nebraska, Viking Omaha, Inc., Req: 1290 KHz, 5 kW, DA-N, U.

BP-20,671 (New), Omaha, Nebraska, Omaha Broadcasting Service Co., Req: 1290 kHz, 5 kW, DA-N, U.

BP-20,672 (New), Omaha, Nebraska, Nebraska-Iowa Broadcasting Corporation, Req: 1290 kHz, 5 kW, DA-N, U.

BP-20,676 (New), Omaha, Nebraska, Shaker Corporation, Req: 1290 kHz, 5 kW, DA-N, U.

BP-20,677 KRCB, Council Bluffs, Iowa, KRCB, Incorporated, Has: 1560 kHz, 1 kW, D, Req: 1290 kHz, 5 kW, DA-N, U.

BP-20,680 (New), Vancouver, Washington, Fort Vancouver Broadcasting, Inc., Req: 910 kHz, 5 kW, DA-2, U.

BP-20,681 (New), Vancouver, Washington, Longwood Broadcasting Co., Req: 910 kHz, 5 kW, DA-2, U.

Application deleted from Public Notice of June 12, 1975 (Mimeo No. 51308).

BP-19,875 (New), Bemidji, Minnesota, KNOX Radio, Inc., Req: 1360 kHz, 5 kW, D.

(Assigned new file number BP-20,173.)

Application deleted from Public Notice of December 12, 1975 (Mimeo No. 58718).

BP-20,033 (New), Minocqua, Wisconsin, Lakeland Communications, Inc., Req: 1570 kHz, 1 kW, D.

(Assigned new file number BP-20,634.)

[FR Doc.77-767 Filed 1-7-77;8:45 am]

[Report No. 839]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JANUARY 3, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is sub-

sequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20475–CD–AL–77, Charles L. Escue. Consent to Assignment of License from Charles L. Escue, Assignor to Telpage, Inc., Assignee. Station: KSV947, Birmingham, Alabama.

20476–CD–AL–77, Milton W. Crawford dba Westcol Radio Dispatch. Consent to Assignment of License from Westcol Radio Dispatch, Assignor to Colorado West Mobile Phone, Inc. Station: KAD511, Grand Junction, Colorado.

20477–CD–P–77, Salisbury Answering Service (KGH868) C. P. to change antenna system and relocate facilities operating on 152.15 MHz at Loc. #2 to be located 1½ miles North of Bethel Road on Green Branch Road, Willards, Maryland.

20478–CD–AL–77, AAA Anserphone, Inc.—Jackson Consent to Assignment of License from AAA Anserphone, Inc.—Jackson, Assignor to Yazoo Answer Call, Inc., Assignee. Station KRH663, Vicksburg, Mississippi.

20479–CD–P/L–77, Southwestern Bell Telephone Company (New) (Developmental) C. P. for a new developmental station to operate 8 mobile units in any temporary fixed location within the territory of the grantee.

20480–CD–P–77, Tel-Page Corporation (KEC 513) C. P. to replace transmitter and change antenna system operating on 152.21 MHz at Loc. #1: Rand Building, 14 Lafayette Square, Buffalo, New York.

20481–CD–P–(3)–77, Samuel W. Waldenberg (KUS355) C. P. to change antenna system operating on 152.06 MHz at Loc. #1: Blacktail Mtn., 12 miles South of Kalispell, Montana; replace transmitter and relocate control facilities operating on 454.100 MHz at Loc. #2 and additional facilities operating on 152.06 MHz to be located at Loc. #2: 569 Main Street, Kalispell, Montana.

20482–CD–P–77, A Plus Communications of Puerto Rico, Inc., dba Caribbean Mobile Telephone Systems (New) C. P. for a new 1-way station to operate on 35.58 MHz to be located at intersection of Avenida Pinero and Avenida San Patrico, Caparra Heights, Puerto Rico.

20483–CD–P–77, Prospect Communications (KWU365) C. P. to relocate facilities operating on 454.200 MHz from Loc. #1 to a new site described as Loc. #2; Aymett Road, 1 mile E. of Pulaski, Tennessee.

20484–CD–P–(4)–77, Mobile Radio Telephone Service, Inc. (KOE252) C. P. for additional facilities to operate on 454.275 454.300 454.325 & 454.350 MHz to be located at Loc. #1: Coon Peak, Oquirrh Range, 5.2 miles SSW of Garfield, Utah.

20485–CD–AL–77, Otis L. Hale dba Mobilfone Communications. Consent to Assignment of License from Mobilfone Communications, Assignor to Fayetteville Communications, Inc., Assignee. Station: KFL899 Winslow, Arkansas.

20486–CD–P–77, Mobile Communication Service, Inc. (New) C. P. for a new 1-way station to operate on 43.22 MHz to be located at Route 27, 2.5 miles East of Meadville, Pennsylvania.

20487–CD–P/L–(3)–77, South Central Bell Telephone Company (KIB389) C. P. to change antenna system operating on 152.51, 152.63 and 152.81 MHz located at approx. 7.9 miles NE of Signal Mountain, Tennessee.

20489–CD–P–(2)–77, Pacific Northwest Bell Telephone Company (KON911) C. P. to relocate facilities operating on 152.84 and 158.10 MHz at Loc. #1 to be located at 1600 Bell Plaza Building, Seattle, Washington.

20490–CD–P–(5)–77, Communications Engineering, Inc. (KWA634) C. P. to relocate base facilities operating on 152.03 & 152.09 MHz and repeater facilities operating on 459.15, 459.25 & 459.35 MHz from Loc. #2 to be located at a new site described as Loc. #4: Approx. 0.4 mile South of Upper Huffman Road, Anchorage, Alaska.

20492–CD–AL–(3)–77, Albert W. Dale, Jr. Consent to Assignment of License from Albert W. Dale, Jr., Assignee to Basin Communication Systems, Inc. Assignor. Stations: KLF 470 Monahans, Texas; KLF509 & KLF599, Odessa, Texas.

20493–CD–P–77, Portable Communications, Inc. (New) C. P. for a new 1-way station to operate on 35.22 MHz to be located on Route #76, 3.5 miles SE of Ripley, New York.

20494–CD–P–77, Professional Communications, Inc. (New) C. P. for a new 1-way station to operate on 35.22 MHz to be located at 1611 Peach Street, Erie, Pennsylvania.

20495–CD–P–77, Professional Communications, Inc. (New) C. P. for a new 1-way station to operate on 35.22 MHz to be located at RD #4, Carter Hill Road, Corry Pennsylvania.

20496–CD–AP/AL–(2)–77, San Juan Radiotelephone Corp. Consent to Assignment of License from San Juan Radiotelephone Corp., Assignor to Radiotelephone Communicators of Puerto Rico, Inc., Assignee. Stations: KQZ767 & WWA311 Hato Rey, Puerto Rico.

Corrections

20344–CD–P–(3)–77, Knox La Rue dba Atlas Radiophone (KMM630) Correct entry to show frequency as 152.12 MHz, base. All other particulars are to remain as reported on PN #836 dated December 13, 1976.

20445–CD–TC–(5)–77, Aztec Communications, Inc. Correct entry to read: Consent to Transfer of Control from William L. Meadow and Rachel L. Meadow, Transferors to General Communications Service, Inc., Transferee. Stations: KTS253, KLF632, KIQ 510, KIB388, Jacksonville, Florida; KTS254, St. Augustine, Florida. (PN #838, dated December 27, 1976)

RURAL RADIO SERVICE

60127–CR–AL–77, Milton W. Crawford dba Westcol Radio Dispatch. Consent to Assignment of License from Westcol Radio Dispatch, assignor to Colorado West Mobile Phone, Inc., Assignee. Station: KBD30, Temp-fixed.

60128–CR–P/L–77, Electro-Craft, Inc. (New) C. P. for a new rural subscriber station to operate on 158.49 & 158.55 MHz to be located at any temporary-fixed location within the territory of the grantee.

60129–CR–AL–77, San Juan Radiotelephone Corp. Consent to Assignment of License from San Juan Radiotelephone Corp., Assignor to Radiotelephone Communicators of Puerto Rico, Inc., Assignee. Station: WWY90, Temp-fixed.

POINT TO POINT MICROWAVE RADIO SERVICE

721–CF–P/L–77, The Pacific Telephone and Telegraph Company (New) STC 1060 Lockheed Way Sunnyvale, California Lat. 37°24'16" N., Long. 122°01'41" W. C.P. and Lic. for a new station on frequency 3830V MHz toward Philco Ford, California on azimuth 289.0 degrees.

722–CF–P–77, The Mountain States Telephone and Telegraph Company (WBP23) 2 miles NNE of Hoehne, Colorado Lat. 37°19'19" N., Long. 104°21'20" W. C.P. to add a new point communication on frequency 2128.4V MHz toward Branson, Colorado on azimuth 128.7 degrees.

723–CF–P–77, same (New) Athey Ave. and Saddle Rock Rd. Branson, Colorado Lat. 37°01'09" N., Long. 103°53'06" W. C.P. for a new station on frequency 2178.4V MHz toward Hoehne, Colorado on azimuth 308.9 degrees.

784–CF–R–77, The Bell Telephone Company of Pennsylvania (KOC47) within Territory of grantee Renewal Fixed Developmental License expiring March 11, 1977 term March 11, 1977 to March 11, 1978.

840–CF–P–77, Commonwealth Telephone Company (New) 1.8 miles North of Dallas, Pennsylvania Lat. 41°42'44" N., Long. 75°57'54" W. C.P. for a new station on frequency 2178.OH MHz toward Fire Tower, Pennsylvania on azimuth 332.3 degrees.

841–CF–P–77, same (New) Fire Tower, 3.5 miles SW of Mehoopany, Pennsylvania Lat. 41°30'48" N., Long. 76°04'14" W. C.P. for a new station on frequencies 2128.OH MHz toward Dallas, Pa. on azimuth 152.2 degrees and 2128.OV MHz toward Mehoopany, Pa. on azimuth 13.1 degrees.

842–CF–P–77, same (WBB362) Meshoppen, Pennsylvania 1.7 miles South of Meshoppen Lat. 41°35'26" N., Long. 76°02'48" W. C.P. to add new point communication on frequency 2178.OV MHz toward Fire Tower, Pa., on azimuth 193.1 degrees.

843–CF–P–77, Southern Montana Telephone Company (New) Lloyd Street Jackson, Montana Lat. 42°22'05" N., Long. 113°24' 35" W. C.P. for a new passive reflector station on frequencies 11405V 11645H MHz toward Butch Hill PR on azimuth 106.22 degrees and 2129V MHz toward Hischy REP, Montana on azimuth 323.69 degrees.

844–CF–P–77, same (New) 14.5 miles NW Jackson Hirschy, Montana Lat. 45°28'23" N., Long. 113°31'08" W. C.P. for a new station on frequencies 2179V MHz toward Jackson, Montana on azimuth 143.6 degrees and 2160.8H MHz toward Wisdom, Montana on azimuth 20.7 degrees.

845–CF–P–77, same (New) 2nd Street Wisdom, Montana Lat. 45°37'05" N., Long. 113° 26' 56" W. C.P. for a new station on frequency 2110.8H toward Hirsch, Montana on azimuth 200.7 degrees.

817–CF–P–77, Southern Pacific Communications Company (KFM40) 60 Hudson Street, New York, New York (Lat. 40°43'03" N., Long. 74°00'33" W): CP to add 11015.0V and 11095.0V MHz toward Empire State Building, New York, New York.

818–CF–P–77, same (WOE27) 5th Avenue at 34th Street, Empire State Building (Lat. 40°44'54" N., Long. 73°59'10" W): CP to add 11625.0V and 11225.0V MHz towards New York, New York.

819–CF–MP–77, United States Transmission Systems, Inc. (WAH492) 20 Exchange Place, Manhattan, New York (Lat. 40°42'19" N., Long. 74°00'36" W): CP to add 6004.5V MHz toward Newark, New Jersey on azimuth of 283.8 degrees.

820–CF–MP–77, same (WAH493) Gateway 1 New Jersey, Newark, New Jersey (Lat. 40°-44'04" N, Long. 74°09'59" W): CP to add 6286.2V MHz toward Manhattan, New York and 6286.2H MHz toward Neshanic, New Jersey on azimuths 103.7 and 238.4 degrees, respectively.

821–CF–MP–77, same (WAH494) 2.0 miles SSW of Neshanic, New Jersey (Lat. 40°28'-13'' N., Long. 74°43'36'' W): CP to add 6004.5H MHz toward Newark, New Jersey and 6004.5V MHz toward Ferndale, Pennsylvania on azimuths 58.1 and 283.3 degrees, respectively.

822–CF–MP–77, same (WAH495) 2.7 miles ENE of Ferndale, Pennsylvania (Lat. 40°32'33'' N., Long. 75°07'48'' W): CP to add 6286.2V MHz toward Neshanic, New Jersey and 6286.2V MHz toward Tylersport, Pennsylvania on azimuths 103.1 and 228.3 degrees respectively.

823–CF–MP–77, same (WAH496) 2.0 miles West of Tylersport, Pennsylvania (Lat. 40°-20'43'' N., Long. 75°25'07'' W); CP to add 6004.5V toward Ferndale, Pennsylvania on azimuth 48.1 degrees.

3472–CF–R–76, Southwestern Bell Telephone Company (WAH 622) Temporary fixed-Developmental within the territory of the Grantee. Received timely filed Renewal for the above mentioned radio station.

790–CF–P–77, Eastern Microwave, Inc. (KFN 21) New York City Gulf & Western Building, 15 Columbus Circle, New York, New York. (Lat. 40°46'09'' N., Long. 73°58'55'' W.): Construction permit to add 6212.OH MHz toward Yonkers, New York and Bergenfield, New Jersey, via power split, on azimuths 25.0 and 352.6 degrees, respectively.

791–CF–P–77, Eastern Microwave, Inc. (KEA 27) Springwater, SW Corner of Swarts & Springwater Town-line Roads, Sparta New York. (Lat. 42°38'21'' N., Long. 77°39'-34'' W.): Construction permit to add 6286.2H MHz toward Rochester and to add same frequency via power split, toward Attica, both in New York, on azimuths 3.1 and 296.3 degrees, respectively.

792–CF–P–77, Eastern Microwave, Inc. (KYZ 74) 1.6 mile WSW of Highland Lakes, New Jersey. (Lat. 41°10'01'' N., Long. 74°30'12'' W.): Construction permit to add 6301.0V MHz toward Monroe, New York, via power split, on azimuth 52.6 degrees.

816–CF–MP–77, Ellensburg Telephone Company (WBA948) 305 N. Ruby Street Ellensburg, Washington Lat. 46°59'42'' N., Long. 120°32'38'' W. Mod. of C.P. to increase output power on frequencies 11265.0H 11345.0H MHz toward Wymer PR, Washington.

Major Amendments

547–CF–P/ML–77, RCA Alaska Communications, Inc. (WAH472) Delta Junction, Alaska Lat. 64°02'15'' N., Long. 145°43'37'' W. Application amended to add a frequency of 63.45.6V MHz toward Donnelly Dome, Alaska (WAH417).

548–CF–P/ML–77, same (WAH417) Donnelly Dome, Alaska Lat. 63°17'14'' N., Long. 145°51'50'' W., Application amended to add a frequency of 6093.5V MHz toward Delta Junction, Alaska (WAH472).

[Report No. I–306]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

JANUARY 3, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than **31 days following** the date of this notice. **Section 309(d) (1).**

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Correction

Public Notice No. I–299 dated December 13, 1976, Telecable of Overland Park, Inc. Should have been listed as: 62–DSE–MP–77, not as an amendment.

663–DSE–ML–77 American Television and Communications, Inc., Charleston, W. Va. Modification of license to delete the condition specified in Paragraph 6D, prohibiting the use of this station for common carrier operations.

64–DSE–ML–77 Summit Cable Services of Winston-Salem, Winston-Salem, N.C. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

65–DSE–ML–77 Alpine Cablevision, Inc., Alexandria, La. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

66–DSE–P/L–77 Tennessee Cablevision, Inc., Oak Ridge, Tenn. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 36°02'04'', Long. 84°15'15''. Rec. freq: 3700–4200 GHz. Emission (none listed). With an 11 meter antenna.

67–DSE–ML–77 Storer Cable TV of Florida, Inc. Saratoga, Fla. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

68–DSE–ML–77 Florida Cablevision, Ft. Pierce, Fla. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

69–DSE–ML–77 Vumore Co of Laredo, Laredo, Tex. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

70–DSE–ML–77 Texas Cablevision, Ballinger, Tex. Modification of license to permit the reception of signals of Station WTCG–TV, Channel 17, Atlanta, Ga.

71–DSE–P/L–77 American Satellite Corporation, Stockton, Calif. For authority to construct and operate a domestic communications satellite earth station at this location. Lat. 37°56'42''. Lon. 121°20'46''. Rec. freq: 3700–4200 GHz. Trans. freq: 5925–6425 GHz. Emission 2059F9Y. With an 11 meter antenna.

253–DSE–P/L–76 RCA Alaska Communications, Inc., Dillingham, Alaska. Amended to change diameter of the antenna from a 5 meter to a 10 meter, and to change the transmitting equipment from a single channel per carrier (SCPC) to FDM/FM, and other related channels.

365–DSE–P–76 RCA Alaska Communications, Inc., Unalakleet, Alaska. Amended to change diameter of the antenna from a 5 meter to a 10 meter antenna, and change the transmitting equipment from a single channel per carrier (SCPC) to FDM/FM, and other related channels.

SSA–4–77 Westport Television, Inc., Kansas City, Mo. Requests a 6-month extension of its temporary authorization to operate a receive-only Earth station at this location, and to receive programing for broadcast over the facilities of Station KBMA–TV.

SSA–5–77 Western Union Telegraph Co., Minot, N. Dak. Special temporary authority to provide television relay service (video and audio subchannels) via the WESTAR domestic satellite system to a receive-only Earth station in Minot, N. Dak. on January 2, 1977.

[FR Doc.77–766 Filed 1–7–77;8:45 am]

[Docket Nos. 20994–20995; File Nos. BPH–9797, 9825]

NASEEB S. TWEEL AND ROGER G. TWEEL ET AL.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: December 17, 1976.

Released: January 4, 1977.

In regard applications of Naseeb S. Tweel and Roger G. Twell, d/b/a WNST Radio, Milton, West Virginia, Docket No. 20994, File No. BPH–9797. Requests: 106.3 MHz, channel 292, .128 kW (H&V), 1202 feet; Putnam Broadcasting Co., Inc., Hurricane, West Virginia, Docket No. 20995, File No. BPH–9825. Requests: 106.3 MHz, channel 292, 3 kW (H&V), 295 feet, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Naseeb S. Twell and Roger G. Twell d/b/a WNST Radio (WNST), and Putnam Broadcasting Co., Inc. (Putnam) for construction permits which are mutually exclusive in that they seek the same channel to serve nearby communities, approximately ten miles apart.

2. Putnam has failed to comply with the requirements of the Commission's "Primer on the Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1501 (1971), in a number of significant respects. First, Putnam's demographic material contains considerably less information than that called for by question and answer 9 of the Primer. Although it has provided some information about population, racial breakdown, employment and income characteristics, and local government, its demographic profile does not appear to be sufficiently specific with respect to organizations, activities, or other factors which distinguish Hurricane, West Virginia from other communities. "Radio Marion, Inc." 52 FCC 2d 1229, 33 RR 2d 182 (1975). Accordingly, it is impossible to determine whether Putnam is aware of the significant groups which comprise its community and whether the leaders contacted are representative of those groups. Further, even if Putnam's demographic material were considered to provide an adequate community profile, it does not appear that it has consulted with leaders of all significant groups within the community. "Voice of Dixie, Inc." 45 FCC 2d 1027, 29 RR 2d 1127, (1974), recon. den., 47 FCC 2d 526, 30 RR 2d 851, (1974). For example, Putnam's list of community leaders consulted, either as originally filed, or as amended, includes no industrial, agricultural, or labor leaders, no leaders of women's organizations, and no student or youth leaders. In addition, Putnam has stated that it contacted a random sample of the members of the general public. However, it has failed to indicate what methods were utilized to assure contact with a random selection of the public. Therefore, it cannot be determined whether Putnam has, in fact, consulted with a randomly selected

sample of the members of the general public, as required by the Primer.

3. Further, Putnam has failed to comply with the Primer with respect to its proposed programming responsive to ascertained problems and needs. Question and answer 29 requires that an applicant list the proposed programs and, in addition, "give the description and the anticipated time segment, duration and frequency of broadcast of the program or program series, and the community problem or problems which are treated * * *" Putnam has listed its proposed programs, but has failed to indicate which programs will be responsive to which ascertained problems and needs. In addition, several of its proposed programs have not been scheduled for broadcast on a permanent basis. For example, "Candidates Forum", a weekly fifteen-minute program, will be broadcast only for six weeks prior to any local, county, or state primary and/or general election. Also, "Bicentennial Update" will terminate on December 31, 1976. Two of Putnam's other listed programs, "Coach's Roundtable" and "Roundball Preview" are described to be sports programs and do not appear to be responsive to any ascertained community problems or needs. For all these reasons, a community ascertainment issue will be specified against Putnam.

4. Both applicants propose some program duplication with their AM stations. WNST proposes duplicated programming approximately twelve hours daily (or 84 hours per week) whereas Putnam proposes duplicated programming with its AM station WZTQ approximately ten hours per day Monday through Friday, and six hours on Sunday (or 66 hours per week). Therefore, evidence regarding program duplication will be admissable under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. "Jones T. Sudbury", 8 FCC 2d 360, 10 RR 2d 114 (1967).

5. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from their proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the contingent comparative issue, for the purpose of determining whether a comparative preference should occur to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for a hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Putnam Broadcasting Co., Inc., to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs.

2. To determine, in light of section 307 (b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations would better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

9. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for a hearing and present evidence on the issues specified in this order.

10. *It is further ordered*, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-758 Filed 1-7-77;8:45 am]

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE ADVISORY COMMITTEE FOR AMATEUR RADIO

Meeting Announcement

Date: January 25, 1977.
Time: 9:30 a.m.
Location: Room A-205, FCC Annex Building, 1229 20th Street, NW., Washington, D.C.

AGENDA

Chairman's welcome and remarks
Call of the Agenda
Announcements
Review and approval of minutes, September 14, 1976 Meeting
Reports from task leaders
Review of Docket 20271, 3rd Notice of Inquiry, and Preparation of ACAR Comments
Discussion of future milestones and tasks
Review of action items
Other business to be determined
Adjournment

Public Participation. Meetings of the WARC Advisory Committee for Amateur Radio are open to U.S. Citizens. Persons not members of the Committee who desire to make a presentation at this meeting should coordinate their presentation with the Secretary, WARC Advisory Committee for Amateur Radio: Peter M. Hurd, 6425 Cygnet Drive, Alexandria, Virginia, 22307. Telephone: (202) 695-0520 or (703) 768-9535. Required information includes: Name, mailing address and telephone number of person making the presentation; outline of material to be presented; duration of presentation; audio/visual aids required. Written statements may also be submitted to the Committee, and should be addressed to the Chairman, WARC Advisory Committee for Amateur Radio (Safety and Special), Room 5114, Federal Communications Commission, Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-762 Filed 1-7-77;8:45 am]

[Docket No. 21034; File No. BRCT-50; FCC 76-1195]

WGAL-TELEVISION, INC.

Memorandum Opinion and Order Designating Hearing

Adopted: December 21, 1976.

Released: December 29, 1976.

In re application of WGAL-Television, Inc., for renewal of license of Station WGAL-TV, Lancaster, Pennsylvania, Docket No. 21034, File No. BRCT-50.

1. The Commission has before it for consideration: The above captioned application for renewal of license for Station WGAL-TV, Lancaster, Pennsylvania; a petition to deny that application filed July 1, 1975 by the Feminists for Media Rights (FMR); the licensee's opposition; and the petitioner's reply thereto. The petition to deny alleges, inter alia that: The Steinman family interest in WGAL-TV and other Lancaster media constitute monopolization; the station has failed to provide programming in response to community needs and interests; and the licensee has discriminated against women in its employment practices and policies.

2. The licensee contends that the petition should be dismissed on procedural grounds, asserting that FMR lacks standing as a party in interest. They argue

that petitioner has failed to show that it is a responsible group, and the petition arises out of the station's failure to reach an agreement with FMR. We find that FMR is an organization composed of persons within the service area of WGAL–TV, and it is, therefore, entitled to file a petition to deny as a party in interest. *United Church of Christ* v. *FCC*, 359 F. 2d 994 (1966). The fact that the instant petition may have resulted from the breakdown of negotiations between petitioner and the licensee does not materially affect that party's status. While we encourage such continuing dialogue to promote local resolution of problems, the failure of such dialogue is not a bar to the filing of petitions to deny. Agreements Between Broadcast Licensees and the Public, 57 FCC 2d 42 (1975).

3. The licensee has also moved to strike certain allegations of petitioner's reply, asserting that it is new matter pleaded in violation of § 1.45 of the Commission's Rules. The allegations relate to "specific abuses" of WGAL–TV's media concentration in Lancaster. We find that similar allegations of abuses were raised in the petition to deny. Therefore, while the reply raised facts which were not previously alleged, the licensee was on notice that specific abuses of its media concentration had been raised. Accordingly, we will consider the allegations of the reply in their entirety.

4. Both parties have filed extensive pleadings. To reiterate every detailed allegation and response would unduly burden this Memorandum Opinion and Order. Accordingly, though we will not present in this text every claim and counter claim, we have summarized the portions of the pleadings necessary to fulfill the statutory mandate regarding petitions to deny. Sec. 47 U.S.C. 309(d)(2).

MONOPOLIZATION

5. By way of background, the Steinman family, through various voting trusts, maintains control of WGAL–TV as well as the only newspapers in Lancaster: The Intelligencer Journal, published Monday through Saturday mornings; the News Era, published Monday through Saturday evenings; and the Sunday News, published Sundays. WGAL Television, Inc. also owns Television Community Service, Inc., a CATV franchisee in Lancaster. In 1969, that cable company merged with the only other CATV franchisee in the community, People's Broadcasting Company, to form Cable Associates, Inc., which holds the only CATV franchises in Lancaster. The Steinmans, through Television Community Service, Inc., hold 60 percent of the stock in Cable Associates. The other electronic media licensed to Lancaster are: WLAN (AM) and FM (licensed to Peoples Broadcasting Company); WDAC(FM); WGAL and WGAL–FM; [1] and WFNM (FM), a noncommercial station. Moreover, Lancaster is part of the Harrisburg-York-Lancaster-Lebanon television market, and the city of Lancaster receives city grade television service from WGAL–TV, WLYH–TV, Lancaster-Lebanon and WSBA–TV York. Lancaster is also served by WTPA–TV, Harrisburg-York-Lebanon, and WHP–TV, Harrisburg. WGAL AM and FM were the first radio stations in Lancaster, and WGAL–TV was the first television station in the hyphenated market.

6. Petitioner alleges that, applying various indices of media concentration to the Lancaster situation, the Steinmans enjoy a concentration of between 79 percent and 95 percent. According to FMR, the Justice Department's compilation of local current advertising revenues reveals that the Steinman interests receive 89 percent of those market revenues.[2] Petitioner also asserts that, as the only VHF station in the hyphenated market, WGAL–TV faces relatively weak competition from UHF stations, and approximately 4 percent, or 15,996, of the TV households in WGAL–TV's service area have neither UHF receivers nor cable. FMR contends that the Steinman's concentration is enhanced by their controlling interest in the Lancaster cable franchises. Petitioner argues that the degree of concentration in Lancaster, when considered along with WGAL–TV's unique position as the only VHF station in the market and the Steinman's cable interests, requires divestiture in spite of the contrary determination in the Second Report and Order on Cross-Ownership (Docket 18110), 50 FCC 2d 1046 (1975). (see paragraph 11, infra).

7. Moreover, FMR asserts that the Steinman daily newspapers carry program listings for WGAL–TV, but not for the four other TV stations which provide service to Lancaster. Petitioner also contends that the "TV Week" magazine section of the "Sunday News" has consistently featured programs appearing on WGAL–TV in its cover story, and, in that newspaper's television program schedule: WGAL–TV is listed first, out of numerical sequence, and the WGAL–TV listing is headed by a reverse slug title, white on black instead of the normal black on white. FMR further alleges that WGAL–FM and WLAN–FM have been used as background music on the Lancaster cable system to the exclusion of WDAC–FM. Moreover petitioner argues that all the Steinman media interests share officers and directors and, with the exception of WGAL–TV, are located within a city block of each other, evidencing a sharing of news, information, and ideas, including, for example, the radio station's refusal to run advertising for the movie "Carnal Knowledge" and the "Sunday News' " deletion of the word "carnal" from its ads for that film. Finally, FMR contends that the Steinman family trusts and the fact that several trustees are also directors of WGAL Television, Inc. could result in the syphoning of WGAL–TV's program budget to the beneficiaries.

8. In opposition, the licensee alleges that until July 1975, the daily papers charged for television listing and that WGAL–TV had always paid for its listing, but none of its competitors had ever been refused listings. WGAL–TV asserts that until 1970, the "York Dispatch," an independently owned newspaper in York, Pennsylvania, did not provide free television listings. The station concedes that for a number of years, WGAL–TV supplied the cover and cover story for "TV Week", but that practice, along with the reverse slug listing of WGAL–TV, was discontinued in January 1975. According to WGAL–TV, the order of the "TV Week" listing is determined by channel sequence, first for the Lancaster stations—WGAL–TV, Channel 8 and WLYH–TV, Channel 15—then the remaining stations by Channel number. The licensee also contends that the cable system does not use WDAC–FM for background music channel because that station's religious format would be inappropriate for such use. The station describes the division between the various Steinman media in great detail and asserts that each media holding has separate editorial, news and sales staff. The Licensee argues that the 1971 incident involving "Carnal Knowledge" occurred outside the current license term, and, in any event, was the result of independent determinations by the station and the newspaper.

9. In its reply pleading, FMR argues that in adopting its various crossownership policies, the Commission considered radio-TV [3], newspaper-TV [4], and cable-TV [5] crossownership individually, whereas in this instance the Commission must consider the confluence of all three types of crossownership. Petitioner therefore argues that, the Commission should waive the "grandfather" rights granted in its crossownership rules. The reply further alleges that television audience rating information indicates that WGAL–TV enjoys a significantly greater market share than WLYH–TV, serving Lancaster-Lebanon. Petitioners also contend that the Steinman pattern of entering each new media field—newspapers, then radio, then television, then cable—evidences a willful intent to create and maintain a monopoly in Lancaster.

10. In addition to reiterating the specific abuses of crossownership alleged in the petition, FMR alleges that: WGAL–TV received non-sequential and reverse slug listing in the "Sunday News" tele-

[1] The Steinmans also control WGAL and WGAL–FM, but sought Commission consent to the assignment of those licenses to Hall Communications, Inc. (BAL–8673 and BALH–2280). Petitioners herein petitioned to deny those applications. However, by Memorandum Opinion and Order, adopted November 30, 1976, the assignment application has been granted and the petition has been denied.

[2] This figure includes consideration of WGAL and WGAL–FM.

[3] Multiple Ownership, 22 FCC 2d 306 (1970).

[4] Second Report and Order on Crossownership (Docket 18110), 50 FCC 2d 1046 (1975), app'l pending sub nom. National Citizens Committee for Broadcasting v. FCC, D.C. Cir. No. 76–1064.

[5] CATV–TV Cross Ownership Rules (Docket 20423), 55 FCC 2d 540 (1975), app'l pending sub nom. National Citizens Committee for Broadcasting v. FCC, D.C. Cir. No. 75–1933.

vision page (as distinguished from "TV Week"; WGAL–TV's programming regularly received feature coverage in "TV Week") in addition to the cover story; more that 36 percent of the program publicity illustrations in "TV Week's" day-to-day listings were from WGAL–TV's network, i.e. NBC; WGAL radio received a disproportionate share of space and was listed out of order in the "Sunday News" radio and TV page; and the WGAL radio stations were the only ones receiving program listings in the daily newspapers.[6]

11. In the Second Report and Order, supra, we determined that divestiture of existing daily newspaper broadcast combinations may be required only in communities where the concentration is "egregious", i.e. where the only daily newspaper and television station serving the community are commonly owned. As indicated by the information in paragraph 5, supra, the application of those criteria to Lancaster would not require divestiture. Further, petitioner's allegations regarding the VHF/UHF situation in the Lancaster area, WGAL–TV's audience share, and the Steinman ownership of radio and cable do not alter our conclusion regarding the concentration of media in the area, specifically our conclusion that Lancaster was not an "egregious" market requiring divestiture.[7] Accordingly, we find that divestiture is not required by the mere structure of media ownership in Lancaster. See "Stauffer Publications, Inc.", FCC 76-470, 37 RR 2d 660 (1976).

12. However, the "Second Report and Order" further noted that parties may still raise concentration issues in renewal proceedings by a showing of: (a) Economic monopolization that might warrant action under the Sherman Act, or (b) specific abuse of the cross-ownership relationship. In applying these standards, our touchstone must be the public interest mandate of the Communications Act. In this regard, it must be emphasized that we are concerned with a licensee's conduct as it affects the public interest, rather than violation of the antitrust laws per se. See "Westinghouse Broadcasting Co., Inc.," 44 FCC 2778 (1962). This Commission has neither the expertise nor the statutory authority to enforce the antitrust laws in its regulation of the broadcast industry. In our view, enforcement of the Sherman Act and similar statutes rests properly with other Federal agencies entrusted with the expertise and jurisdiction over these matters. We believe it inappropriate for the Commission to duplicate the function of the courts or other agencies having antitrust jurisdiction and expertise. See "Newhouse Broadcasting Corporation," (WSYRTV) FCC 76, adopted November 14, 1976.[8]

13. We turn our attention first to petitioner's allegations of abuse of the cross-ownership listed in paragraphs 7 and 10 supra. It seems reasonable that a Lancaster newspaper's television page should list first those stations licensed to specifically serve Lancaster, i.e. WGAL–TV and WLYH–TV. It also appears reasonable that a cable system should choose not to utilize a religious format radio station for background music, and the use of NBC promotional material for approximately 36 percent of the illustrations in "TV Week" is not substantially out of line. However, the reverse slug headings for the Steinman radio and television stations and the consistent "featuring" of WGAL–TV programs in the "TV Week" appear to be abuses arising out of the cross-ownership. We are further concerned by the newspapers' "policy" of paid daily listings for TV program schedules. The fact that an independently owned newspaper charged for such listings is inapposite where, in that instance, all stations were treated equally. Here it appears that this practice may have amounted to less than an "arms length" transactions in that broadcasters competing with the Steinman stations may not have been treated equally.

14. As previously noted, in determining whether a hearing is warranted on a petition to deny raising crossownership matters, the Commission must apply the public interest standard of the Communications Act, i.e. whether petitioner has raised substantial or material questions of fact to establish that a grant of the challenged renewal application would be prima facie inconsistent with the public interest, convenience, and necessity. 47 U.S.C. 309(e). We do not believe that the abuses noted should, in and of themselves, necessitate an evidentiary hearing.[9] Specific abuses must be viewed in the context of each case and the policy of the "Second Report and Order," supra. Here, WGAL–TV enjoys a unique position both in its home city and hyphenated television market. It is the only television station licensed exclusively to Lancaster and is co-owned with the only newspaper having significant circulation in Lancaster County. Moreover, until recently, it was co-owned with two of the five radio stations licensed to Lancaster.[10] The station also enjoys a natural advantage as the only VHF television station in the Harrisburg-York-Lancaster-Lebanon television market. We do not believe it is necessary to apply traditional Sherman Act type market analysis in order to conclude that WGAL–TV dominates the Lancaster area and enjoys an extraordinarily high degree of influence in the hyphenated market. Under these circumstances, abuses which might be otherwise insufficient to warrant hearing take on added significance. We are also particularly concerned with WGAL–TV's discontinued practice of supplying the cover story for "TV Week." Where the "Second Report and Order" stressed the importance of the separate operation of print and electronic media, this practice raises questions regarding parameters of such separation in Lancaster. "Second Report and Order," supra, at 1089.

15. Accordingly, while we are not confronted with a case of "egregious" structural monopoly as defined in the "Second Report and Order," in view of this licensee's conduct, we are unable to determine that a grant of WGAL–TV's renewal application would serve the public interest. Therefore, we believe that the alleged specific abuses of crossownership should be explored in an evidentiary hearing to enable an Administrative Law Judge and, thereafter, the Commission

[6] The reply also charges that the admitted abuses reveal that WGAL–TV misrepresented the facts to the Commission in its May 17, 1971 submission in Docket 18110, when the licensee alleged that it maintained a complete separation of commercial practices and contacts among co-owned media. On review, we find that the alleged abuses do not contradict the asserted separation of commercial practices and contacts, by which we understood the licensee to be referring to its advertising sales practices.

[7] The Commission recently terminated a rule making proceeding concerning cross-ownership of cable systems and television stations. CATV–TV Cross Ownership Rules, supra. In that proceeding, we were concerned with the same objectives as in Docket 18110, the broadcast-newspaper proceeding, namely increased competition in the economic marketplace and in the marketplace of ideas. After due consideration of these and other public interest objectives, we decided to bar creation of CATV–TV cross-ownership interests between a TV station and CATV systems within its Grade B contour and to require divestiture only where the CATV system is owned, operated or controlled by a nonsatellite TV station which places a principal city grade signal over the entire community served by the CATV system and there is no other commercial nonsatellite station placing such a signal over the community. It is clear that Steinman's CATV interests are not subject to these divestiture rules since two other television stations place a city grade signal over Lancaster. (see para. 5, supra). Moreover, the Commission's actions with regard to each type of crossownership have been mindful of situations where more than one type of crossownership is present. Petitioner's disagreement with our policies in this regard is being litigated in the Courts. See footnotes 4 and 5, supra.

[8] Petitioners also contend that the 1969 merger of the two cable franchises in Lancaster violated both the Sherman Act and section 7 of the Clayton Act. (15 U.S.C. 18). At the outset, we note that there is no information that the franchises permitted direct competition between the cables systems through overlapping service areas. Moreover, as previously noted, the matter of television cable crossownership has been subject of a Commission rulemaking and the licensee appears to be in full compliance with the Commission's rules in this case.

[9] In this regard, we do note that the licensee terminated what appears to be the most serious abuses—the consistent featuring of WGAL–TV programs on the "TV Week" cover—some seven months before the petition was filed.

[10] The fact that the Steinmans also controlled the radio stations at the time the abuses occurred is a material consideration, although we do not believe that the subsequent sale of the stations significantly reduces WGAL–TV's dominance in the Lancaster market. See also footnote 1, supra.

to determine what action, if any, should be taken. Accordingly, appropriate issues will be specified herein.[11]

EMPLOYMENT

16. Petitioner alleges that WGAL–TV has discriminated against women in its employment practices and policies as evidenced by specific instances of discriminatory hiring, statistical disparity of women employees, and an ineffective affirmative action program. FMR contends, through affidavits, that two female applicants, Susan Dutt and Joyce Perry applied for jobs at the station, but they were informed that there were no job openings. However, Ms. Perry asserts that the station hired two employees shortly thereafter. A third applicant contends that she was not hired at WGAL radio and therefore assumed that she could not get other communications employment at WGAL stations. Petitioner further asserts that WGAL–TV's affirmative action program is inadequate as evidenced by the fact that in 1975 only 26 percent of the station's full-time staff was female in an area whose work force is 37.2 percent female. FMR further notes that the station's employment profiles have shown little improvement in the 1972–75 license term. Petitioner contends that the disparity in female employees is greater in the upper four job categories, and the licensee misclassified female employees to fit within those upper four categories. For example, FMR alleges that the station's only female "Official or Manager" in the 1973–75 Annual Employment Reports (FCC Form 395) was the Commercial Traffic Manager whose major responsibilities involve the scheduling of commercials. Petitioner argues that such functions were not what the Commission intended to be included in the Officials and Managers category. FMR also asserts that an increase of four females in the upper four job categories between the 1974 and 1975 Reports was actually a reclassification of four "continuity writers" from "Craftsmen" to "Professionals" without changes in salary, responsibilities or functions.

17. In opposition, the licensee alleges that when Ms. Dutt and Ms. Perry applied to the station, it had no full time openings, and the openings which became available were outside their areas of interest, requiring technicians with first class radio telephone operators licenses. WGAL–TV further asserts that the Commercial Traffic Manager was properly classified since her duties included commercial scheduling and the hiring and supervision of office and clerical personnel in the sales department. The licenseee also contends that the four fulltime continuity writers were reclassified from skilled craftsmen to professionals on the advice of the station's counsel, and one of those writers was promoted to an on-the-air news person since the filing of the 1975 Report.

18. The Pennsylvania State Employment Service reports that the work force in the Lancaster area is 37.2 percent female and 3.3 percent minority groups. WGAL–TV's Annual Employment Reports for the years 1972 through 1976 reveal the following employment profile: [12]

[12] The various WGAL–TV Reports also reflect headquarters personnel with part time responsibilities for other stations: 18 in 1972; 16 in 1973; 15 in 1974; and 11 in 1975.

	1972		1973		1974		1975		1976	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total full-time employees	123		118		117		114		110	
Minorities	3	2	4	3.4	4	3.4	4	3.5	4	3.6
Females	32	26	29	24.5	31	26.4	30	26.3	30	27.2
Total upper 4 job categories	65		64		63		68		67	
Minorities	0	0	1	1.5	1	1.5	1	1.4	2	2.9
Females	0	0	2	3.1	2	3.1	7	10.2	9	13.4

19. When these employment figures and WGAL–TV written EEO programs are compared with the presence of females and minorities in the Lancaster workforce, it is clear that WGAL–TV's overall employment of protected groups has been within the zone of reasonableness throughout the 1972–1976 period. We do note that the 1972 Report showed no protected group persons in the upper four job categories, but subsequent improvements brought the station into the zone of reasonableness. See "Applications of 28 Broadcast Facilities Licensed to the Philadelphia Pennsylvania Area" 53 FCC 2d 104 (1975). In this regard it does not appear that WGAL–TV has misclassified female employees in the upper four job categories. A licensee has broad discretion in classifying employees in accordance with the definitions supplied in the instructions to FCC Form 395, and it appears that the jobs involved were properly classified under those definitions * * *. See "Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees," FCC 76–426, released July 26, 1976; compare "Rust Communications Group, Inc.," FCC 76–988, released November 8, 1976. Additionally, petitioners have failed to allege facts which indicate that female job applicants have been discriminated against, or that the licensee's affirmative action program has not functioned adequately. In this latter regard, we note that the program has resulted in the promotion of WGAL–TV employees to higher level jobs. Accordingly, no further inquiry into WGAL–TV's employment practices or policies is warranted.

PROGRAMMING

20. Petitioner alleges that WGAL–TV's entertainment programming and commercial announcements are discriminatory in that they often portray women in demeaning ways, i.e., housewives, mothers, or sex symbols. FMR also contends that the licensee devotes insufficient money and professional assistance to the production of local public service programming, and the local news is dominated by men, with women relegated to short interviews and weather reports. In opposition, the licensee argues that it has depicted women in business, sports, politics, and education. Moreover, WGAL alleges that it presented a number of programs directed towards women:, including "Our Sisters, Ourselves: A Program on Women Today; Women in Crises; And Women in Politics." The licensee asserts that it also produced local, children's and religious programs to meet the needs and interests of its community, and the station contends that its program budget and manner of news presentation are matters of licensee discretion.

21. Petitioners have failed to establish that the licensee's portrayal of women in entertainment programming or commercial announcements reflects adversely on the station's service to the public. "American Broadcasting Co., Inc.," 52 FCC 2d 98 (1975). Moreover, it appears that the station's non-entertainment programming has responded to matters of particular concern to women. Petitioners have not identified any significant local problems or issue which the licensee ignored, nor in any other way established that WGAL–TV has not adequately responded to the needs of its community. "RadiOhio," 38 FCC 2d 721 (1973), aff'd sub non. "Columbus Broadcast Coalition v. FCC," 505 F. 2d 320 (D.C. Cir. 1974); see also "Television Wisconsin, Inc.," FCC 75–1300, released December 3, 1975, 35 RR 2d 995. Petitioners have also failed to establish that WGAL–TV has consistently excluded women from its news or other programming. "Columbus Broadcasting Coalition v. FCC," supra. Finally, broadcasters are not common carriers and the Commission has not established any formula for the amount of funds licensees should devote to non-entertainment programming. "Allanza Federal de Mercedes v. FCC," Civil No. 74–1895 (D.C. Cir., April 27, 1976). Accordingly, no further inquiry into WGAL–TV's programming is warranted.

CONCLUSION

22. Section 309(e) of the Communications Act of 1934, as amended, requires

[11] Having reached the conclusion that petitioners have raised a substantial and material question of fact as to whether a continuation of the crossownership situation in Lancaster would serve the public interest, we do not believe that it is necessary to burden this proceeding with further discussions of Sherman Act monopolization. As previously noted, the Commission's role is defined by the public interest standard of the Communications Act, and we do not enforce the antitrust laws per se. In this instance, we believe that the public interest is served by the action taken herein.

designation of a renewal application for hearing if the Commission, for any reason, is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity. In this case, petitioners have failed to raise any substantial or material question of fact relating to the licensee's employment practices or programming. However, on the basis of the record before us, we are unable to make the required finding that a grant of WGAL–TV's renewal application would serve the public interest. While the market structure in Lancaster would not require divestiture under the "Second Report and Order," supra, the alleged specific abuses of crossownership present a special case which should be explored at a hearing.

23. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in the subsequent order, upon the following issues:

(1) To determine the facts and circumstances surrounding the licensee's conduct in relation to its co-owned newspaper in the following activities:

(a) The selection and origination of the "TV Week" cover story and features in the Lancaster "Sunday News";

(b) The use of "reverse slug" headings to identify the radio and television stations in co-owned newspapers and;

(c) The newspapers' practice of charging for daily television program schedules.

(2) To determine, in the light of the evidence adduced pursuant to the foregoing, whether a grant of the application for renewal of license filed by WGAL–Television, Inc. would serve the public interest, convenience and necessity.

24. *It is further ordered,* That the petition to deny filed by Feminists for Media Rights is granted to the extent indicated above, and is denied, in all other respects, and the said Feminists for Media Rights are made a party to this proceeding.

25. *It is also ordered,* That the Feminists for Media Rights shall have the burden of proceeding with the evidence on Issue (1) above, and WGAL–Television, Inc. shall have the burden of proceeding with the evidence on Issue (2) above and the burden of proof with respect to all issues.

26. *It is further ordered,* That to avail themselves of the opportunity to be heard, the licensee and the Feminists for Media Rights, pursuant to § 1.221 of the Commission's rules and regulations, in person or by attorney, shall within 20 days of the date of this order, file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and present evidence on the issue specified in this Order.

27. *It is further ordered,* That the licensee shall, pursuant to section 311(a)(2) of the Communication's Act of 1934, as amended, and § 1.594 of the Commission's rules and regulations, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission thereof as required by § 1.594 of the Commission's rules and regulations.

FEDERAL COMMUNICATIONS COMMISSION,[12]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-763 Filed 1-7-77;8:45 am]

[Docket No. 14952; File No. BP-12902; FCC 76-1048, 43126]

WNAR, INC.

Memorandum Opinion and Order Enlarging Issues for Remand Hearing

Adopted: November 10, 1976.

Released: December 30, 1976.

1. WNAR, a 500 watt, non-directional, daytime only, class II standard broadcast station, is located in Norristown, Pennsylvania (population: 38,925), the largest community in, and the seat of, Montgomery County. Norristown is 4.5 miles northwest of the nearest city boundary of Philadelphia and is within the Philadelphia Urbanized Area. WNAR's 0.5 mv/m service area now extends roughly 24 miles in all directions from the transmitter (but only 18 miles to the north due to adjacent channel interference). The station was originally owned by Norristown Broadcasting Co., Inc.; however, it was assigned to the current applicant, WNAR, Inc., during the course of this proceeding.

2. An application for power increase to 50 kW was first filed by Norristown Broadcasting Co., Inc. in 1959. Subsequently, the application was amended to its present proposal of 5 kW, 1 kW critical hours. Examination of the application, as modified, revealed that penetration of nearby Philadelphia by WNAR's proposed 5 mv/m contour would increase from 6 percent to 92.3 percent (16.5 percent critical hours). Since Philadelphia is a city of more than 50,000 persons and has more than twice the population of Norristown, a presumption under the 307(b) Policy Statement[1] arose which led to the application's designation for hearing on suburban community issues.[2] Presiding Judge Basil P. Cooper found WNAR intended to remain a suburban station and proposed to grant its application. 41 FCC 2d 121 (1968). Before the Broadcast Bureau could file exceptions to the Initial Decision, Norristown Broadcasting Co. assigned WNAR to WNAR, Inc. and petitioned for leave to amend its application and substitute WNAR, Inc. as a party to the proceeding. The Review Board granted the petition, but remanded the proceeding and enlarged the issues to include financial and "Suburban" ascertainment issues based on questions concerning the new owner's qualifications. 18 FCC 2d 56 (1969). Thereafter, Judge Cooper issued a Supplemental Initial Decision in which he found, inter alia, that WNAR, Inc. was qualified to be a licensee and that the findings and conclusions in his original Initial Decision as to the future suburban-oriented programming of WNAR still led to an ultimate conclusion that the public interest would be served by granting the application for power increase. FCC 71D–66, released September 29, 1971.

3. Acting on exceptions to the decisions filed by the Bureau, the Review Board concurred with the Judge's resolution on all issues except the suburban community issues. The Board concluded that the failure to ascertain programming needs of Norristown which are separate and distinct from those of Philadelphia, the failure to determine which of Norristown's programming needs are not now being served by other stations, the failure to provide advertising revenue figures from Norristown, and a net loss of service to Montgomery County all resulted in the failure to rebut the 307(b) presumption that WNAR will become a sub-standard Philadelphia station if allowed to increase its power. 41 FCC 2d 110 (1973).

4. Subsequently, the Commission considered WNAR's application for review of the Board's Decision and remanded this proceeding for further hearings. 49 FCC 2d 135 (1974). The area of inquiry concerning programming needs and revenues was redefined as WNAR's proposed gain area and not the specified station

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[12] Commissioners Wiley, Chairman; Fogarty and White concurring in the result; Commissioner Lee absent; Dissenting Statement of Commissioner James H. Quello filed as part of the original document.

[1] In the Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 6 RR 2d 1901, 2 FCC 2d 190 (1965), recon. denied, 6 RR 2d 1908, 2 FCC 2d 866 (1966), the Commission created a presumption that, when an applicant for new or improved facilities proposed a 5 mv/m contour which would penetrate the geographic boundaries of any community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community, the applicant actually proposes to serve the nearby major community and not its specified station location (39 FR 36912).

[2] See 6 FCC 2d 718 (1967).

location of Norristown.[4] On November 4, 1974, WNAR petitioned for reconsideration,[4] arguing that the requirement under the remand order of ascertaining specific programming needs of the gain area which are unmet by other stations is inconsistent with the underlying rationale of the "307(b) Policy Statement" that the needs of the specified station location should not be neglected; that the revised burden of proof is meaningless, irrelevant, and unduly burdensome, since any showing would be outdated by continuing changes in area needs and in local program service; and that the Commission has imposed a negative burden which in no way aids in resolving the fundamental question of whether a station intends to remain a suburban station or become a central city station. WNAR further urged that the Commission had failed to clarify and establish uniform standards of proof under the "307(b) Policy Statement" as required by the Court of Appeals in "Northern Indiana Broadcasters, Inc. v. FCC," 459 F.2d 1351, 23 RR 2d 2113 (1972).[5]

5. On July 14, 1975, the Commission released its "Report and Order in the Matter of Amendment of Part 73 of the Commission's Rules Regarding AM Station Assignment Standards," 54 FCC 2d 1 (hereinafter "July Report and Order"), in which, inter alia, the Commission dispensed with the suburban community 307(b) presumption in all pending and future single applicant proceedings.[6] It was emphasized, however, that the "factors underlying the original [1965 307(b)] Policy Statement will continue to be of concern * * *" and that the Bureau will be free to request the addition of appropriate issues in those ongoing hearings where the presumption no longer applies. The Commission also specifically put applicants on notice that applications proposing power clearly in excess of that necessary to serve the proposed community of license and its immediately surrounding areas will be examined with care and that the Commission would guard against those situations which the 307(b) Policy Statement presumption was designed to prevent. 54 FCC 2d at 22.

6. On August 12, 1975, the Bureau filed a Request for Clarification Or, in the Alternative, Enlargement of Issues in which it argues that a serious question remains regarding the future programming intent of WNAR and that the suburban community sub-issues specified in the Commission's 1974 remand of this proceeding still require resolution.[7] The Bureau thus requests that the Commission clarify whether the remand order is still in effect; if it is not, the Bureau urges that the issues specified in that order be reinstated and further hearings ordered. The Bureau also requests an additional issue to determine the extent to which a grant of WNAR's proposal will result in a loss of local service to residents of Montgomery County.

7. The Bureau notes WNAR's proposed increase from 500 watts to 5 kW (1 kW critical hours) will result in a pear-shaped contour directed to the southwest toward Philadelphia. The service area will actually contract about 2 miles to the north and northwest; in Montgomery, WNAR's home county, 10,358 people would lose service under WNAR's 5 kW proposal (30,917 people under its 1 kW critical hours proposal).[8] Service to the south will extend an additional 27 miles, the 5 mv/m coverage of Philadelphia will increase from 6 percent to approximately 92 percent, the 2 mv/m contour will expand to include 100 percent of the city, and 2 mv/m coverage of the Philadelphia Urbanized Area[9] will increase from 28 percent to 90 percent. The Bureau argues that the very substantial increase in service to Philadelphia and the loss of service to presently served areas discloses WNAR's intention to become a substandard Philadelphia station at the expense of its current service area. The Bureau concludes WNAR's disclaimer of improper intent simply cannot be substituted for a full exploration of the objective facts and that the Commission should use the sub-issues as specified in the remand order to inquire into the need for expanded service and into WNAR's motive in seeking a power increase.

8. WNAR opposes the request and argues that the present record is sufficient to allow the Commission to conclude that WNAR will remain a suburban station if a power increase is granted.[10] According to WNAR, the Commission found in the "July Report and Order" that power increases by all stations are in the public interest. In that regard, WNAR claims that the burden a suburban station has of proving that it will remain a suburban station can be met through testimony of its officers and economic evidence that its current revenues come largely from suburban advertisers. Just such evidence twice convinced presiding Judge Cooper that WNAR would remain a suburban station, and WNAR contends the question of its "intent" is settled as a matter

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[3] The originally specified sub-issues under the suburban community issues speak in terms of the "specified station location." The Board in its Decision rejected the Bureau's assertion that findings and conclusions in proceedings involving existing stations seeking power increases should be concerned with the "gain area." The Commission's remand order endorsed the Bureau's view, but specified further hearings due to the previous confusion as to the required showing. See also WHJB Radio, 49 FCC 2d 357 (1974). As revised, the issues specified for the remand hearing are as follows:

To determine whether the instant proposal will realistically continue the local transmission service for the applicant's assigned community and provide a new broadcast service for the proposed gain area or provide such service for another larger community, in light of all the relevant evidence, including, but not necessarily, limited to, the showing with respect to:

(a) The extent to which the proposed gain area has been ascertained by the applicant to have separate and distinct programming needs;

(b) The extent to which the needs of the proposed gain area are being met by existing aural broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific unsatisfied programming needs of the proposed gain area; and

(d) The extent to which the projected sources of the applicant's advertising revenues from within his assigned community and/or from within the proposed gain area are adequate to support its proposal.

To determine, in the event it is concluded pursuant to the foregoing issue that the proposal of the applicant will not realistically provide a local transmission service for its specified station location, whether such proposal meets all of the technical provisions of the rules, including §§ 73.30, 73.31, and 73.188(b) (1) and (2) for standard broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission service, namely, Philadelphia, Pennsylvania.

[4] The Broadcast Bureau filed an opposition to WNAR's petition for reconsideration on December 18, 1974, and WNAR filed a reply on January 6, 1975. In this connection, WNAR also requests waiver of § 1.106(a)(1) of the rules, concerning the filing of interlocutory petitions for reconsideration, and of § 1.44 of the rules, concerning the combining of separate requests for action. While the better procedure is to file separate pleadings where different requests are made, we are persuaded that, in view of all of the circumstances in this proceeding, waiver of the rules is appropriate so that consideration can be given to the merits of WNAR's arguments.

[5] WNAR also requested oral argument, but, in view of the determinations reached herein, we are not persuaded that oral argument would serve any useful purpose at this stage of the proceeding.

[6] Because the Rule Making proceeding involved questions concerning the application of the 307(b) Policy Statement, WNAR had, in its reply pleading filed January 6, 1975, requested that action in this adjudicatory proceeding be deferred pending resolution of the rulemaking proceeding.

[7] WNAR, in response to the Bureau's petition, filed an opposition on January 19, 1976, and a supplement thereto on January 22, 1976. The Bureau filed a reply on February 3, 1976.

[8] The Bureau contends that a significant number of persons may also lose their only local Montgomery County service. While two other AM stations are assigned to communities in Montgomery County, the record does not show the extent of their service areas.

[9] The Philadelphia Urbanized Area includes portions of the four Pennsylvania counties around Philadelphia (Delaware, Chester, Montgomery and Bucks Counties), the city of Philadelphia, and a portion of New Jersey.

[10] In response to the Bureau's request for an issue concerning loss of service in Montgomery County, WNAR asserts that interference considerations with respect to other pending proposals and existing stations originally made both the increased coverage of Philadelphia and the restricted service to Montgomery County inevitable. However, WNAR has filed an affidavit alledging that new technology will permit redesign of the proposed directional array so that the loss of service will be eliminated. It asserts an engineering amendment to this effect will be filed if the Commission grants WNAR's application. The Bureau opposes this procedure and contends good cause to file a post-designation engineering amendment has not been demonstrated.

of res judicata and that its application should be granted and the proceeding terminated.

9. In our view, the fundamental question to be considered here is what impact has the "July Report and Order" had on the application of the "307(b) Policy Statement" to an existing suburban station's proposal to increase its power. In this connection, the first points to be noted are that the "July Report and Order" did indicate, as WNAR asserts, that the Commission's allocation standards were too restrictive; that those standards were being relaxed so that suburban stations, among others, would be able to provide improved service to the public; and that the "307(b) Policy Statement's" presumption would no longer be applied in a single applicant situation, such as the present case. However, the "July Report and Order" also stated that the factors underlying the "307(b) Policy Statement" will still continue to be of concern even in single applicant situations, that the Commission will guard against those situations which the 307(b) Policy Statement presumption was designed to prevent, and that applicants proposing power clearly in excess of that necessary to serve the proposed community of license and its immediately surrounding areas will be examined with care. 54 FCC 2d 21–22. We further emphasized therein that "the essential element in our 307(b) considerations will therefore continue to be the intent of the applicant with respect to service to the community of license, [and] our analysis will focus on those facts and circumstances in the application which may bear on this question of intent". (54 FCC 2d at 22). Here, WNAR is already providing service to the community of Norristown. Consequently, in the context of this proceeding, the focus of our inquiry must be directed to the determination of whether WNAR's primary motive is to improve service in that portion of the gain area immediately surrounding its specified station location which it asserts its proposal is "designed to serve" or to circumvent our policy against substandard metropolitan area stations.

10. According to WNAR, its proposal is designed to improve its service in Bucks, Chester, and Delaware counties which are located north and west of Philadelphia. The record further establishes that, overall, 2,626,269 persons would receive WNAR's service for the first time. However, 1,495,512 of those persons reside within the city of Philadelphia, 542,945 live in New Jersey, and nearly 50,000 more live in the States of Delaware and Maryland. Thus, only approximately 20 percent of WNAR's gain area population is located in the suburban counties (Bucks, Chester and Delaware), which its proposal "is designed to serve." Moreover, the record and the pleadings in this case show that WNAR proposes to withdraw service from 10,358 persons (30,917 persons during critical hours) in its home county, Montgomery; from 1,857 persons (19,321 persons during critical hours) in Bucks County; from 6,104 persons (25,586 persons during critical hours) in Chester County; and from 4,644 persons (and during critical hours from all 6,316 persons now receiving service) in Berks County.

11. This proposed withdrawal of existing service from Montgomery, Bucks, Chester, and Berks Counties is on its face inconsistent with WNAR's claim of improved service to nearby counties, and, together with the substantially increased coverage of Philadelphia, lends considerable support to the Bureau's contention that an evidentiary hearing is required to determine whether WNAR's real intention is to improve service to these suburban areas or to become another, but substandard, Philadelphia station. We recognize, of course that all of the evidence adduced at the hearing must be taken into account in the resolution of this question, so we express no view as to what the ultimate conclusion should be. Nevertheless, we believe that a willingness to withdraw service from the areas immediately surrounding the community of license while increasing coverage of the larger city is a significant factor for exploration in assessing the applicant's true objective.[11] Clearly, any benefits deriving from the proposed new service must be balanced against any detrimental effects which may become apparent by withdrawing service from those now receiving it.

12. Moreover, in order to sustain its burden of proof in this proceeding, WNAR must adduce affirmative evidence that it intends to provide a broadcast service meeting the particular needs of Montgomery, Bucks, Chester and Delaware Counties rather than becoming another station serving the homogeneous needs of the Philadelphia Urbanized Area.[12] At the same time, WNAR will be given every opportunity to show in what ways its nonentertainment programming to the suburban gain areas is responsive to other perceived needs. Thus, even though other aural broadcast stations may be treating such needs to some extent, WNAR will be permitted to show that its proposed programming is responsive to a need for further exposition from the perspective of the suburban gain areas.

13. While WNAR urges that its intent to remain a suburban station has been definitively determined in this proceeding, it has failed to consider not only that the presiding judge's rulings in this respect were set aside by the Review Board, but also that such a question cannot be finally resolved on the basis of the applicant's self-serving disclaimers of any improper intent without full consideration of all of the objective facts surrounding the proposal to increase power.[13] In light of all of the facts set forth above, we are not persuaded that a sufficient showing has been made on the record now before us to establish that the primary purpose of this proposal is to serve the areas immediately surrounding Norristown or that WNAR has avoided the use of power greatly exceeding that needed to serve such areas. Under these circumstances, we are convinced that a further hearing is mandatory so that this proceeding may be resolved on the basis of a full evidentiary record on all of the pertinent issues concerning WNAR's proposal to increase its power and its coverage of the entire Philadelphia Urbanized Area. The issues previously designated will be modified to conform to the views expressed herein. In addition we believe that the impact of the proposed loss of service in Montgomery, Bucks, Chester and Berks Counties in terms of the availability of other local service for the loss areas should be explored at the hearing.

14. *Accordingly, it is ordered:*

(a) That the requests for waiver of Sections 1.106(a)(1) and 1.44 of the Rules, filed by WNAR, Inc. on November 4, 1974, are granted;

(b) That the petition for reconsideration, filed by WNAR, Inc. on November 4, 1974, is denied; and

(c) That the request for clarification or, in the alternative, enlargement of issues, filed by the Broadcast Bureau on August 12, 1975, is granted as indicated herein.

15. *It is further ordered,* That the issues for the remand hearing are modified and enlarged as follows:

To determine whether the instant proposal will realistically continue the local transmission service for the applicant's assigned community and provide a responsive broadcast service for the proposed gain area or provide such service for another larger community, in light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

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[11] Nor do we believe that the amendment suggested by WNAR, see footnote 10, supra, would necessarily resolve this question. According to WNAR, technology available now, but not at the time its proposal was submitted, would enable it to redesign its directional antenna to maintain the present nondirectional radiations. Irrespective of whether a redesign of the directional antenna would achieve this result, the question remains whether an inference is warranted that WNAR has submitted a proposal with a primary intent to improve coverage over Philadelphia. In its pleadings, WNAR contends that no such inference is warranted, but we deem it best to resolve that issue on the basis of a full evidentiary hearing.

[12] In view of our clarification and particularization of the issues herein, we believe that we have provided the guidance sought by the Court of Appeals in Northern Indiana Broadcasters, supra, concerning the standards of proof for this type of case, and that WNAR's additional contentions, in paragraph 4, supra, regarding the nature of this proceeding require no further consideration here.

[13] While we are aware that a grant was made by the Broadcast Bureau, acting pursuant to delegated authority, of a proposal by Gordon A. Rogers, KGAR, Vancouver, Washington, to increase power, Public Notice Report No. 14267, released June 16, 1976, the facts in this case, particularly the loss of service in Montgomery, Bucks, Chester, and Berks Counties, convince us that a grant cannot now be made here.

(a) The extent to which the non-entertainment program needs of the proposed gain areas located in Bucks, Chestetr, and Delaware Counties have been ascertained by the applicant to be separate and distinct from the needs of the central city;

(b) The extent to which any other non-entertainment program needs of the proposed gain areas located in Bucks, Chester, and Delaware Counties, while not having been ascertained to be separate and distinct (as was the case in subparagraph (a), above), have been ascertained to be existing needs and are susceptible of being treated from the suburban gain areas' perspective;

(c) The extent to which the needs of the above mentioned gain areas are being met by existing aural broadcast stations;

(d) The extent to which the applicants non-entertainment program proposals will serve needs which are not being met by existing aural broadcast stations or will complement or add to the programming of the existing broadcast stations serving the gain areas;

(e) The extent and nature of other existing service located within Montgomery, Bucks, Chester and Berks Counties available to the loss areas in said Counties created by the pending proposal;

(f) Whether the public interest will be served by the provision of new service in the gain areas of Delaware, Bucks, and Chester Counties despite the withdrawal of existing service from the loss areas in Montgomery, Bucks, Chester and Berks Counties.

(g) Whether the evidence adduced pursuant to the foregoing issues indicates sufficient affirmative and significant benefits to the gain areas of Delaware, Bucks and Chester Counties and demonstrates that the applicant intends to continue to serve its present community of license and existing service area and to provide a broadcast service responsive to the proposed gain areas' needs rather than to circumvent our policy against substandard metropolitan area stations.

To determine, in the event that it is concluded pursuant to the foregoing issue that the proposal of the applicant will not realistically continue the local transmission service for its specified station location and provide a responsive broadcast service for the proposed gain areas, whether such proposal meets all of the technical provisions of the rules, including §§ 73.30, 73.31, and 73.188(b) (1) and (2) for standard broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission service, namely Philadelphia, Pennsylvania.

FEDERAL COMMUNICATIONS COMMISSION,[14]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-761 Filed 1-7-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STRATEGIC PETROLEUM RESERVE

Availability of Draft Site-Specific Environmental Impact Statements for the Ironton and Central Rock Limestone Mine Storage Sites

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321 et seq., the Federal Energy Administration (FEA) has prepared draft site-specific environmental impact statements (EIS's) for:

1. Central Rock Limestone Mine Storage Site, Lexington, Kentucky (DES-76-9)
2. Ironton Limestone Mine Storage Site, Ironton, Ohio (DES-76-10)

These two storage sites are being considered by FEA for the creation of a Strategic Petroleum Reserve.

The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., Sections 6231-6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the international energy program.

Single copies of the draft Central Rock and Ironton EIS's may be obtained from the FEA Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461. Copies of the draft Central Rock and Ironton EIS's will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the Central Rock or Ironton Draft EIS's to Executive Communications, Box KB, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Draft EIS for (Name of Site)." Fifteen copies should be submitted. All comments should be received by FEA by February 22, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., January 4, 1977.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.77-779 Filed 1-5-77;1:07 pm]

FEDERAL POWER COMMISSION

[Docket No. ER77-89]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Rate Schedules, Granting Interventions and Establishing Procedures

DECEMBER 30, 1976.

On December 1, 1976, Central Illinois Public Service Company (CIPSC) submitted for filing a proposed increase in rates[1] for electric service to eleven cooperative, eight municipal, and three partial requirements customers. The proposed charges would result in additional revenue of $4,037,599 (11.0%) for the 12-month period following the proposed effective date of January 1, 1977.

The eleven cooperatives are currently served under CIPSC FPC Electric Tariff Original Volume No. 1 (Rate W-1). The revised Rate W-1 is proposed to become effective January 1, 1977. Five of the municipal customers are currently served under CIPSC FPC Electric Tariff Original Volume No. 2 (Rate W-2), and three under individual contracts. Revised Rate W-2 is proposed to apply to the five municipals served under the tariff on January 1, 1977, and to the remaining three upon the expiration date of their current agreements.[2] CIPSC renders partial requirements service to two customers under its FPC Electric Tariff Original Volume No. 3 (Rate W-3) and to one customer under a separate fixed-rate contract. Revised Rate W-3 is proposed to become effective on January 1, 1977, for the tariff customers and upon the expiration date of the separate fixed-rate contract.

The proposed rates would result in additional test period revenues of $3,091,497 (10.40%) from the cooperatives, $459,009 (10.93%) from the municipals, and $487,093 (17.50%) from the partial requirements customers. Because the increased charges to certain of the municipal and partial requirements customers will not become effective until the expiration of their current agreements, the full amount of the increase will not be recovered for several years.

Notice of the proposed rate increase was issued on December 10, 1976, with protests and petitions to intervene due on or before December 28, 1976.

On December 28, 1976, a petition to intervene was filed by the Village of Rantoul, Illinois (Rantoul). Rantoul is a partial requirements customer of CIPSC, currently being served under FPC Electric Tariff, Original Volume No. 3. Rantoul contends that the instant filing would impose a 20.5% increase in rates and that such rate increase is excessive and unreasonable. Rantoul further argues that CIPSC's filing should be rejected because inadequate notice has been provided.

Rantoul requests intervention, stating that its interests will not be represented adequately by any other party.

Commission review of the proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. The proposed rates should therefore be accepted for filing and suspended for one day, to become effective January 2, 1977, subject to refund.

The Commission finds: (1) Good cause exists to accept for filing the pro-

[14] Concurring Statement of Commissioner Benjamin L. Hooks filed as part of the original document.

[1] See Attachment A for list of designations and descriptions.

[2] The current agreements expire at various times between March 14, 1977, and April 19, 1980.

posed tariff changes filed herein on December 1, 1976, and suspend the use thereof for one day until January 2, 1977, when they shall be permitted to become effective subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of CIPSO's tariff as proposed to be revised herein.

(3) Good cause does not exist to grant Rantoul's motion to reject.

(4) Good cause exists to grant the petition to intervene of the Village of Rantoul, as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the justness and reasonableness of the rates and charges included in CIPSC's FPC Electric Tariffs as proposed to be revised by the subject filing.

(B) Pending a hearing and a final decision thereon, CIPSC's filing is hereby accepted and suspended for one day, to become effective on January 2, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before May 1, 1977. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) CIPSC shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR 35.19a.

(F) Rantoul's motion to reject is hereby denied.

(G) Rantoul is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-802 Filed 1-7-77;8:45 am]

[Docket No. CP77-116]

HOUSTON PIPELINE CO.

Order Providing for Hearing and Granting Interim Relief

JANUARY 5, 1977.

The Commission has determined that a hearing should be conducted before the full Commission to examine the questions raised by the requests filed by Houston Pipe Line Company (Houston), dated December 23, 1976, requesting Commission approval of the sales of gas to United Gas Pipe Line Company (United) and Transcontinental Gas Pipe Line Corportion (Transco), pursuant to the emergency procedures set forth in section 2.68 of the Commission's Statements of General Policy and Interpretations.

In those filings Houston proposes to commence, on or after January 6, 1977 for a period of 60 consecutive days, deliveries of up to a maximum quantity of 150,000 Mcf of gas per day to United at or near the tailgates of the Katy Gas Plant, Waller County, Texas, the Karon Gas Plant, Live Oak County, Texas, and the TCB Gas Plant, Jim Wells County, Texas. Houston has been delivering approximately 150,000 Mcf of emergency gas per day to Transco from these same delivery points under section 2.68.

Houston also proposes to commence, on or after January 6, 1977, for a period of 60 consecutive days, deliveries of up to a maximum quantity of 85,000 Mcf of gas per day to Transco for the accounts of certain Transco distribution customers, at or near the tailgate of the Pledger Gas Plant, Brazoria County, Texas. Houston is presently delivering approximately 85,000 Mcf of emergency gas per day to United from the same delivery point under section 2.68.

Fundamentally, the relief requested concerns the scope of the Commission's authority pursuant to the Natural Gas Act, 15 U.S.C. 717(a), et seq., alternatively, to permit emergency transactions by non-jurisdictional entities for periods of time in excess of 60 days pursuant to Section 2.68(b) of the Commission's General Policy and Interpretations or to recognize discrete sources of gas supply of a non-jurisdictional entity as constituting a new emergency sale pursuant to Section 2.68(a) thereof. Section 2.68(a) and (b) of the Commission's General Policy and Interpretations, 18 CFR, provide in part as follows:

(a) With respect to persons exempt from the provisions of the Natural Gas Act pursuant to section 1(c), and distribution companies and intrastate pipelines only, exempt from the provisions of the Natural Gas Act pursuant to section 1(b), it will be the general policy of the Commission to encourage such persons and companies, if requested, to aid natural gas distribution companies and pipeline companies in need of temporary emergency gas supplies, by making short-term sales or deliveries of natural gas in interstate commerce for periods up to and including 60 consecutive days * * *

* * * * *

(b) If the emergency responded to is expected to have a duration longer than 60 consecutive days, the seller or the transporter shall obtain an advance statement from the Commission, prior to termination of the 60-day period, that the seller's status under section 1 (b) or (c) of the Act will not be affected as a result of the contemplated emergency sales or deliveries, as the circumstances of such sales are described in a written petition filed pursuant to § 1.7 of the Commission's rules of practice and procedure * * *

The Commission has been advised by its General Counsel that the scope of the Commission's authority to exempt transactions from the requirements of the Natural Gas Act pursuant to section 7 [1] is governed by the decision of the United States Court of Appeals for the District of Columbia, *Consumer Federation of America, et al.* v. *Federal Power Commission*, 515 F.2d 347 (1975), cert. denied, 423 U.S. 906 (1975). With reference to the quoted proviso of section 7 of the Natural Gas Act, that decision provides as follows (515 F.2d 353-4):

* * * It was designed as a narrow exception to enable the companies and the Commission to grapple with temporary emergencies and minor acts or operations, like emergency interconnections to cope with breakdowns or sporadic excess demand for gas.

* * * The exemption clause is not a broad blade to cut a wide swath out of the basic landscape of certification after due hearings. What it permits is a more modest kind of pruning, like the temporary certificate available for emergency trimming pending hearings.[6]

[6] The limited role of a disposition without any hearing is underscored by the fact that the requirement of a hearing is not a requirement of futile or obstructive hearings. The courts have made it plain that even when proceedings are of such a type that hearings are required generally, they are not required in particular cases or for particular issues where there are no substantial issues of fact, and that even where oral hearings are required they may be conducted with foreshortened procedure, especially situations that call for expedition, so as to focus on the main points that merit oral ventilation. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 93 S.Ct. 2469, 37 L.Ed.2d 207 (1973); *Marine Space Enclosures, Inc.* v. *FMC*, 137 U.S. App. D.C. 9, 420 F.2d 577 (1969); *Citizens for Allegan County, Inc.* v. *FPC*, 134 U.S. App. D.C. 229, 414 F.2d 1125 (1969).

Under the circumstances of this case, the Commission, having considered this

[1] Section 7(c), in part, provides:

* * * and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest. 15 U.S.C. 717f(c)

matter at its public meeting on January 5, 1977, and having directed the Secretary to give immediate notice of its intention to grant interim relief[2] and to set this matter for hearing, has concluded that it is necessary and appropriate for the purposes of the Natural Gas Act, the Commission's Regulations thereunder and the Commission's Rules of Practice and Procedure, to order as hereinafter provided. The Commission's Regulations do not necessarily require a hearing under section 2.68.

The Commission orders: (A) The nonjurisdictional status of Houston Pipe Line Company and any producers supplying Houston Pipe Line Company under the Natural Gas Act, shall not be affected by continued deliveries of natural gas by that company to Transcontinental Gas Pipe Line Corporation or United Gas Pipe Line Company, under the authority of Section 2.68(b), during the period in which the Commission is considering this matter on the merits, and until 24 hours after the issuance of a Commission opinion on the matter; *Provided,* That before sales may be made under this order and beyond the period of the original 60-day emergency, the information required under § 2.68(b) concerning the current contract price, and the volumes delivered during the first 60-day period shall be filed.

(B) Pursuant to Section 1.20 of the Commission's Rules of Practice and Procedure, a public hearing shall be convened on January 13, 1977, at 10:00 a.m., e.s.t., in Hearing Room A of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., for the purpose of taking evidence on the issues raised herein. Because of the urgency of this matter, the 15-day notice period is waived. Houston Pipe Line Company, United Gas Pipe Line Company and Transcontinental Gas Pipe Line Corporation, and any other interested persons shall be given the opportunity to present evidence and argument on the alleged existing emergency conditions, compensation to be received by the seller, and any other relevant matter as referred to in Section 2.68 of the Commission's General Policy and Interpretations. All persons wishing to participate in this hearing shall file a request for time with the Secretary by 1:00 p.m., e.s.t., January 11, 1977. Those parties sharing the same position are urged to select common spokesmen to represent their viewpoints.

(C) All parties desiring to intervene in this proceeding are hereby directed to notify the Secretary of such intention, and such notification shall constitute the basis for participation in this proceeding as a party intervenor.

(D) The Secretary shall publicly post copies of this order today and shall also submit copies of this order to the Federal Register with the request that it be published in the FEDERAL REGISTER at the earliest possible date.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-848 Filed 1-7-77;8:45 am]

[2] Such interim relief appears necessary to prevent possible irreparable harm to various customers of the pipelines in question. For example, the pleading of the State of North Carolina, styled "Petition For Emergency Relief", p. 2, states that the level of curtailment in North Carolina has exceeded 61%. Additionally, this Commission, in promulgating a permanent curtailment plan for Transco, noted that curtailments will severely impact Priority 2 customers this winter and that curtailment into Priority 1 was possible. (See Opinion No. 778, Docket No. RP72-99, issued October 8, 1976, .p. 42-43. See also FPC Staff Report, Alabama-Tennessee Natural Gas Company, Docket Nos. RP76-116, et al., issued September 1976). Moreover, information provided by the National Oceanic and Atmospheric Administration of the Department of Commerce indicates that the current winter period through January 2, 1977, has been approximately 30 percent colder than normal throughout the industrialized Eastern portion of the United States. Further, it has been a colder-than-normal winter throughout most of the Nation, except for the far West. This has resulted in an increase in the net withdrawals from storage for the current winter heating season, over those withdrawals for the same period last winter.

[Docket Nos. RP73-14 (PGA 77-2); RP74-24 (DCA 77-1); RP74-73 (R&D 77-1)]

TENNESSEE GAS PIPELINE CO.

Order Accepting for Filing and Making Effective Proposed Increase in Rates

DECEMBER 30, 1976.

On December 1, 1976, Tennessee Gas Pipeline Company (Tennessee) tendered for filing in the above dockets a proposed rate increase incorporating the following elements:

(1) A PGA rate increase of approximately $34.44 million annually and a decrease of 1.53 cents per Mcf in the surcharge to recoup the balance in Tennessee's unrecovered purchased gas cost account.

(2) Curtailment credit rate increases ranging from 0.61 cents to 1.22 cents per Mcf in each of Tennessee's six rate zones to recoup the $15.1 million balance in the curtailment credit account, and

(3) A rate increase of 0.03 cents per Mcf attributable to R&D expenditures through September 30, 1976.

Tennessee requests the proposed increases be made effective on January 1, 1977, 30 days after filing.

The proposed R&D adjustment is based on projects which are subject to hearing in Tennessee's pending general rate proceedings in Docket Nos. RP75-13 and RP75-113, and upon one new project involving the technical and environmental feasibility of importing LNG from Algeria.

Upon review of the subject filing, the Commission finds that the reasonableness of the R&D expenditures has not been demonstrated. The R&D increase will therefore be accepted for filing and permitted to become effective on January 1, 1977, subject to refund and subject to the outcome of Tennessee's rate proceedings in Docket Nos. RP75-13, RP75-113, and its most recent general rate proceeding in Docket No. RP76-137. In all other respects the proposed rates have been properly computed and shall be accepted for filing and permitted to become effective as requested.

The Commission orders: (A) Tennessee's Fourteenth Revised Sheet Nos. 12A and 12B to its FPC Gas Tariff, Ninth Revised Volume No. 1, are accepted for filing and permitted to become effective on January 1, 1977.

(B) The R&D portion of the proposed rate increase shall be subject to refund and shall further be subject to the outcome of the proceedings in Docket Nos. RP75-13, RP75-113, and RP76-137.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-805 Filed 1-7-77;8:45 am]

[Docket No. RI77-18]

TEXAS ENERGIES, INC.

Petition for Special Relief

JANUARY 3, 1977.

Take notice that on December 9, 1976, Texas Energies, Inc., Suite 306, Bank of the Southwest Building, Amarillo, Texas 79109, filed a petition for special relief in Docket No. RI77-18 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge 90 cents per Mcf for the sale of gas to Panhandle Eastern Pipeline Company from a well located on NW/4, Section 5, Township 34 South, Range 29 West, in Meade County, Kansas, in consideration for reworking the well. The subject gas is currently being sold at the rate of 35 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-803 Filed 1-7-77;8:45 am]

[Docket No. RI77-19]

TEXAS ENERGIES, INC.

Petition for Special Relief

JANUARY 3, 1977.

Take notice that on December 9, 1976, Texas Energies, Inc., Suite 306, Bank of the Southwest Building, Amarillo, Texas 79109, filed a petition for special relief in Docket No. RI77-19 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge $1.30 per Mcf for the sale of gas to Transwestern Pipeline Company from a well located on section 25-1N-24 ECM, in Beaver County, Oklahoma, in consideration for the installation of compression and artificial lift equipment. Petitioner states that the subject well is currently shut-in and that abandonment will be necessary if the requested relief is not granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing there, must file a petition in intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-804 Filed 1-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

CANCER CONTROL COMMUNITY ACTIVITIES REVIEW COMMITTEE

Change in Meeting Agenda

Notice is hereby given of a change in date and open portion of the Cancer Control Community Activities Review Committee meeting, National Cancer Institute, January 20-21, 1977, which was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55593).

This meeting will be held one day only on January 21, 1977, and will be open to the public from 8:30 a.m.-9:30 a.m. Attendance by the public will be limited to space available.

Dated: January 3, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-880 Filed 1-7-77;8:45 am]

Public Health Service

PUBLIC HEALTH SERVICE REGIONAL OFFICES

Statement of Organization, Functions, and Delegations of Authority

Chapter HD (formerly designated Part 15, Chapter 15) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Public Health Service (PHS) Regional Offices (39 FR 1468, January 9, 1974, as amended by 41 FR 36237, August 27, 1976) is amended to reflect the establishment of a Division of Alcoholism, Drug Abuse, and Mental Health in Regions II, VII, and VIII similar to the Division of Alcoholism, Drug Abuse, and Mental Health established in Region IX on August 27, 1976. The Division of Alcoholism, Drug Abuse and Mental Health as established in Region IX serves as a model and is available as an organizational option to all PHS regional offices.

Section 15-B (to be redesignated HD-B) Organization and Functions, is amended by deleting the statement entitled Division of Alcoholism, Drug Abuse, and Mental Health (HD9T Region IX) and inserting the following statement:

Division of Alcoholism, Drug Abuse, and Mental Health (HD2T, HD7T, HD8T, HD9T). Directs and coordinates programs and activities designed to promote and provide for the planning, development, and delivery of quality mental health, drug abuse, and alcohol service within the region.

Administers programs of Federal support to mental health and mental health related service delivery systems, including interpretation of policies and guidelines to state and local officials and private nonprofit organizations, site assessments, project development, and project monitoring.

Assists in mental health program development at state and local levels through the provision of professional consultation, guidance, and technical assistance in the planning, production, and maintenance of mental health and mental health related service delivery systems.

Serves as regional focal point for promoting and directing efforts to integrate and coordinate mental health and related programs and activities with programs and activities in other areas of health and in the fields of social welfare, education, rehabilitation, and adult and juvenile corrections.

Monitors grants for compliance with applicable laws, regulations, policies, and guidelines.

Administers the Regional Public Health Employees Assistance Program, including the provision of orientation to supervisors and the provision of counseling and referral services to employees.

Dated: December 30, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.77-722 Filed 1-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Consumer Affairs and Regulatory Functions

[Docket No. N-77-681]

NATIONAL MOBILE HOME ADVISORY COUNCIL

Meetings

In accordance with section 605 of Title VI of the Housing and Community Development Act of 1974 (Pub. L. 93-383) and Section 10(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92-463) announcement is made of the following meetings:

I. EXECUTIVE COMMITTEE

Name: National Mobile Home Advisory Council (NMHAC)—Executive Committee.
Date: January 31, 1977.
Place: Room 10233, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.
Time: 1 p.m.

PROPOSED AGENDA

January 31, 1977

The Executive Committee will handle the following items in the approximate order presented and develop recommendations to the Advisory Council where it determines appropriate:

A. Approve minutes of the October 15, 1976, Executive Committee meeting.

B. Discuss the relationship of the Executive Committee to the Council.

C. Review proposed amendments to Advisory Council Charter and proposed Bylaws.

D. Consider proposal for improving the future usefulness to HUD of the National Mobile Home Advisory Council in technical areas.

E. Review draft letter from NMHAC to Governors.

F. Discuss as time permits the following topics.

1. Recent Federal Register publications.
2. Preemptive nature of the Federal standards and Procedural and Enforcement Regulations.
3. Petitions received by the Mobile Home Standards Division dealing with unresolved issues.
4. Procedure used for processing interpretive bulletins.
5. Update to HUD's response to the Manufactured Housing Institute's letter of August 13, 1976.
6. HUD pre-sale brochure.
7. Definition of recreational vehicle as it applies to this standard.
8. Fire detection equipment.
9. Mobile home research projects.

II. ADVISORY COUNCIL

Name: National Mobile Home Advisory Council.
Date: February 1-2, 1977.
Place: Room 10233, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.
Time: 9:30 a.m. February 1; 9 a.m February 2.

PROPOSED AGENDA

February 1-2, 1977

From 9:30 a.m. until approximately 1:00 p.m., February 1, the Advisory Council will participate in a consumer affairs forum dealing with mobile homes. Such topics as mobile home financing, parks, and their improvement, leasing space and zoning will be

discussed. In the afternoon, the Council will deal with the topics listed below and will consider recommendations of the Executive Committee on these topics. (Additional topics may be added to the agenda after the Executive Committee meets on January 31, 1977.) Although it is difficult to determine in advance how much time to allow for each topic, we expect that we will complete items A–B and some of the topics listed under C on February 1 and that we will complete the remaining items on February 2.

A. Complete administrative matters related to the operation of the Council.

B. Approve minutes of August 31–September 1, 1976, Advisory Council meeting.

C. Discuss topics B through F listed on January 31 agenda and consider any recommendations of the Executive Committee.

D. Discuss the relationship of the NFPA–ANSI Committee to the National Mobile Home Advisory Council.

Meetings of the Advisory Council are open to the public. Any member of the public may file a written statement with either the Executive Committee or the Advisory Council before, during, or after the meetings. To the extent that time permits, the Chairman of the Council may allow presentation of oral statements during the meeting.

All communications regarding the meetings or the Executive Committee and the Advisory Council and requests for information about the agenda should be addressed to:

Robert G. Hoag, Departmental Committee Management Officer, Room 3284, 451 Seventh Street SW, Washington, D.C. 20410.

Issued in Washington, D.C. on January 5, 1977.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.77-780 Filed 1-7-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 07/07-0077]

KANSAS VENTURE CAPITAL, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1976)), under the name of Kansas Venture Capital, Inc., 1030 First National Bank Tower, One Townsite Plaza, Topeka, Kansas 66603, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the rules and regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

Stanley H. Clow, Chairman of the Board, Director, 3146 Shadow Lane, Topeka, Kans. 66604.

Robert B. Docking, Vice Chairman of the Board, Director, Stonebridge, R.R. No. 3, Arkansas City, Kans. 67005.

George L. Doak, President, Director, 8540 West Tenth, Topeka, Kans. 66615.

Donald C. Steffes, Vice President, Director, 1517 N. Walnut, McPherson, Kans. 67460.

John H. Abrahams, Secretary, Director, 3637 York Way, Topeka, Kans. 66604.

Larry J. High, Assistant Secretary, 4337 W. 30th, Topeka, Kans. 66614.

George R. Katzenbach, Treasurer, Director, 3611 Nottingham Road, Topeka, Kans. 66614.

H. Marvin Bastian, Director, 62 Norfolk Drive–Eastboro, Wichita, Kans. 67206.

Thomas R. Clevenger, Director, 3132 Westover Road, Topeka, Kans. 66604.

A. J. Collins, Director, 4 Prairie Dunes. Hutchinson, Kans. 67501.

R. R. Domer, Director, 8739 Lafayette, Kansas City, Kans. 66109.

Jordan L. Haines, Director, 312 Lynwood, Wichita, Kans. 67218.

James A. McCain, Director, 1711 Sunny Slope Lane, Manhattan, Kans. 66502.

Edward T. McNally, Director, 1010 South College, Pittsburg, Kans. 66762.

Bernard J. Ruysser, Director, 6409 Verona Road, Shawnee Mission, Kans. 66208.

Leigh Warner, Director, 400 Court Avenue, Cimarron, Kans. 67835.

Kansas Development Credit Corporation, Inc., Approximately 51 percent shareholder, 1030 First National Bank Building, Topeka, Kans. 66603.

Kansas Development Credit Corporation (KDCC) is a Kansas corporation organized pursuant to specific Kansas legislation for the purpose of industrial and commercial development within the state. Most of the state and national banks in the State of Kansas are members of KDCC. Only banks within the state and KDCC will be stockholders of the Applicant.

The Applicant has only one class of stock authorized; 250,000 shares of common stock. The initial capitalization will be approximately $1,081,000, with KDCC owning in excess of 50 percent of the shares issued and outstanding. Approximately 190 banks within the State of Kansas have indicated an interest in purchasing shares of stock of the Applicant in the aggregate amount of approximately $530,000. The offering to banks of common stock will be at the par value ($10 per share), in an amount which is one-quarter of one percent of each of the bank's capital and surplus at the time of the purchase by said bank.

There are 53 beneficial owners of the equity securities of KDCC. No stockholder of KDCC owns more than 10 percent of its shares.

The Applicant will conduct its operations principally in the State of Kansas and in other areas within the United States and its territories and possessions as may be approved by SBA from time to time.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and regulations.

Notice is further given that any person may, not later than January 25, 1977, submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published by the Applicant in a newspaper of general circulation in Topeka, Kansas.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: December 27, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-733 Filed 1-7-77;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL CONFERENCE ON CRIMINAL JUSTICE EVALUATION

Notice is hereby given that the National Institute on Law Enforcement and Criminal Justice/Law Enforcement Assistance Administration is sponsoring the National Conference on Criminal Justice Evaluation at the Sheraton Park Hotel in Washington, D.C. on February 22–24, 1977. The purpose of this conference is to provide a forum for the presentation and discussion of firsthand, concrete utilization of evaluation results. The format for the conference will be panels and workshops where interaction of participants with speakers/panelists is encouraged as well as a general session on the history, use and future of evaluation. For registration and more detailed topic information write:

The National Conference on Criminal Justice Evaluation, c/o Koba Associates, Inc., 2001 "S" Street NW., Suite 302, Washington, D.C. 20009.

or call (202) 265-9114, Cathy Sacks, Logistics Coordinator.

JAY A. BROZOST,
Attorney-Advisor, Office of General Counsel.

[FR Doc.77-783 Filed 1-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

UTAH

Filing of Revised Protraction Diagram No. 14

1. Plat of Revised Protraction Diagram No. 14 of land described below will be officially filed in the Utah State Office, Salt Lake City, Utah effective at 10 a.m., on January 31, 1977:

SALT LAKE MERIDIAN

Plat of Protraction Diagram accepted December 13, 1976:
T. 10 S., R. 6 W.,
Sec. 9;
Sec. 16.

2. This revised Protraction Diagram No. 14, prepared to correct the segregation of patented Mineral Survey Nos. 4936 and 5942 in unsurveyed sections 9 and 16 T. 10 S., R. 6 W., Salt Lake Meridian, Utah, previously shown on Protraction Diagram No. 14, approved September 8, 1961 as being in sections 8 and 17.

3. The diagram has been placed in the open files and is available to the public as a matter of informaiton only, and upon filing, it is the basis for the description of lands for authorized uses. Copies can be purchased for two dollars each from the Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

GARY F. GEORGE,
Chief, Division of Management Services.

JANUARY 3, 1977.

[FR Doc.77-732 Filed 1-7-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Mr. David J. Rollins, Way-Rena Game Preserve, D.S., Altamont, Utah 84001.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Obtain a Palawan Peacock Pheasant from captive stock for research in the habits, courtships, propagation on an endangered specie. For breeding in captivity to preserve the Palawan from total extinction.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Mr. David J. Rollins
Way-Rena Game Preserve, D.S.
Altamont, Utah 84001
Telephone 801 363-3737

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5' 11" WEIGHT: 195 lbs.
DATE OF BIRTH: Jan 4, 1940
COLOR HAIR: Brown COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: 328-8831
SOCIAL SECURITY NUMBER: 528-50-3121
OCCUPATION: Professional Firefighter
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: N/A

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: N/A
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Three miles southeast of Altamont, Utah, (Mt. Emmons area). It is located on the property of Orrin Myers. (Orrin Myers is my step-father.)

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
Permit No. PRT 2-1

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Utah State Division of Wildlife Resources Propagating Permit PwF-C-443 - see attached letter

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: Immediately
11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

NOV 26 '76

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): David J. Rollins
DATE: Nov 24, 1976

3-200
05/76

1. Palawan Peacock Pheasant — Polyplectron—Emphanum. I would like a permit to obtain one female bird—a 1975 hatch—from captured stock already in the United States, selling in interstate commerce from Mr. Micky Olison, Rt. No. 1, Box 152, Glendale, Arizona 85301.

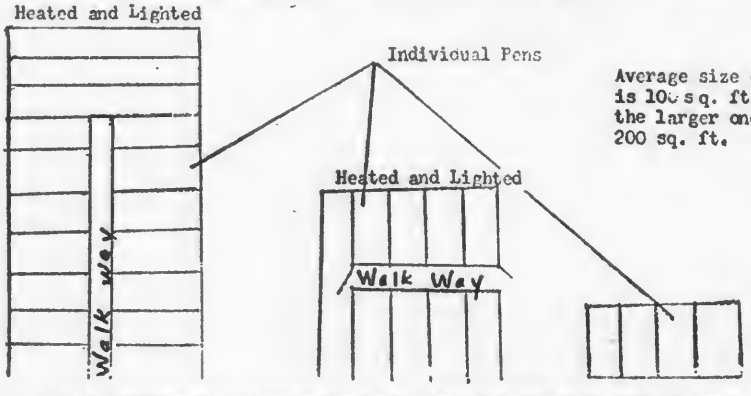
2. Years ago the original breeding pairs were removed from the wild and now all the birds are hatched from captive stock.

3. The bird I propose to purchase is from captive Palawans in the United States and will not cause death, removal or any difference in the wild stock of the Philippine Islands.

4. The Palawan Peacock Pheasant I propose to purchase is from captive stock already in the United States, and has been for several generations. The captive stock is being raised at the residence of Mickey Olison, Rt. No. 1, Box 152, Glendale, Arizona.

5. The location and address of my pens is Altamont, Utah 84001. The exact location is three miles southeast of the town of Altamont in Mt. Emmons on the property of Orrin Myers. Orrin Myers is my step-father. The pens are frame buildings completely heated and insulated for winter and cool in the summer. The buildings are 32 foot by 60 foot and are kept at a fairly constant temperature. I'm a well-known breeder of pheasants throughout the United States.

6. Drawings: Each building has individual outdoor flight pens. They are enclosed buildings with gable roof, double insulation, heated, and lighted.



I. The buildings are double insulated, heated, and lighted frame buildings with composition roof. They are equipped with 35,000 Btu heaters on thermostats. One more large pen is planned to be built in the Spring, 1977, to measure 32 x 60.

II. I have about eight years of breeding care and propagation of many types of rare pheasants. I have had a magazine article written on my propagation techniques on raising these birds for distribution around the world. Some of the species of pheasants I have are: Grey Peacock Pheasant, Germain's Peacock Pheasant, Palawan Peacock Pheasant, Temminck Tragopan, Elliots, Sonnerat Junglefowl, Goldens, and Amherst.

III. I already have an excellent breeding program and keep very distinct and exact records which will help enable me to conform to your program. I would also be very willing to contribute and help your department in any way I can and to contribute data to your stud book.

IV. The bird will be shipped in a wooden box approximately 12x12x18 inches. The container will have feed and water for the bird. It will take approximately one hour for the bird to fly to Salt Lake City.

V. All pheasants at Way-Rena Game Preserve, D.S., are treated for disease and illness. Pens are cleaned and disinfected and have never had even a one percent loss in a given year. We will and do keep individual records on all our pheasants. We have 6 Grey and 6 Germain Peacock Pheasants of which I have not lost a bird. We had 2 Palawan Peacock Pheasants, losing one on October 1, 1976. According to a veterinarian the bird died of an aortic rupture.

7. The person applying for the permit: David J. Rollins, Way-Rena Game Preserve, D.S., Altomont, Utah 84001, Phone 801 363–3737.

I would like to purchase the Palawan from: Mickey Olison, Rt. No. 1, Box 152, Glendale, Arizona 85301.

If the permit is approved, the shipment will be within 10 days upon receipt of the permit. I have talked to this man on the phone and we have a "Gentleman's" agreement to the sale.

8. I. I would like to do research on the habits, breeding in captivity, growth, life span, and the propagation of an endangered specie of pheasants to help the bird from becoming totally extinct. In my opinion, the Palawan is one of the most beautiful pheasants of the world.

II. Records will be kept on each individual bird from the time received until it is disposed of, making special note of its parents. The young will be recorded in the following ways: records will be kept on each egg layed by writing the pen number on each one as they are gathered. They will be placed into an incubator and incubation time will be noted on the record. Upon time for the pheasant to hatch, they will be placed in individual trays (according to pen number) in the hatcher. After hatching, they are color coded on the stomach with food coloring and also with a colored leg band. This enables us to know the ancestry of each chick and prevent inbreeding.

Photos will be taken every 7 days to record growth rate. Movies will be taken of courtship dances, displays, and any other sequence of scientific interest. Measurements and weights will be taken at different growth rates and of mature birds. Eating habits and specific diet will also be monitored. We do all of this for the other peacock pheasants we already have in our possession. We hope to raise some Palawans so that more people can see and enjoy this magnificent bird.

III. I sincerely hope that in the above paragraphs I have given you the information necessary and needed for this permit, and as I have planned for enhancing the propagation and research of Palawans. If it is not enough or you would like more information, I would be happy to furnish it upon your request.

IV. I hope there will be no termination for years to come. If such a thing were to happen, I most likely would give my birds to a well-equipped and well-known breeder, aviary or zoo.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D. C.

Interested persons may comemnt on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–555–07; please refer to this number when submitting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77–715 Filed 1–7–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Kirksville College of Osteopathic Medicine, Department of Microbiology & Immunology, Kirksville, Missouri 63501, George Kwapinski, MD, D.Sc.

OMB NO. 42-R1670

DEPARTME. OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Import 30 to 50 fertile crocodile eggs from Hercules, Republic of South Africa to be used for research. Proposed port of entry - Chicago.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
George Kwapinski, M.D., D.Sc.
Department of Microbiology and Immunology
Kirksville College of Osteopathic Medicine
Kirksville, Missouri 63501

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'11" WEIGHT: 182 lbs.
DATE OF BIRTH: 7-15-20
COLOR HAIR: Blnd-Gry COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: 816 626-2474
SOCIAL SECURITY NUMBER: 542-48-9138
OCCUPATION: Physician
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Department of Microbiology and Immunology
Kirksville College of Osteopathic Medicine
Kirksville, Missouri 63501

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
No such approval is required.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 17.22

10. DESIRED EFFECTIVE DATE: Oct. 16, 1976

11. DURATION NEEDED: One year

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) George Kwapinski M.D.
DATE: September 17, 1976

GPO 895-042

ATTACHMENT TO THE PERMIT APPLICATION

1. Only 30 fertile crocodilian eggs of Nile Crocodylus niloticus species, but not live crocodiles will be used for experiments on the growth of leprosy bacilli. The eggs will be disposed by autoclaving in 4–6 weeks.

2. The eggs are laid by the crocodilians kept in captivity on the CROCO-Farm in Hercules, Pretoria, Rep. of South Africa, owned by Mr. J. Kuhlmann.

3. The crocodilian eggs, as well as crocodiles (which are *not* required by me) are produced and sold on a commercial basis by Mr. J. Kuhlmann.

4. See above. The wildlife has been removed from the wild a few years ago and is maintained on the CROCO-Farm in Hercules, Rep. of South Africa.

5. The crocodilian eggs will be used for experiments on leprosy, to be carried out in the Department of Microbiology and Immunology, KCOM, Kirksville, MO.

6. As indicated above, only the eggs, but *no live crocodiles*, will be used for the experiments. The eggs will be kept in our incubator for 6–8 weeks. Therefore, sections i–v do not apply.

7. The research will be carried out by the applicant himself, from November 10–December 31, 1976.

8. The research will consist of injecting a material taken from patients suffering from leprosy into the amnionic membrane of the crocodilian eggs and observing the possible growths of *mycobacterium leprae* on these membranes. Upon the termination of these studies, the eggs will be destroyed in an autoclave.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–398–07; please refer to this number when submitting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-711 Filed 1-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Addition to Application

Pursuant to Section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205), the following is hereby added to the original application as published on pages 53713 through 53715 of the FEDERAL REGISTER, Vol. 41, No. 237 of December 8, 1976.

Applicant: Lexington Pheasantry, 219 Cowlitz Drive, Kelso, Washington 98626. F. M. Driscoll.

LEXINGTON PHEASANTRY

Ornamental Pheasants
Imported Java Green Peafowl

219 Cowlitz Drive
Kelso, WA 98626
206-423-2460

CHICK and MINNIE DRISCOLL

4 November 1976

Mr. A. Eugene Hester
Special Agent in Charge
Permits
US Department of the Interior
Fish & Wildlife Service
Washington, D.C. 20240

Ref: FWS/LE PRT 2-386-07

Dear Mr. Hester:

Confirming my telephone conversation this afternoon with Mr. Jim Sheridan, please add one pair (one male and one female) of Elliots Pheasants (Syrmaticus ellioti) to the above requested permit. If approved, the Elliots will also be shipped to me by Mr. Jack Schuiteman at the same time as the White Eared.

With best personal regards,

Sincerely,

T. M. Driscoll

MEMBER: AMERICAN GAME BIRD BREEDERS CO-OP FED.
WASHINGTON PHEASANT BREEDERS • OREGON PHEASANT BREEDERS
PHEASANT TRUST • WORLD PHEASANT ASSOC.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW, Washington, D.C.

Interested persons may comment on this application by submitting writtten data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This additional information relates to the assigned File Number PRT 2-386-07; please refer to this number when submitting comments. The comment period on this document is hereby extended to on or before January 1977.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-712 Filed 1-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: National Zoological Park, Smithsonian Institution, Conservation and Research Center, Front Royal, Virginia 22630. Theodore H. Reed, Director.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Request permit to purchase, ship via air freight, quarantine at Nat'l Zoo, Washington, DC, then remove to Conservation Center at Front Royal, VA, 2 male and 4 female Darwin's rhea, Pterocnemia pennata from San Diego Zoological Garden, San Diego, California for breeding and study.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Zoological Park
Smithsonian Institution
Conservation and Research Center
Front Royal, Virginia 22630

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological park breeding and research center

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
N.A.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Theodore H. Reed, DVM
Director (202) 381-7222

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
National Zoological Park
Conservation and Research Center
Front Royal, Virginia

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)
PRT-5-3-X, PRT-8-142-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N.A.

10. DESIRED EFFECTIVE DATE
Oct. 15, 1976

11. DURATION NEEDED
4 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Theo H. Reed
DATE 8 Sept 76

3-200
10/70

NATIONAL ZOOLOGICAL PARK,
SMITHSONIAN INSTITUTION,
Washington, D.C., September 7, 1976.

Conservation and Research Center, Front Royal, Va.
Mr. LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service,
Att: Law Enforcement,
P.O. Box 19183,
Washington, D.C.

GENTLEMEN: This accompanies and explains our application under Title 50, Chapter 1, Item 17.22 for a permit to:

1) Purchase and transport in an interstate commerce two male and four female Darwin's rhea *Pterocnemia pennata* for completion of rearing for study and for propagation;

2) These birds were hatched in 1976 from eggs laid in captivity;

3) Being offspring of captive birds, no wild birds are involved;

4) They were hatched and are now housed at the San Diego Zoological Gardens, San Diego, California, U.S.A.;

5) The Conservation and Research Center of the National Zoological Park is being developed to provide facilities for long term propagation and study of endangered, threatened and/or difficult to acquire zoo species of mammals and birds. It consists of 3,148 acres of a former beef breeding research facility of the U.S.D.A. The address is National Zoological Park, Conservation and Research Center, Front Royal, Virginia, 22630;

6) (i) They will share a 25 acre pasture with hoofed stock, probably scimitar-horned oryx, which have been conditioned to sharing space with common rheas. The rheas will have separate barn space for inclement weather. (The system of care has been tested during the past twenty-one months with two male and four female, 1972 hatched common or gray rheas, *Rhea americana albescens.* From those birds, two years old last spring, thirty-five young were hatched this year.)

(ii) Professional animal keepers of the National Zoo staff will care for the birds; under the direction of Leo Slaughter, Area Animal Manager, who was 7 years animal keeping experience at the U.S.D.A. Experiment Station and 17 years at the National Zoo. Overseeing the project will be Guy A. Greenwell, with nearly fifty years experience. He has bred and reared rheas, ostrich, emu and kiwi and has kept cassowaries. Overall direction of this and other breeding projects on the area will be by Dr. Christen Wemmer, Curator-in-Charge.

(iii) We will cooperate in any breeding program and studbook records;

(iv) The shipping containers will be as designed and built by the San Diego Zoological Gardens. Size will be governed by the size of the growing birds at the time of shipping. We will arrange for direct flight routing, then pick up the birds on arrival so that they will be crated for no more than a few hours.

(v) During the five years just past, 3 Darwin's rheas held at the National Zoological Park in Washington have died. One died in 1971 of TB and 2 died in 1975 of amyloidosis.

The yard in which those birds were held has been removed as part of a remodeling project. No ratite birds will be held on that ground under the revised design. However, these birds will not be kept on the same premises, but as described under 5) and 6) (i) above. The birds will be subject to frequent fecal checks and regular blood tests.

7) No contracts exist yet for the purchase of the birds. Oral agreement between Guy A. Greenwell, Curator of Birds, for the National Zoo and Dr. Arthur Risser, Curator of Birds, for the San Diego Zoo has been reached as to purchase price and shipping needs in general. Discussions between Dr. Mitchell Bush, Veterinarian, the National Zoo and Dr. Phil Robinson, Veterinarian, San Diego Zoo, concerning details of health care have been held.

In order that the birds may be acclimated here before cold weather and to allow for a quarantine period at our Animal Health and Research department at the National Zoological Park, the birds should be shipped as soon as possible. Therefore, this permit is sought with an effective date of October 15, 1976.

8) (i) We wish to assist the San Diego Zoo in the burden of breeding enough of the species to redistribute them to collections and assure their survival, at least in captivity;

(ii) By research into the health problems which have reduced their numbers in captivity and into the facts of their life history which have limited captive reproduction, we hope to enhance survival and production;

(iii) One factor decimating Darwin's rheas in this country's zoos has been an apparently heritable infection, recently identified by the San Diego Zoo people as *Salmonella* organism. Other pathogens may be factors. We will cooperate with their health people, thus adding the expertise of our Division of Animal Health to the attack;

(iv) When surpluses are produced, they will be distributed to other zoos and worthy individuals to facilitate building of substantial captive stock. We will continue to maintain a breeding nucleus to guard against the neglect that comes with loss of interest when a species is established.

THEODORE H. REED,
Director,
National Zoological Park.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by sumitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-378-07; please refer to this number when submit-

ting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-713 Filed 1-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: The Peregrine Fund, Cornell University, 1424 N.E. Frontage Road, Fort Collins, Colorado 80521, William Burnham, Western Manager.

THE PEREGRINE FUND

December 3, 1976.

LYNN A. GREENWALT, *Director,*
U.S. Fish and Wildlife Service,
Department of the Interior,
Washington, D.C.

DEAR MR. GREENWALT: There was a deletion in the permit application mailed November 15, 1976 for the Peregrine Fund of Cornell University, 1424 N.E. Frontage Road, Fort Collins, Colorado. Would you please add Colorado to the list of states in part 6 of the application which requests locations where proposed activities are to be conducted.

Thank you for your assistance.

Sincerely yours,

WILLIAM BURNHAM,
Western Manager.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Recovery activities for the Peregrine Falcon in the western United States.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
The Peregrine Fund
Cornell University
1424 N. E. Frontage Road
Fort Collins, Colorado 80521
303-493-4992

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☒ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO-DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
The Peregrine Fund of Cornell University is a non-profit organization involved in the captive propagation and restoration of the Peregrine Falcon and other birds of prey.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
303-493-4992
William Burnham, Western Manager
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Wyoming, Utah, Idaho, Nevada, New Mexico, Arizona, Texas, North Dakota, South Dakota, Nebraska and Montana

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(*If yes, list licenses or permit numbers*)
Special Purpose Permit (#5-SP-565)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(*If yes, list jurisdictions and type of documents*)
We will acquire permits as necessary from individual states.

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: Jan 1, 1977
11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
see attachments

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*): William Burnham
DATE: Nov 15 1976

3-200
(6/74)

(1) (a) Species: American peregrine falcon, *Falco peregrinus anatum.*

(b) Number, age and sex: It is difficult to specify the number, age and sex of the falcons which will eventually be involved in the activities requested. However, estimates are provided where applicable.

(c) Activities sought to be authorized: (i) Survey of eyrie sites to establish productivity and population trends. (ii) Collect, receive and interstate shipment of unhatched or infertile wild eggs and shell fragments for analysis. (iii) Captive propagate peregrines on the Colorado Division of Wildlife property at Fort Collins, Colorado. (iv) Introduce captive produced young into the wild environment at active, historic and potential eyrie sites. Only young representing the gene pool from the Rocky Mountain Region will be introduced into the wild. (v) Remove thin-shelled eggs from up to ten wild eyries annually and artificially incubate them to avoid breakage. "Dummy" eggs will be placed in the eyries to maintain site fidelity by breeding adults. Upon hatching in captivity, the original young or captive produced young will be returned to the wild eyries. (vi) Induce production of second clutches at up to ten wild eyries by timely removal of the first clutches of wild eggs. Those eggs which are removed will be artificially incubated and every effort will be made to return the young to the wild. (vii) Retain in captivity up to ten wild produced young annually for captive propagation purposes. Those young removed from the wild or retained as a result of this activity and activities v and vi will be replaced with captive producing young. This activity is absolutely necessary to maintain the genetic diversity required to sustain a viable captive population. (viii) Salvage injured and dead specimens.

(2) Activities iii, iv and vii involve peregrines and their offspring already in captivity at the facilities in Fort Collins. Activities iv, v, vi, vii and viii involve wild peregrine falcons. The activities described in (1c) further describe the falcons' status, whether wild, captive or captive produced.

(3) Not applicable.

(4) Falcons which are sought to be covered by this permit which will not be removed from the wild are presently held by authorized propagation programs of Cornell University (The Peregrine Fund) at Ithaca, New York, and Fort Collins, Colorado. A complete listing of the status of all falcons currently possessed at the Cornell and Fort Collins facilities are provided in reports submitted as required by Special Purpose Permit No. 5-SP-565.

(5) Those falcons which are obtained from the wild as well as those which will be held for captive propagation purposes will be maintained at Cornell's (The Peregrine Fund) facilities at Fort Collins, Colorado. The Fort Collins facilities consist of 36 breeding lofts each measuring 10 feet wide, 20 feet long and 18 feet high. The facilities are located at the Colorado Division of Wildlife's Wildlife Research Station northeast of Fort Collins at 1424 Northeast Frontage Road, Fort Collins, Colorado, 80521.

(6) Information in this section is not applicable since and wild peregrines held in possession will be maintained at facilities currently possessing the necessary Federal permits. The propagation facilities at Fort Collins is covered under permit No. 5-SP-565.

(7) (i) & (ii) The survey of eyrie sites [III(1)(c)(i)] involves the observation of nest sites from a distance to ascertain the presence of nesting peregrines. On occasion, a helicopter may be used to visit those sites which are inaccessible to normal foot travel. The presence of a helicopter is generally ignored by nesting peregrines. Later in the season, accessible sites will be roped into and the number of young will be determined. At this time also, any unhatched eggs and shell fragments will be collected for pesticide analysis [III(1)(c)(ii)]. Analysis of eggs is the most effective method to determining pesticide levels still present in the population.

While the captive propagation facilities [III(1)c)(iii)] at Fort Collins is already covered by a Special Purpose Permit (No. 5-SP-565), the issuance of a second permit will provide coverage for additional activities.

The current wild reproduction is not sufficient to sustain the wild population. The only way to reverse the downward population trend is to inject captive produced peregrines into the wild. The capability of producing significant numbers of peregrines in captivity has already been proven by us and it is now a matter of mechanics of placing them in the wild [III(1)c)(iv)]. The most effective method of introducing captive produced birds into the wild is by placing them under wild adult pairs to rear and protect. Where possible, all active eyrie sites will be visited and additional captive reared young will be placed in the nests to increase brood size. The procedure of placing young at historic or unoccupied sites requires the presence of observers to feed the young and protect them. Since the young do not have the benefit of protection and care by wild adults, they may face a more difficult adolescence. The second method is necessary to re-establish falcons at presently unoccupied sites.

Wild breeding falcons are experiencing reproductive failure since thin-shelled eggs are breaking under the weight of incubating adults. If one egg in a clutch breaks, all the eggs are likely to be abandoned and otherwise good eggs will spoil. Because of this, all accessible eyries should be visited shortly after the clutch of eggs is completed. The wild eggs will be exchanged [III(1)c)(v)] for artificial eggs which will not break and will encourage the adults to continue to incubate them. Meanwhile, the wild eggs will be artificially incubated at the Fort Collins facility where they will receive gentler treatment. Before the wild clutch would normally have hatched, captive produced young will be exchanged for the artificial eggs at the wild sites. After the wild eggs have hatched in captivity, the young will be placed in other wild nests which are undergoing similar manipulation. Undoubtedly, not all the wild young will be returned to the wild in this manner. Therefore, it will be necessary to retain them in captivity for propagation purposes [III(1)c)(vii)]. This will benefit the captive breeding program by infusing additional wild genes into the breeding stock and assuring as much heterogeneity in the captive gene pool as possible. Wild produced young will not be retained in captivity at cost to wild production. That is, an equal number, and more generally, a significantly larger number, of captive produced young will be placed under wild adults.

At several wild eyries, the data of initiation and completion of egg laying will be established. Upon laying the last egg in the clutch, the adults will begin incubation and one week after commencement of incubation, the nest will be visited and all the eggs removed and artificially incubated. Within ten days to two weeks after removal of the eggs the adults will recycle and lay a second clutch [III(1)c)(v)]. Depending upon the situation, the record clutch may be replaced with artificial eggs to avoid breakage and the procedure followed which is described above, or the adults may be permitted to incubate and hatch the second clutch. Young produced from the first clutch will be placed in other wild nests. This technique has been proven in captive situations and successfully tested in the wild in Colorado in 1976.

Additional details about the above activities are given in the recent Recovery Plan submitted by the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team

(iii) the above requested activities are consistent with and essential to the recovery efforts designated for the peregrine falcon by the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-395-07; please refer to this number when submitting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-714 Filed 1-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Utah Division of Wildlife Resources, 1596 West North Temple, Salt Lake City, Utah 84006, Donald A. Smith, Director.

OMB NO. 40-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To conduct surveys to determine presence or absence of certain endangered species (Colorado squawfish, humpback chub, woundfin and black-footed ferret) in Federal coal leasing areas of Utah. Fish will be surveyed by electrofishing techniques for presence only. None will be permanently retained. Ferrets, if present, will be observed and photographed only.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Utah Division of Wildlife Resources
1596 West North Temple
Salt Lake City, Utah 84116
Phone (801) 533-9333

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
The Utah Division of Wildlife Resources is a state agency delegated the responsibility by law (Title 23, Utah Code Annotated) of protecting, preserving, enhancing and managing wildlife for public benefit.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
(801)
Donald A. Smith, Director 533-9333

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Southern and eastern Utah; more specifically the drainage of the Colorado River Basin.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Federal Master Banding Permit #6456
Endangered Species Permit #PRT-8-266-B-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Certificate of Registration to collect, posses and transport wildlife issued by Utah Division of Wildlife Resources

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
12/1/76

11. DURATION NEEDED
Two years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
As per attachment.

OCT 14 '76

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Donald A. Smith
DATE 7 October 1976

3-200
16-74)

The Utah Division of Wildlife Resources is currently under contract to the U.S.D.I., Bureau of Land Management, Utah State Office, to provide an inventory of endangered species present on the Federal coal leasing areas of eastern and southern Utah.

Field surveys are planned by this Division and one sub-contractor, the Utah Cooperative Fisheries Unit, Utah State University, to document the presence or absence of endangered species in the area named above. Currently, the Division holds a valid endangered species permit covering the necessary inventory work with the peregrine falcon (*Falco peregrinus anatum*). Additionally, the Utah prairie dog (*Cynomys parvidens*) is being managed under Cooperative Agreement between the Division and the Fish and Wildlife Service.

This permit request would cover four additional species: the Colorado River squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), woundfin (*Plegopterus argentissimus*) and the black-footed ferret (*Mustela nigripes*).

As stated on the application, no specimens would be retained. The survey is only to document the presence or absence of the species mentioned.

STATE OF UTAH, DIVISION OF WILDLIFE RESOURCES,

Salt Lake City, Utah, December 9, 1976.

MR. DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service,
Washington, D.C.

DEAR DON: Please consider this an addendum to our recent endangered species permit application, including information as required by 50 CFR 17.22.

Section 17.22(a): 1. Species sought to be covered by the permit are as follows:

Colorado River squawfish (*Ptychocheilus lucius*).

Humpback chub (*Gila cypha*).

Woundfin (*Plagopterus argentissimus*).

Black-footed ferret (*Mustela nigripes*).

Since our activities connected with the investigation are only to determine presence or absence of these species, sampling techniques in the case of the fishes will be limited to bag seines and/or electro-fishing. All specimens will be immediately returned to the water after verification of species. Presence of the black-footed ferret will be documented by direct observation, remote photography, if possible, fresh sign and live-trapping with immediate release. Numbers, sex and age of any species taken cannot be predicted because sampling will not be concentrated in any area for more than a few days. For example, one specimen verified in any area is proof of presence and no further work is required in that area in this investigation because of time and financial constraints.

2. At the time of this application, all species covered by this request are in the wild.

3. Covered in item 1 above.

4. N/A.

5. N/A.

6. N/A.

7. Copy of contract enclosed. Persons directly involved in field activities have not been appointed, but will be employees of the Utah Division of Wildlife Resources under the direct supervision of either Albert W. Heggen, Chief of Research and Nongame, or Larry J. Wilson, Supervisor, Southeastern Region. Field work on the project will be conducted between January 1, 1977, and August 30, 1977. However, the likelihood exists that there will be similar contracts issued in the future for similar investigations; hence the extended time period requested.

8. The Division of Wildlife Resources is the managing agency for the wildlife of the State of Utah, is charged by law with authority for its wise use, and has demonstrated the ability to carry out that charge. Activities to be conducted and how they will be carried out have been detailed under item 1 above. The contract copy enclosed as per item 7 above explains the need for the investigation and permit; namely, the survey of the southern and central coal leasing area of Utah must be undertaken to document the presence or absence of endangered species of wildlife before rational decisions can be made regarding ultimate demands for additional energy sources, in this case coal.

There will be no individuals of subject species to be disposed of at the termination of the permit since none will be removed from the wild.

These activities will be coordinated with the respective recovery teams, which will be informed of any new data discerned by this investigation.

Sincerely,

DONALD A. SMITH,
Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-458-08; please refer to this number when submitting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-718 Filed 1-7-77;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit has been

received under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407).

Applicant: University of California, Department of Biology, Los Angeles, California 90024, Thomas R. Loughlin.

A permit authorizing capture and tagging of sea otters was issued to the University of California, Department of Biology, Los Angeles, California, on June 23, 1975, pursuant to the Marine Mammal Protection Act of 1972. A notice containing the application for the permit was published in the FEDERAL REGISTER on April 7, 1975 (40 FR 15410–11) soliciting public comments for a period of 30 days. A notice of issuance of the permit was published on July 3, 1975 (40 FR 28110–11).

Thomas R. Loughlin, M.A., of the University of California, Department of Biology, submitted a request for significant amendments to the permit. A notice containing the terms of amendment request was published on November 6, 1975 (40 FR 51676–51677) and was considered pursuant to § 13.23 of Fish and Wildlife regulations, Title 50 Code of Federal Regulations (see 39 FR 1162). Amendment No. 1 was subsequently issued on January 19, 1976.

On August 26, 1976, Thomas R. Loughlin of the University of California submitted a request for an additional amendment to this permit and was advised, on November 12, 1976, that the U.S. Fish and Wildlife Service is opting to consider this request for an additional amendment as a new permit application.

Published herewith is: (1) a copy the original permit issued to the University of California on June 23, 1975, (2) a copy of Amendment No. 1 issued January 19, 1976, (3) a copy of the August 26, 1976, request for an additional amendment, (4) a letter report dated October 7, 1976, from Mr. Loughlin regarding research activities under PRT 9–20–C, and (5) the U.S. Fish and Wildlife Service letter dated November 12, 1976, advising Mr. Loughlin that his request is being considered as a new permit application.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

3-201
(7/74)

1. PERMITTEE

University of California
Department of Biology
Los Angeles, California 90024

2. AUTHORITY - STATUTES
16 USC 1371(a)(1)
REGULATIONS (Attached)
50 CFR 18.31

3. NUMBER
PRT-9-20-C

4. RENEWABLE: ☐ YES ☒ NO
5. MAY COPY: ☒ YES ☐ NO

6. EFFECTIVE
JUN 23 1975
7. EXPIRES
OCT 31 1976

8. NAME AND TITLE OF PRINCIPAL OFFICER (If not a business)

9. TYPE OF PERMIT
MARINE MAMMAL

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Pacific coastal waters between Marina and Big Sur, California

11. CONDITIONS AND AUTHORIZATIONS

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE and any person designated in writing.

D. Authorized to capture and tag no more than 10 sea otters, to attach telemetry equipment to no more than 3 of these 10 sea otters, and release them all at the capture site. The project is to be conducted in conjunction with personnel of the Sea Otter & Walrus Project, 4454 Business Park Boulevard, Anchorage, Alaska 99503 telephone 907-265-5261.

E. Authorized to possess carcasses of sea otters killed accidentally or found dead. They will be delivered to the California Game & Fish Department to be used for scientific purposes. A receipt will be obtained and retained for each.

F. No more than two (2) mortalities shall be permitted to occur in the course of this research. Should such mortality occur, research activities shall be terminated pending determination by the Director on the continuance of the research.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS
A report as required in 16 USC 1374 of the activities conducted hereunder shall be made to the Director (FWS/[illegible]) [illegible]

ISSUED BY: s/ Loren K. Fancher — TITLE: Chief, Division of Law Enforcement — DATE: JUN 23 1975

DISTRIBUTION

G. Person(s) engaged in authorized activity must have permit or copy in possession.

H. The U.S. Fish and Wildlife Service office shall be notified seven days before commencing the authorized activity. The death of any of the sea otters shall be reported within 24 hours to the same office. Address—Special Agent in Charge; U.S. Fish and Wildlife Service; 2800 Cottage Way, Rm. E–1924; Sacramento, California 95828; telephone 916–484–4748.

I. Maintain records as required by 50 CFR 13.46.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C.

University of California,
Department of Biology
Los Angeles, California.

Attention: Mr. Thomas R. Loughlin.

Re PRT 9–20–C, Amendment No. 1.

DEAR MR. LOUGHLIN: Under date of June 23, 1975, you were issued a permit PRT 9–20–C to capture and tag no more than ten (10) sea otters (*Enhydra lutris*) and to attach telemetry equipment to no more than three (3) of these ten sea otters.

By letter dated October 3, 1975, you requested an amendment to permit PRT 9–20–C to increase the number of sea otters you are authorized to capture, tag and attach telemetry equipment.

Accordingly, this letter will serve as Amendment No. 1 to Federal Fish and Wildlife Permit No. PRT 9–20–C, authorizing additions, thereto, as follows:

Block 11. Conditions and Authorizations:

Delete 11 D. as written. Amend 11 D. to read:

Authorized to capture and tag not to exceed 40 sea otters, to attach telemetry equipment to no more than 15 of these 40 sea otters, and release them all at the capture site. The project is to be conducted in conjunction with personnel of the Sea Otter Walrus Project, 4454 Business Park Boulevard, Anchorage, Alaska 99503, Telephone 907–265–5261.

Please attach this amendment to your original permit.

All other terms and conditions of said permit remain in effect.

Sincerely yours,

C. R. BAVIN,
Chief, Division of Law Enforcement.

UNIVERSITY OF CALIFORNIA, LOS ANGELES,
DEPARTMENT OF BIOLOGY,

August 26, 1976.

Director, Fish and Wildlife Service,
Department of the Interior,
Washington, D.C.

DEAR SIR: This is a request for amendment to permit number FWS/LE PRT 9–20–C issued to the Department of Biology, University of California, Los Angeles, for the capture and tagging of sea otters (*Enhydra lutris*) in California. The permit expires on 31 October 1976. We request that the amendment extend the expiration date to August 1977.

We have had insufficient time to capture and tag the animals allowed under the permit and require the extra time to complete our study. To date 23 sea otters have been captured and tagged; six of the captured animals have had radio telemetry collars attached. One death has occurred due to the telemetry collar (as reported to the Special Agent in Charge, Sacramento, California on March 27, 1976). It is important to our behavioral study and to subsequent studies by other institutions that we mark the allotted number of sea otters.

There are two reasons why we have not captured and marked the permitted 40 sea otters. The first reason is that sea otters rep-

resent a difficult logistical problem and their capture requires a large amount of time and effort. The second reason is that we desire to mark the animals in different seasons in order to assess possible behavioral changes through time. Therefore we have chosen not to mark all the animals at the same time. The latter reason pertains primarily to animals equipped with radio collars.

It is because of the above reasons that we request an extension of the expiration date on our permit. Thank you for your attention and consideration in this matter. If you require any data or further explanation, please feel free to ask.

Sincerely,

THOMAS R. LOUGHLIN.

UNIVERSITY OF CALIFORNIA, LOS ANGELES,
DEPARTMENT OF BIOLOGY,
October 7, 1976.

Director FWS/LE,
U.S. Fish and Wildlife Service,
P.O. Box 19183,
Washington, D.C. 20036.

DEAR SIR: I am submitting the following report concerning our research on sea otters per the instructions of permit number PRT-9-20-c. The report should facilitate your evaluation of our research to date and allow consideration of our request to amend the permit as stated in my letter of 26 August, 1976. The requested amendment will extend the expiration date of the permit to August, 1977.

We conducted research during the summer, 1975, winter, 1976, and summer, 1976 on sea otters in the vicinity of Monterey, California. Twenty-four sea otters (15 males and nine females) have been captured and rear-flipper tagged of which seven have had telemetry collars attached (Table 1). The mean weight for captured sea otters was 50.9 lbs (23.0 kg). The mean weight for males was 58.4 lbs (26.5 kg) versus 38.4 lbs (17.4 kg) for females. One animal died as a result of the telemetry study (see below).

Data from the flipper tagged animals have furnished information on a number of behavioral parameters including home range, movement patterns, intraspecific relationships, grooming and feeding behavior, etc. Many of the animals have been resighted often while others rarely (Table 1). Telemetered animals furnished data on 24-hour activity cycles, foraging strategies, and movement patterns. I usually monitor the radio-collared animals for at least four consecutive days and have accumulated over 625 hours of continuous observation (Table 2). Four of the otters have been observed subsequent to loss of the telemetry collar. Excluding the death, as discussed below, I have not observed any injuries, pelage wear, or behavior of any kind that would indicate a deleterious effect caused by the collar.

The aluminum tags that I attach to the rear flipper are quite effective. I have placed 48 tags on 24 animals (two tags per animal) of which four are known to have been lost. This represents a tag mortality of about 8%.

There have been no injuries or deaths caused by the capture or tagging operations. The only death that occurred was a direct result of the telemetry collar. Male sea otter number 33 died due to a laceration on the neck caused by the collar. Adult males typically have a neck that is larger near the shoulders than near the head. For this reason the collar on no. 33 had to be tightened more than usual and the subsequent laceration resulted from prolonged rubbing of the collar with foraging efficiency, and generally tended to cause weight loss and increase susceptibility to illness. The animal died 24 days after capture and had lost 19 lbs. I delivered the carcass to the Pathology Department, School of Veterinary Medicine, Univerity of California, Davis by directon of the California Department of Fish and Game on the day of the death. I have requested an autopsy report from both institutions but have not received one as yet. We do not plan on placing telemetry collars on any more large adult males.

As I stated above, we have not captured and tagged the number of animals allowed under our permit. We have flipper tagged 24 otters and radio-collared seven; our permit allows 40 flipper tags of which 15 may be radio collared. We have requested the amendment to extend the expiration date in order for us to capture and tag more sea otters. Due to the forthcoming research on sea otters in California by the California Department of Fish and Game, US Fish and Wildlife Service, University of Minnesota, and the University of California, we feel that it is in the best interest of all concerned to have as many identifiable sea otters as possible. The amendment will also help our research by increasing our sample size and thereby allow us to present data which is closely representative of the California sea otter population.

Thank you very much for your time and consideration in this matter.

Sincerely,

THOMAS R. LOUGHLIN.

Loughlin, page three

TABLE 1

Data From Sea Otters Tagged During Summer, 1975, Winter, 1976, and Summer 1976

Tag Number	Date Tagged	Capture Location	SEX	Weight lbs.	Number Days Resighted	Last Day Seen	Right Tag Color	Left Tag Color	Right Tag Position	Left Tag Position	Radio Collar	Comments
16	7/17/75	CR	M	65	35	9/5/75	W	--	5/4	--		Tag lost 9/5/75
17	"	CR	M	44	81	3/23/76	W	YG	1/2	5/4		
18	"	CR	M	63	8	7/29/75	W	YR	4/3	5/4		
19	"	CR	M	61	68	3/25/76	Y	WO	1/2	5/4		
21	"	CR	M	75	26	3/10/76	WG	--	4/3	--		Tags on top
22	"	CR	M	65	65	3/23/76	--	WO	--	5/4		
23	"	CR	M	56	18	3/27/76	WR	YG	4/3	4/3		Tags opposite
24	8/13/75	CR	M	41	52	3/23/76	YG	WG	1/2	1/2	X	
25	9/11/75	OP	F	36	4	9/15/75	YR	WR	5/4	5/4	X	Tags opposite
26	1/23/76	OP	M	58	36	3/14/76	YR	WG	2/3	4/3		
27	1/27/76	OP	F	46	18	3/23/76	YGR	W	5/4	5/4		With dep. pup
28	1/31/76	HOP	F	19	16	3/13/76	RYR	W	3/4	1/2		Pup with mother
29	1/31/76	CR	M	71	13	3/23/76	RW	Y	1/2	2/3		
30/2	2/1/76	IM	F	45	7	3/27/76	RW	S	1/2	4/3		Ca. F&G #2
31	2/1/76	IM	M	70	9	3/27/76	Y	WY	2/3	1/2		
32	2/3/76	CR	M	28	18	3/25/76	WY	W	2/3	2/3		
33	2/3/76	CR	M	61	10	3/26/76	S	S	2/3	4/3	X	Died 3/26/76
34	3/7/76	OP	F	48	4	3/27/76	BY	W	5/4	1/2		
35	3/13/76	CR	M	43	7	3/25/76	Y	RWB	5/4	2/3	X	
37	7/17/76	CHR	M	75	8	8/27/76	--	WBY	--	2/3		
38	7/17/76	HOP	F	40	4	8/4/76	YBW	W	2/3	4/5		
40	8/8/76	PPS	F	38	7	8/27/76	Y	Y	2/3	3/4	X	
41	8/15/76	OP	F	56	11	9/26/76	WB	Y	2/3	2/3	X	Tags opposite
42	8/26/76	PPS	F	18	7	9/26/76	R	YB	2/3	3/4	X	Tags opposite

$\bar{X}$ weight of all animals= 50.9 lbs (23.0 kg)
$\bar{X}$ males= 58.4 lbs (26.5 kg) n=15
$\bar{X}$ females=38.4 lbs (17.4 kg) n=9

Abbreviations:

CR=Cannery Row
OP=Otter Point
HOP=Hophins Marine Station
W=white
Y=yellow
G=green
B=blue
S=silver
---=tag lost

Loughlin, page four

TABLE 2

Data On Radio-Collared Sea Otters

Tag	Sex	Wt (lbs)	Collar Attached	Collar Off	# Days Collar On	Hours of Continuous Monitoring
24	M	41	8/13/75	8/17/75	5	98
25	F	36	9/11/75	unknown	?	9
33	M	61	3/2/76	3/25/76	24	97
35	M	43	3/13/76	7/19/76	129	95
40	F	38	8/8/76	8/14/76	7	102
41	F	56	8/15/76	Still on	---	112
42	F	18	8/26/76	Still on	---	112
					Total	626

NOVEMBER 12, 1976.

Mr. THOMAS R. LOUGHLIN,
Department of Biology,
University of California,
Los Angeles, Calif.

DEAR MR. LOUGHLIN: Receipt of your application for an amendment to your permit no. PRT-9-20-C was acknowledged on September 3, 1976. Also, additional information pertinent to the amendment request was requested on the same date.

The requested information was not received in this office until October 21, 1976, and review of the additional information has just been completed. In our opinion, the death of the otter may have resulted directly from the telemetry collar which was installed in conjunction with your research studies. Consequently, we believe further review of your proposed research is necessary in order to assess the probable effect of these activities on the sea otter population.

Accordingly, we are opting to consider your request for an amendment to permit no. PRT-9-20-C, as a new permit application and the original application which you submitted will be published, along with your amendment request, in the FEDERAL REGISTER for the 30-day public comment period. We have discussed this course of action with the Marine Mammal Commission, and they have agreed to expedite review of your application, however possible, due to the delay occasioned by this additional review.

Your new permit application number is PRT-2-486-10. Please refer to this number on any subsequent correspondence you may forward.

Also, please note that permit no. PRT-9-20-C expired on October 31, 1976, and, consequently, you are currently without authority to conduct any further research activities with sea otters.

LORAN K. PARCHER,
Acting Chief,
Division of Law Enforcement.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-486-10; please refer to this number when submitting comments. All relevant comments received on or before February 9, 1977 will be considered.

Dated: January 4, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-717 Filed 1-7-77;8:45 am]

THREATENED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York 11746.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. Authorization to engage in interstate commerce of seven endangered pheasants which have been determined to exist in Captive Self-Sustaining Populations" within the U.S.; for a period of 2 years. (1) Brown-eared (Cross. mantichuricum), (2) Edwards (Lophura edwardsi), (3) Bar-tailed (Syrmaticus mikado) (5) Palawan Peacock (polyplectron emphanus) (6) Elliots (syrmaticus ellioti) (7) Brown-eared cross cross (equivil)

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT 5'11" WEIGHT 190 lbs.
DATE OF BIRTH 9/24/18 COLOR HAIR Brown COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 516-423-6146 SOCIAL SECURITY NUMBER 125-97-0277
OCCUPATION Manufacturer

IF "APPLICANT" IS A BUSINESS, AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
NAME AND KIND OF BUSINESS, AGENCY, OR INSTITUTION
N.A.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
N.A.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
41 Westcliff Drive
Dix Hills, N.Y. 11746

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMITS ☒ YES ☐ NO
(*If yes, list license or permit numbers*)
PRT 8 306-C, 5-FR-1084
ES-68, PRT-2-155

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(*If yes, list jurisdictions and type of documents*)
none required

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ n.a.

10. DESIRED EFFECTIVE DATE
date of issuance

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(a)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*) Charles Sivelle DATE 8/30/76

3-200
(6/74)

ATTACHMENT 17.33 TO PERMIT REQUEST

(1) A "Captive Self-Sustaining Population" permit is requested for the following species of pheasants:

(*1*) Brown-eared pheasant (Crossoptilon mantichuricum); (2) White-eared pheasant (Crossoptilon crossoptilon drouyni); (*3*) Bar-tailed pheasant (Syrmaticus humiae); (*4*) Mikado pheasant (Syrmaticus mikado); (5) Palawan peacock pheasant (Polypetron emphanum); (*6*) Elliot's Pheasant (Syrmaticus ellioti); (7) Edwards pheasant (Lophura edwardsi).

The applicant seeks a permit to authorize an unlimited number of transactions through interstate commerce over a 2 year period of time for the 7 species of pheasant listed above in this paragraph, with the permit being subject to renewal according to section 13.24.

(2) The applicant possesses 130 aviaries varying in size from 18' Lx10' Wx7' Hto100' Lx40' Wx18'H, all of which are landscaped and possess appropriate heated shelters varying in size from 10' Lx14' Wx9'H. All aviaries are predator proof employing heavy gauge wire, redwood, two inch galvanized pipe, fibreglass roofing and ¾'' waterproof plywood. Four acres of land are used at present with an additional ten acres available.

(3) Applicant has been propagating pheasants for twenty years and is internationally recognized. He has already raised hundreds of the pheasants referred to in this permit application and has been responsible for establishing captive populations in whole or part of the following pheasants in the United States today:

(*1*) Bornean Argus; (*2*) Bornean Crested Fireback; (*3*) Bornean Crestless Fireback; (*4*) Koklass; (*5*) Humes Bar-tail; (*6*) Mikado; (*7*) Brown-Eared; (*8*) White-Eared; (*9*) Ijima Copper; (*10*) Cabot Tragopan; (*11*) Bronze-tail peacock.

His aviaries contain thirty two different species of pheasants many of which are the only species of their kind in the United States. The collection is considered the most complete in the world.

The applicant is an active member of many wildlife organizations including:

(*1*) American Pheasant & Waterfowl Society—Director; (2) World Pheasant Association—Vice President; (*3*) Game Bird Breeders Cooperative Federation—Director; (*4*) N.Y. Zoological Society—Field Associate; (*5*) Avicultural Society of Long Island—Executive Secretary.

He has been the first to breed the Bornean Argus in the world and the first to breed the Blood pheasant, Bulwer's Wattled pheasant and others in the United States and has been the recipient of many propagation awards for pheasant breeding in the past fifteen years.

(4) The applicant has participated in many pheasant propagation programs involving Endangered Species of pheasants thruout the world and also has assisted in the establishment of stud books for several species including the White-eared pheasant.

(5) The applicant has participated with the International Air Transport Association blueprinting proper shipping crates for pheasants. He has already shipped hundreds of pheasants thruout the world with negligible loss.

(6) Among the hundreds of Endangered Species the applicant possesses and has bred only one (1) adult White-eared pheasant has died and such was reported to Fish and Wildlife Service.

(7) i. The applicant is making this application to gain authorization to engage in interstate commerce with the 7 pheasants listed under #1. This will enable the applicant to dispose of progeny raised each year to qualified breeders and thereby recover all costs invested in the above species. This will also increase the "captive self-sustaining population" of each of the species involved and thereby enhance their overall chances for survival. The applicant also contends that this will better the probability of reintroduction into their natural habitats when environmental and political situations will allow such action.

ii. Upon termination of my breeding program, those birds covered by the permit as well as those which are not will be distributed among qualified breeders of those species concerned.

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–362–25; please refer to this number when submitting comments. All relevant comments on or before February 9, 1977 will be considered.

Dated: December 30, 1976.

FRED L. BOWLAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77–716 Filed 1–7–77;8:45 am]

Geological Survey

GULF OF MEXICO AREA

Revised OCS Order No. 2

Notice is hereby given that, pursuant to 30 C.F.R. 250.11, the Acting Chief, Conservation Division, U.S. Geological Survey, proposes certain revisions to OCS Order No. 2, "Drilling Procedures," for the Gulf of Mexico Area as set forth below.

The revision of some paragraphs of the Order was necessary for clarification and consistency with requirements of other OCS areas. Since the proposed revision of paragraph 1.C., Intermediate Casing, deviates from the requirements of the Gulf of Alaska, the Mid-Atlantic, and the Pacific Area Order No. 2, specific comments are sought for criteria for the setting of intermediate casing. Comments are requested on the proposed language set forth below, the existing language of the Gulf of Alaska and Pacific Orders, which specify that intermediate casing shall be set when the mud weight is increased to within 0.06 kg/dm (0.5 ppg) of the equivalent mud weight of the most recent pressure test of the formation below the surface casing shoe, and the Pacific Order which tabulates intermediate casing setting depths versus proposed total depth and surface casing setting depth.

The proposed revisions to the Order are as follows:

Paragraph 1, "Well Casing and Cementing." This paragraph has been amended by deleting the phrase "* * * such that the well bore could be expected to withstand a pressure equivalent to at least a 0.5 ppg kick." Formation fracture gradients, pressure tests, and other well data are considered sufficient.

Subparagraph 1.C, "Intermediate Casing." The phrase "or on subsequent pressure tests" was added to the last sentence of the first paragraph, which indicates that the operator may retest the exposed formation in the event that a decision is made to set intermediate casing at a deeper depth.

In order to require that the latest technology be utilized to evaluate abnormal pressure zones, the following sentence was added to the first paragraph.

The Operator shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling rate evaluation and shale density analysis in order to enhance the evaluation of conditions of abnormal pressure, and to minimize the potential for the well to develop a flow or kick.

Subparagraph 2.E(1), "Blowout Preventer Controls," was added to clarify the requirements for primary and remote blowout preventer control stations.

Subparagraph 2.E (1), (2), (3), and (4) were redesignated 2.E (2), (3), (4), and (5).

Subparagraph 2.E(2), "Pressure Test," was amended to allow for testing the ram-type preventers at the rated working pressure of the blowout preventer stack assembly or at 70 percent of the minimum internal yield pressure of the casing whichever is the lesser.

Subparagraph 2.E(3), "Actuation," has been rearranged to clarify the actuation requirements of all blowout preventers and control stations.

The revised paragraphs are set forth below with the modifications indicated in *italics*.

The Geological Survey has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

W. A. RADLINSKI,
Acting Director.

PROPOSED REVISIONS TO OCS ORDER NO. 2

DRILLING PROCEDURES

1. *Well Casing and Cementing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1), and the Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. In cases where cement has filled the annular space back to the Gulf floor, the cement may be washed out or displaced to a depth not exceeding 12 meters (40 feet) below the Gulf floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients and pressures and casing setting depths. All casing, except drive pipe, shall be new pipe or reconditioned used pipe that has been tested to insure that it will meet API standards for new pipe.

1.C. *Intermediate Casing.* This string of casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe, *or on subsequent pressure tests.*

The Operator shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling rate evaluation and shale density analysis in order to enhance the evaluation of conditions of abnormal pressure, and to minimize the potential for the well to develop a flow or kick.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

2.E. *Testing.* (1) *B.O.P. Controls.—A minimum of one operable remote blowout preventor control station shall be provided, in addition to the primary blow-out-preventer control station on the drilling floor. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic blow-out preventers.*

(2) *Pressure Tests.—Ram-type blowout preventers and related control equipment shall be tested at the rated working pressure of the B.O.P. stack assembly, or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested at 70 percent of the applicable above pressure test requirements. All preventers shall be tested (a) when installed, (b) before drilling out after each string of casing has been set, (c) not less than once each week, alternating between control stations, and (d) following repairs that require disconnecting a pressure seal in the assembly.*

(3) *Actuation.—While drill pipe is in use, the following actuation procedures shall be performed, as a minimum, to determine proper functioning of the blow-out preventers and control stations:*

Pipe Rams—Actuated daily. Blind/Shear Rams—Actuated while drill pipe is out of the hole, once each trip.

Tapered Drill String Pipe Rams—The smaller size pipe rams shall be actuated on the appropriate drill pipe size, once each trip.

Annular-Type Preventer—Actuated on the drill pipe, in conjunction with the pressure test, once each week.

Control Stations—Actuated while drill pipe is out of the hole, once each trip.

D. W. SOLANAS,
Oil and Gas Supervisor.

Approved:

RUSSELL G. WAYLAND,
Acting Chief, Conservation Division.

[FR Doc.77-729 Filed 1-7-77;8 45 am]

ROCKY MOUNTAIN ENERGY CO.

Availability of Draft Environmental Statement for Bear Creek Uranium Mining and Milling Project

CROSS REFERENCE: For a document relating to the above-mentioned subject issued by the Nuclear Regulatory Commission, see FR Doc. 77-425 appearing in the Notices Section of this issue.

Office of Hearings and Appeals

[Docket No. M 77-56]

OLIVER SPRINGS MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Oliver Springs Mining Co., Inc., has filed a petition to modify the application of 30 CFR 75.1405 to its No. 3

Mine located in Anderson County, Tennessee.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

The substance of Petitioner's statement is as follows:

1. A petition was heretofore filed on May 7, 1974. The petition was returned July 14, 1974, and was resubmitted. It was returned again to the Petitioner on August 26, 1975. The Petitioner filed an informal reply and was of the opinion he had met the requirements but apparently failed to do so. Consequently the said Petition for Modification was dismissed. That petition was given Docket Number M 74–195.

2. On December 6, 1976 when it came to the Petitioner's attention that the petition had been dismissed, he proceeded to file another petition giving it the same Docket Number as previously.

3. The Petitioner states that he in good faith attempted to comply with the previous orders and had in fact complied and feels that his compliance justifies the filing of an additional Petition for Modification.

4. Petitioner has installed chains to make the coupling pins on its cars permanent. These chains have been in place now for a long period of time and are currently installed.

5. A manual mechanism was installed on the locomotives so that the coupling pins could be disengaged without one having to go between the cars. Two pictures show the mechanism which has been installed.[1]

6. This mechanism that the Petitioner installed has been used ever since the original petition was filed and it has been very satisfactory. The operator of the locomotive stands to the side and disengages the cars and does not ever have to go between the cars.

7. It is believed that this mechanism which has been installed by the Petitioner and used for approximately 2 years has proven safe and, perhaps, more safe than the automatic couplers required by 30 CFR 75.1405.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 9, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 3, 1977.

[FR Doc.77–788 Filed 1–7–77;8:45 am]

[1] The enclosed pictures are available for inspection at the address listed in the last paragraph of this notice.

INTERNATIONAL TRADE COMMISSION

[TA–201–19]

TELEVISION RECEIVERS

Time and Place of Chicago Hearing

Notice is hereby given that the public hearing in this matter previously scheduled to begin on January 11, 1977, in Chicago, Illinois, will be held on that date beginning at 10 a.m., c.s.t., in the U.S. Tax Court, Room 1743, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.

As previously announced, a second hearing in this matter will be held in Washington, D.C., beginning at 10 a.m., e.s.t., in the Hearing Room of the United States International Trade Commission Building, 701 E Street NW., Washington, D.C.

Notice of the investigation and the hearings was published in the FEDERAL REGISTER of November 12, 1976 (41 FR 50076).

By order of the Commission:

Issued: January 5, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77–782 Filed 1–7–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company (the licensee), which revised the operating license for Calvert Cliffs Nuclear Power Plant, Unit 2 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment incorporated a condition restricting facility operation with less than four reactor coolant pumps. This condition was inadvertently omitted from Amendment No. 2.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 2 to License No. DPR–69 issued November 30, 1976, and Supplement No. 7 to the Safety Evaluation Report, issued on the same date, and (2) Amendment No. 4 to License No. DPR–69 and the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A single copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 30th day of December, 1976.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors, Branch No. 2, Division of Project Management.

[FR Doc.77–751 Filed 1–7–77;8:45 am]

[Docket No. 50–219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Provisional Operating License No. DPR–16 issued to Jersey Central Power & Light Company which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications that will add sections 3.5.A.7 and 4.5.Q by describing the Limiting Conditions for Operation and Surveillance Requirements for safety-related snubbers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the License amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not

result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 12, 1975, as supplemented by letter dated June 16, 1976, (2) Amendment No. 18 to License No. DPR–16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road. Brick Town, New Jersey 08723.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of December 1976.

For the Nuclear regulatory commission,

JAMES J. SHEA,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–750 Filed 1–7–77;8:45 am]

[Docket Nos. 50–516, 50–517]

LONG ISLAND LIGHTING CO. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Order Resuming the Evidentiary Hearing

The evidentiary hearing will be resumed on January 18, 1977, at 9:30 am in the Holiday Inn of Riverhead, Exit 72, Long Island Expressway, Riverhead, Long Island, New York, to receive evidence upon certain contentions and other matters as specified in the Board's Order dated December 28, 1976. The hearing will proceed on successive week days, and will resume on January 25, and on February 1, 1977.

Because so much time has elapsed since the last session of hearings, prior rulings are rescinded with respect to the submissions of written direct testimony. Pursuant to 10 CFR § 2.743(b) copies of direct testimony shall be served at least five days prior to January 18, 1977.

The public is invited.

It is so ordered.

Dated at Bethesda, Maryland this 3rd day of January, 1977.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc.77–754 Filed 1–7–77;8:45 am]

[Docket No. 50–320]

METROPOLITAN EDISON CO., ET AL

Conference

In the matter of Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company; (Three Mile Island Nuclear Station, Unit 2).

Notice is hereby given that a conference in this procedeing will be held on Friday, January 28, 1977, at 9 a.m., North Office Building, Hearing Room No. 2, Commonwealth and North Streets, Harrisburg, Pennsylvania. The parties should be prepared to discuss any outstanding matters needing to be determined in advance of the forthcoming evidentiary hearing.

It is so ordered.

Dated at Bethesda, Maryland this 30th day of December 1976.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

[FR Doc.77–753 Filed 1–7–77;8:45 am]

[Docket No. 50–336]

NORTHEAST NUCLEAR ENERGY CO., ET AL

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–65 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Connecticut Light and Power Company (the licensees) for operation of the Millstone Nuclear Power Station Unit No. 2, located in Waterford, Connecticut.

The amendment would revise the value of the maximum Allowable Peak Linear Heat Generation Rate (APLHGR) contained in the Technical Specifications. The Technical Specification limit for APLHGR of 15.3 kw/ft had been further limited to 14.1 kw/ft by our Order for Modification of License, dated June 17, 1976 as a result of errors which had been discovered in the Combustion Engineering (CE) Emergency Core Cooling System (ECCS) model. The Order had also required the licensee to perform an ECCS reanalysis; accordingly, the licensee now proposes an APLHGR value of 16.3 kw/ft.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By February 9, 1977 the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject Facility Operating License. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to William H. Cuddy, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding as has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated October 7, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated in Bethesda, Maryland, this 30th day of December 1976.

For the Nuclear Regulatory Commission.

JAMES J. SHEA,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–747 Filed 1–7–77;8:45 am]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Prairie Island Nuclear Generating Station Unit Nos. 1 and 2 (the facilities) operated under Facility Operating License Nos. DPR-42 and DPR-60 issued to the Northern States Power Company (the licensee). The facilities consist of two pressurized-water reactors located in Goodhue County, Minnesota, and are each currently authorized to operate at 1650 megawatts (thermal).

The proposed modification being considered involves replacement of the existing spent fuel storage racks having a capacity for 198 fuel assemblies with new storage racks with a capacity for 687 assemblies in accordance with the licensee's application dated November 24, 1976. Approval of the proposed modification would require concurrent issuance of an amendment to the above license to revise the technical specifications for the facilities to reflect the increased spent fuel storage capacity.

Prior to approval of the proposed modification and the license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By February 9, 1977 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facilities spent fuel storage pool and the concurrent issuance of the license amendments. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire of Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularly the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 24, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Bethesda, Maryland, this 16th day of December, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-749 Filed 1-7-77;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York and Niagara Mohawk Power Corporation, which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment incorporates provisions into the Technical Specifications related to limiting conditions for operation and surveillance of shock suppressors (snubbers).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated October 25, 1976, (2) Amendment No. 20 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York.

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 Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-755 Filed 1-7-77;8:45 am]

[Docket No. 40-8452]

ROCKY MOUNTAIN ENERGY CO.

Availability of Draft Environmental Statement for Bear Creek Uranium Mining and Milling Project

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a draft environmental impact statement issued by the Commission's Office of Nuclear Material Safety and Safeguards related to the Bear Creek Project in north-central Converse County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at the Converse County Library, Douglas, Wyoming 82633. The draft statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne 82001. Requests for single copies of the draft environmental impact statement (identified as NU REG-0129) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Di-

rector, Division of Fuel Cycle and Material Safety.

The applicant's environmental report, as supplemented, submitted by Rocky Mountain Energy Company, is also available for public inspection at the same locations. Notice of availability of the environmental report was published in the FEDERAL REGISTER on March 25, 1976 (41 FR 12364).

Preparation of the draft statement is a joint effort between the Nuclear Regulatory Commission, the U.S. Forest Service, and the U.S. Geological Survey, with NRC acting as the coordinating agency. The statement is intended to meet the requirements of the National Environmental Policy Act both as to the issuance of permits and licenses to Rocky Mountain Energy Company for the operation of the Bear Creek uranium mining and milling project, and as to other jurisdictional responsibilities of the cooperating Federal agencies.

Interested persons may submit comments on the applicant's environmental report, as supplemented, and on the draft environmental impact statement for consideration by the Commission, the Forest Service, or the Geological Survey, as appropriate. Federal and State agencies are being provided with copies of the applicant's environmental report and the draft environmental impact statement (local agencies may obtain these documents upon request). Comments by Federal, State, and local officials, or other persons will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and at the Converse County Library, Douglas, Wyoming. After consideration of comments submitted on the draft environmental impact statement, a final environmental statement will be prepared and published. A notice of availability of the final environmental statement will be published in the FEDERAL REGISTER.

All comments on the draft environmental impact statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety. Comments are due by February 22, 1977.

Dated at Bethesda, Md., this 29th day of December, 1976.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-425 Filed 1-7-76;8:45 am]

[Docket No. 50-575]

WESTINGHOUSE ELECTRIC CORP.

Application for and Consideration of Issuance of Facility Export License

Please take notice that Westinghouse Electric Corporation, Pittsburgh, Pennsylvania, has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of two pressurized water reactors with a thermal power level of 2,785 megawatts each to Spain and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with the requirements of the Act, and the Commission's regulations set forth in 10 CFR, Chapter 1; and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported. Consequently, there are no safety analysis or Advisory Committee on Reactor Safeguards reports.

Unless, on or before February 9, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to Westinghouse Electric Corporation a facility export license and may cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 28th day of December, 1976.

For the Nuclear Regulatory Commission,

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc.77-752 Filed 1-7-77;8:15 am]

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company (the licensees), for operation of the Point Beach Nuclear Plant, Unit No. 2, located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The amendment would revise the Technical Specifications to eliminate the fuel residence time limit and alter the core power distribution limits to allow operation of Point Beach Unit No. 2 in core Cycle 4.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By February 9, 1977 the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Bruce Churchill, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW, Washington, D.C. 20036, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he

becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated December 9, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54481. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 3 day of January 1977.

For the Nuclear Regulatory Commission,

GEORGE LEAR,
Chief Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-748; Filed 1-7-77;8:45 am]

[Dockets Nos. 50-3, 50-247, and 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendments to Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued to Consolidated Edison Company of New York, Inc. (Con Ed) Amendment No. 14 to Provisional Operating License No. DPR-5 for Indian Point Nuclear Generating Unit No. 1, and Amendment No. 25 to Facility Operating License No. DPR-26 for Indian Point Nuclear Generating Unit No. 2, and has issued to Con Ed and the Power Authority of the State of New York Amendment No. 4 to Facility Operating License No. DPR-64 for Indian Point Nuclear Generating Unit No. 3. These amendments revised Technical Specifications for operation of the Indian Point Nuclear Generating Units located in Westchester County, New York. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications of each license to be consistent with revised New York State environmental requirements which increase the allowable daily limits on fish impingement.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) he application for amendments sworn to December 28, 1976, (2) Amendment No. 14 to License No. DPR-5, (3) Amendment No. 25 to License No. DPR-26, (4) Amendment No. 4 to License No. DPR-64, and (5) the Commission's related Environmental Impact Appraisal. 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 Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

A copy of items (2) through (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of December 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc.77-914 Filed 1-7-77;8:45 am]

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL., CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc. and the City of Tallahassee for the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

Amendment No. 1 authorizes Florida Power Corporation to operate the facility within five percent of rated power. The amended license is conditioned to require the completion of certain tests prior to initial criticality and the completion of certain design changes and corresponding modifications to be completed within specific time periods from the date of issuance of the license and sets forth specific requirements to be satisfied prior to authorizing increased operating power levels from startup to full power.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amended license. The application as supplemented by letter dated December 9, 1976 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations.

This action is in furtherance of the licensing action encompassed in the "Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing," dated October 14, 1972.

A copy of (1) Amendment No. 1 to Facility Operating License No. DPR-72, and Attachment 1 thereto, with revised Technical Specifications (Appendix A); and (2) the Office of Nuclear Reactor Regulation's Safety Evaluation and Supplements 1, 2 and 3 dated July 5, 1974, January 13, 1975, December 3, 1976, and December 30, 1976 are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Crystal River Public Library, Crystal River, Florida 32629.

The Commission's findings with respect to environmental considerations are described in the Commission's Notice of Issuance of Facility Operating License (published December 23, 1976, 41 FR 55952).

Single copies of items (1) and (2) may be obtained upon request addressed to the United State Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 30th day of December 1976.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-915 Filed 1-7-77;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company (the licensee) which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment authorizes an increase in the maximum temperature of the wa-

ter within the boundary of the mixing zone during the months of June, July, and August. These limitations and associated monitoring criteria are fully consistent with the State of Maine's Board of Environmental Protection Order of August 23, 1972.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility published in July 1972, and in the Environmental Impact Appraisal for Amendment No. 21 to License No. DPR–36.

For further details with respect to this action, see (1) the application for amendment dated July 9, 1976, (2) Amendment No. 25 to License No. DPR–36, and (3) the Commission's Environmental Impact Appraisal. 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 Wiscasset Public Library Association, High Street, Wiscasset, Maine. 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 Operating Reactors.

Dated at Bethesda, Md., this 22nd day of December 1976.

For the Nuclear Regulatory Commission.

VERNON L. ROONEY,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–916 Filed 1–7–77;8:45 am]

[Docket No. P–564–A]

PACIFIC GAS & ELECTRIC CO., (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Order Setting Oral Argument

The U.S. Nuclear Regulatory Commission (the Commission) has established an Atomic Eafety and Licensing Board (the Board) to rule on petitions and/or requests for leave to intervene in the above-identified proceeding which concerns the antitrust aspects of the Pacific Gas and Electric Company's (the Applicant) application to construct the Stanislaus Nuclear Project, Unit No. 1.

There are currently outstanding petitions for leave to intervene from the Northern California Power Agency (NCPA), from the State of California Department of Water Resources (DWR), and a joint petition from the Cities of Anaheim and Riverside, California. The Commission's Regulatory Staff (the Staff) and the Applicant have filed answers to these petitions, with the applicant also submitting a motion for summary disposition with regard thereto.

Notice is hereby given that the Board will hear oral argument on the petitions to intervene at 10:00 a.m. on January 25, 1977 at the 5th Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland 20014.

The Board will not entertain oral argument on the merits of the Applicant's motion for summary disposition but will expect the parties to present their legal positions on whether this Petitions Board has jurisdiction to hear that motion. Should the Board determine that it has jurisdiction to consider the motion for summary disposition, the Board will permit appropriate time for the petitioners and the Staff to respond to the motion and, if necessary, will set further oral argument on the motion.

To expedite preparations for oral argument, the Board advised the parties and the petitioners of the contents of this Order by telephone on January 4, 1977.

Dated at Bethesda, Md., this 5th day of January 1977.

For the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.77–917 Filed 1–7–77;8:45 am]

[Dockets Nos. 50–277, 50–278]

PHILADELPHIA ELECTRIC CO., PUBLIC SERVICE ELECTRIC AND GAS CO., DELMARVA POWER AND LIGHT CO. AND ATLANTIC CITY ELECTRIC CO.

Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 30 and 29 to Facility Operating Licenses Nos. DPR–44 and DPR–56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments will change the Technical Specifications to reflect the following planned modifications to the Peach Bottom facility: (1) Replacement of existing pressure and differential pressure switches which sense condenser vacuum, reactor water level and main steam line flow, with analog loops, and (2) the addition to an automatic isolation signal to the Reactor Core Isolation Cooling (RCIC) and High Pressure Coolant Injections (HPCI) Systems turbine-exhaust vacuum-breaker isolation valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 22, 1976, (2) Amendments Nos. 30 and 29 to Licenses Nos. DPR–44 and DPR–56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street. York, Pennsylvania 17401.

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 Operating Reactors.

Dated at Bethesda, Md., this 3d day of January 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–918 Filed 1–7–77;8:45 am]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

MEETING

Pursuant to subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given of a meeting of the National Transportation Policy Study Commission. The meeting, originally scheduled to be held on December 18, 1976 (FEDERAL REGISTER, December 6, 1976, Page 53378) and later cancelled, is hereby re-scheduled to be held on Thursday, January 27, 1977.

The meeting will not be open to the public as the Commission will be discussing matters that are related solely to its internal personnel and practices under 5 U.S.C. 552(b)(2) and will examine personnel and similar files, the disclosure of which would constitute an unwarranted invasion of privacy under (b)(6) of the same section.

BUD SHUSTER,
Chairman.

JANUARY 4, 1977.

[FR Doc.77–784 Filed 1–7–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 16, 1976 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Kentucky Equine Survey, single-time, horse farms, Hulett, D. T., 395–4730.

Economic Research Service, Tractor Power Technology Survey, single-time, farm operators, tractor experts, Hulett, D. T., 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census:

1977 Census of Governments-Survey of Local Government Finances (School Systems) F–33, F–33(L4)(L5), (L6), (L), single-time, state and local education officials, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Special Agencies), F–32, single-time, single purpose special districts (revenues over $25,000), Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Municipal or Township Finances, F–21, single-time, local governments-city and town officials, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Major Special Agencies), F–29, single-time, large special districts, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Supplementary Letters), F–77–1, 77–2, single-time, local government, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of County Government Finances, F–28, single-time, county government-officials, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Special Districts), F–35, single-time, small special districts, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (School Building Agencies), F–42, single-time, Local Governments-School Building Agencies, Ellett, C. A., 395–5867.

1977 Census of Government Survey of Local Government Finances (Municipalities and Townships), F–50, single-time, Local Governments-Cities and Towns, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Municipalities and Townships), F–60, single-time, small cities and towns, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of State-Administered Public Employee Retirement Systems, F–115, single-time, state retirement systems, Ellett, C. A., 395–5867.

1977 Census of Governments-Survey of Local Government Finances (Local Retirement Systems), F–114, single-time, local government retirement systems, Ellett, C. A., 395–5867.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, Industrial Price Revision Pilot, BLS–3078, 307, 3080, 308L, 3082, 3083, single-time, manufacturing establishments in SIC's Strasser, A., 395–5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, Poultry Market News Reports, PY–10, Weekly, Poultry Producers and Processors, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Census, Annual Retail Trade Report, BUS–024, 024C, 224, annually, all types of retail businesses, Laverne V. Collins, 395–5867.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Entry Record—Receipt—Missing Documents, CF 5101, on occasion, importers and brokers, Tracey Cole, 395–5870.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Monthly Work Schedule, FRA F–74, Monthly, State DOT'S/PUC'S, Lowry, R. L., 395–3772.

EXTENSIONS

VETERANS ADMINISTRATION

Evaluation of Treatment of Drug and Alcohol, Dependent Patients, 10–7984, Single-Time, Drug and Alcohol Dependent Patients, Reese, E.F., 395–3211.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE U.S.

Confidential Employment Inquiry, FCSC 65–4, on occasion, References and Previous Employers, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Plant and Equipment Expenditures survey, BE–456, quarterly, nonmanufacturing, Laverne V. Collins, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Plans for the Second Health and Nutrition, Examination Survey, HRA 1204, on occasion, National Probability Sample of Persons 6 mos–74 yrs, Richard Eisinger, 395–6140.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs:

Guam Food Pricing for USDA, BLS 2911.0, monthly, Retail Grocery Stores, Strasser, A., 395–5867.

Accident Data on Public School Bus Drivers, WH–374, annually, State Government, Strasser, A., 395–5867.

Trusteeship Report and Schedule on Selecting of Delegates and Officers, LM–15, semi-annually, Labor Unions, Strasser, A., 395–5867.

Retail Prices—Outlet Information, 2901A, monthly, Retail Businesses, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–933 Filed 1–7–77;8:45 am]

OHIO RIVER BASIN COMMISSION

KENTUCKY AND LICKING RIVER BASINS COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Report for Review

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (PL 89–80), the Ohio River Basin Commission has completed a report summarizing the current Comprehensive Coordinated Joint Plan (CCJP) for the Kentucky and Licking River Basins portion of the Ohio River Basin. The Report currently is being reviewed by the Governors and the head of each Federal agency, and each interstate agency, from which a member of the Commission has been appointed.

Views, comments and recommendations on the CCJP are requested by April 3, 1977. Copies are available on request to the Ohio River Basin Commission, 36 E. Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77–785 Filed 1–7–77;8:45 am]

RENEGOTIATION BOARD

EXCESSIVE PROFITS AND REFUNDS

Interest Rate

Notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such act, to the period beginning on January 1, 1977, and ending on June 30, 1977, is 7¾ per centum per annum.

Dated: January 5, 1977.

REX M. MATTINGLY,
Acting Chairman.

[FR Doc.77–786 Filed 1–7–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81–241]

ADVANCED SYSTEMS, INC.

Application and Opportunity for Hearing

DECEMBER, 21, 1976.

Notice is hereby given that Advanced Systems, Incorporated ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that

Applicant be granted an exemption from filing an annual report on Form 10–K for the year ended October 31, 1975 and all other reports required to be filed pursuant to sections 13 or 15(d) of the 1934 Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons.

Sections 13 and 15(d) of the 1934 Act require that issuers of securities registered pursuant to section 12 or that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(b) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of sections 12(g), 13, 14 or 15(d) of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The Applicant states, in part:

1. Applicant is incorporated under the laws of the State of Delaware.

2. Prior to the merger, Applicant had one class of equity securities registered under the Securities Act of 1933.

3. Prior to the merger, Applicant was subject to the provisions of Section 15(d) of the 1934 Act and its common stock was registered pursuant to Section 12(g) of the 1934 Act.

4. As a result of a merger on October 4, 1976, the Applicant became a wholly-owned subsidiary of URS Corporation.

5. At this time the Applicant has only one shareholder, URS Corporation.

In the absence of an exemption, Applicant is required to file pursuant to sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10–K for the year ending October 31, 1976. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant is a wholly-owned subsidiary with only one stockholder of record or beneficially. Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW, Washington, D.C.

Notice is further given that any interested person not later than January 17, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, on order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–772 Filed 1–7 77;8:45 am]

[Release No. 34–13128; File No. SR–Amex–76–29]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

JANUARY 3, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on December 16, 1976, the American Stock Exchange, Inc. (the "Amex") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed new sections 220 and 337 to the Amex's Company Guide set forth the information required to be filed in connection with a new simplified (short form) listing application for the dual listing of NYSE listed companies (and for companies seeking simultaneous listing on the Amex and NYSE) and the listing fee for such companies.

The text of the proposed amendments is annexed as Exhibit A of the Amex filing.

THE AMEX'S STATEMENT OF BASIS AND PURPOSES

The purpose of the proposed addition of these two sections to the Amex's Company Guide is to eliminate unnecessary impediments to dual listing of NYSE securities, to streamline duplicative processing procedures, and to reduce unnecessary accounting, legal and printing expenses upon such companies. This will be accomplished by employing a simplified (short form) listing application for the securities of companies currently listed on the New York Stock Exchange (and for companies seeking listing simultaneously on the Amex and the New York Stock Exchange), and by charging an original listing fee of $7,500 for such companies. This charge reflects the substantial elimination of both direct and indirect costs associated with the Amex's listing procedures and processing of listing applications, such as the review of numerous corporate documents including financial statements, proxy materials, prospectuses, charter and by-laws, counsel's opinion with respect to the authority and validity of the securities to be listed, etc.

Notwithstanding these simplified listing procedures, the Amex will continue to apply its existing eligibility criteria before approving applications for dual listing.

The proposed amendment is based upon Sections 6(b)(4) and 11A of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975, and relates to the equitable allocation of reasonable fees among its issuers and the removal of impediments to a free and open market and a national market system. (Items 4(a)(iv) and (vD).)

No comments were solicited or received with respect to the proposed new sections.

The Amex has determined that the proposed additions to its Company Guide will not impose any burden on competition.

On or before February 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to submit written comments should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written comments will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 31, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–774 Filed 1–7–77;8:45 am]

[Release No. 34-13095; File No. SR-Amex-76-28]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

DECEMBER 22, 1976.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 13, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The American Stock Exchange, Inc. (Amex) pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the Act) hereby proposes to amend Rules 900(b)(26), 910, 915, 917 and 958 to permit the trading of options on underlying securities which are primarily traded in the over-the-counter market.

The Board of Governors of the Amex approved the amendment to the above rules on November 11, 1976.

THE EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The principal purpose of the proposed rule changes is to permit selected securities that are traded primarily in the over-the-counter market to serve as underlying securities for options traded on the Amex. (Such securities are also referred to herein as "OTC underlying securities".) The purpose of each of the proposed rule changes is summarized as follows:

Rule 900(b)(26) is amended so that the term "primary market" for securities traded principally over-the-counter refers to the over-the-counter market reflected in NASDAQ.

Rule 910 is amended to expand the restricted (out-of-the-money) option rule so that in the case of underlying securities traded principally over-the-counter, orders shall not generally be entered for opening transactions where the exercise price will be more than $5 above the mean between the final representative bid and asked quotation reported through NASDAQ on the last previous day on which the underlying stock was traded.

Rule 915 is amended so that underlying stocks in respect of which option contracts may be approved for listing and trading if they meet all other standards and have been designated as "OTC Margin Stock" pursuant to Regulation T under the Securities Exchange Act of 1934.

Rule 917 is amended so that in case of underlying securities principally traded in the over-the-counter market, the Exchange may halt or suspend the trading of options in the event current representative quotations are not available for such securities.

Rule 958 is amended so that a Registered Trader in options shall not ordinarily be required to bid more than $1 lower and/or offer more than $1 higher than the last preceding transaction price for the particular option contract where the underlying security is primarily traded over-the-counter and the representative bid price per share (or other unit of trading), as reported in NASDAQ, has changed by more than $1 since the last preceding transaction for the particular option.

Section 6(b)(5) of the Securities Exchange Act of 1934 ("the Act"), in pertinent part, requires the Exchange's rules be designed to protect investors and the public interest. The Exchange believes that the amendments proposed with respect to these rule changes (which are principally technical in nature) are consistent with the protection of investors since, in all material respects, trading in options covering OTC underlying securities are expected to be similar to options trading presently taking place on the Amex in listed underlying securities.

The amendments to Rules 900(b)(26), 910, 915, 917 and 958 were considered and approved by the Options Committee of the Amex which is composed of Amex members and representatives of Amex member organizations. No other comments were solicited or received.

The Exchange does not believe any burden on competition will be imposed by these proposed rules changes.

On or before February 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments should refer to the file number referenced in the caption above and should be submitted on or before January 31, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-776 Filed 1-7-77;8:45 am]

[Rel. No. 19837; 70-5955]

CENTRAL AND SOUTH WEST CORP., ET AL.

Proposed Capital Contributions by Holding Company to Subsidiaries

JANUARY 3, 1977.

In the matter of Central and South West Corp., P.O. Box 1631, Wilmington, Delaware 19899, Central Power and Light Co., P.O. Box 2121, Corpus Christi, Texas 78403, Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102, Southwestern Electric Power Co., P.O. Box 21106, Shreveport, Louisiana 71156.

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company and Central Power and Light Company ("CP&L"), Public Service Company of Oklahoma ("PSO") and Southwestern Power Company ("SWEPCo"), all wholly-owned subsidiaries of CSW, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9, 10 and 12(f) of the Act and Rules 43 and 45, promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to make capital contribution to three of its wholly-owned subsidiaries, CP&L, PSO and SWEPCo, in the following amounts:

CP&L	$40,000,000
PSO	30,000,000
SWEPCO	10,000,000
Total	80,000,000

The full amount of the capital contribution to each subsidiary will be added to its common stock stated capital account and will be used together with other funds toward its 1977 construction and fuel exploration and development expenditures. The estimated amount of such expenditures are as follows:

	C.P. & L.	PSO	SWEPCO
Generation	$181,846,000	$91,025,000	$61,925,000
Transmission	10,593,000	19,238,000	22,449,000
Distribution and other plant	19,237,000	24,751,000	15,806,000
Fuel exploration and development	9,132,000	9,668,000	12,617,000
Total	220,808,000	144,682,000	112,107,000

It is stated that no state commission and no federal commission, other than this Commission, has any jurisdiction with respect to the proposed transaction. It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,550, including legal fees of $500.

Notice is further given that any interested person may, not later than January 27, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for

such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as it may be amended, may be granted and permitted to become effective as provide in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-773 Filed 1-7-77;8:45 am]

[Release No. 34-13127; File No. SR-MSTC-76-12]

MIDWEST SECURITIES TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 13, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Midwest Securities Trust Company proposes to charge $1.25 for delivery by way of a Third Party Depository Delivery Instruction (Third Party DDI) and $1.25 for processing receipt of transmission of a Third Party Miscellaneous Delivery Order (Third Party MDO).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide for charges to cover the costs of the Third Party DDI. The Third Party DDI effects the bookkeeping movement of security positions from a MSTC participant's account to a DTC participant's account versus payment or free. The Third Party DDI is used to settle transactions, initiate and return stock loans. Third Party DDI is available to all participants and is of special benefit to those participants who are not members of the receiving depository. Third Party movements from DTC to MSTC are effected by DTC's transmission to MTSC of the Third Party MDO. Third Party MDO's can be processed versus payment or free.

The proposed rule change represents an equitable allocation of reasonable dues, fees, and other charges among its participants.

Comments have neither been solicited nor received.

The Midwest Securities Trust Company believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 31, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

JANUARY 3, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-775 Filed 1-7-77;8:45 am]

[Release No. 34-13134; File No. SR-MSE-76-18]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, § 16 (June 4, 1975), notice is hereby given that on September 20, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE AMENDMENT

(New language italicized; deleted material bracketed.)

Rule 11, Article XX, of the Midwest Stock Exchange Rules

[Filing Requirements with Midwest]

[Rule 11. (a) A member organization holding a membership interest in the New York Stock Exchange or the American Stock Exchange which ceases to be a member in good standing of either of such exchanges and as a result holds a membership interest in neither exchange shall, within two business days after such event, file with Midwest as of the date of such event:

(1) A proof of money balances of all ledger accounts in the form of a trial balance;

(2) A computation of aggregate indebtedness and net capital made in accordance with Rule 3(a) of Article XX;

(3) An analysis of the aggregate market value of fully paid securities in customers' security accounts not segregated showing the location of such securities;

(4) Ledger net credit balances of money borrowed from banks, trust companies and other financial institutions and from others, which are fully or partially secured by securities carried for the account of any customer, showing, for each loan, an analysis of the market value of all collateral of such borrowings by source of collateral, stating separately the market value of: (i) securities carried for the accounts of customers, (ii) securities owned by the member or member organization or by any general or special partner or any director or officer of the member organization, and (iii) any other securities;

(5) The aggregate amount of customers' ledger debit balances;

(6) A statement of all contingent liabilities, and

(7) The aggregate amount of customers' free credit balances and the aggregate amount of all other customers' ledger credit balances. Provided, however, that the information specified above need not be filed if Midwest, upon written request, exempts such member organization, either unconditionally or on specified terms and conditions, from such requirements. Provided, further that Midwest may, upon written request, grant extensions of time for filing such information for good cause shown.

(b) For the purpose of the preceding paragraph—

(1) "Membership interest" means full membership, allied membership, associated membership, floor privileges, and any other interest that entitles a person or organization to the exercise of any privilege on either the New York Stock Exchange or the American Stock Exchange.

(2) A member organization shall be deemed to have ceased to be a member in good standing of the New York Stock Exchange or the American Stock Exchange when it has resigned, withdrawn,

or been suspended or expelled from a membership interest in such exchange or has directly or through any associated person sold or entered into an agreement for the sale of a membership interest which would on consummation thereof result in the termination of the member organization's membership interest in such exchange.

Rule 11. Filing Requirements on Change of Examining Authority

(a) A member organization for whom another national securities exchange or registered securities association is the designated examining authority under 17 CFR 240.17d–1 and who ceases to be a member in good standing of such national securities exchange or registered securities association shall file the reports and information required by Paragraph (b) of 17 CFR 240.17a–5 with the Exchange at the same time such reports and information are filed with the Securities and Exchange Commission.

(b) The determination of what constitutes membership interest and cessation of membership in good standing shall be as defined in Paragraph (b) of 17 CFR 240.17a–5.

Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to incorporate the requirements of FOCUS and avoid duplicate reporting requirements. The proposed rule change also acknowledges the fact that other exchanges besides the Midwest Stock Exchange, American Stock Exchange, or the New York Stock Exchange may be the designated examining authority for our members.

The proposed rule change improves the Exchange's capacity to carry out the puposes of the Act and to comply, and to enforce compliance by its members, with the Act, the rules and regulations thereunder.

Comments were neither solicited nor received.

The Midwest Stock Exchange, Incorporated believes that no burden has been placed on competition.

On or before February 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the captioned above and should be submitted on or before January 31, 1977.

For the Commission by the Division of Market Regulaiton, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 4, 1977.

[FR Doc.77–816 Filed 1–7–77;8:45 am]

[Release No. 13129; SR–PSE–76–34]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

JANUARY 4, 1977.

On November 11, 1976, the Pacific Stock Exchange Incorporated ("PSE"), 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The rule change would clearly delineate that in the context of dual trading some references to the terms "Exchange option transaction" and "Exchange transaction" should apply only to transactions on the PSE while others should apply to transactions on any options exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13008 (November 24, 1976)) and by publication in the FEDERAL REGISTER (41 FR 53151 (December 3, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on November 11, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–815 Filed 1–7–77;8:45 am]

DEPARTMENT OF TRANSPORTAION

Federal Railroad Administration

[FRA Waiver Petition No. HS–76–13]

BELFAST AND MOOSEHEAD LAKE RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Belfast and Moosehead Lake Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–76–13, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before January 30, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on December 17, 1976.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board

[FR Doc.77–719 Filed 1–7–77;8:45 am]

[Finance Docket No. 2]

PREFERENCE SHARE FINANCING

Receipt of Application

Projects. Notice is hereby given that the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, 516 West Jackson Boulevard, Chicago, Illinois 60606, has filed an application with the Federal Railroad Administrator under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 825, and thereby seeks funding through the sale to the United States of redeemable preference shares having an aggregate par value of $91,683,598.

The proceeds of the sale would be used by the applicant to fund four related projects: (1) the single tracking and rehabilitation of its main tracks between Milwaukee, Wisconsin, and Newport, Minnesota, a distance of approximately 314 rail miles, to be completed over a three year period for a total estimated cost of $66,357,776; (2) the repair of 1,194 freight cars which repair is to be performed in its facilities over a two year period for a total estimated cost of $7,494,536; (3) the repair of 337 road freight locomotives which repair is

to be performed in its facilities over a three year period for a total estimated cost of $16,678,286; and (4) the installation of environmental protection devices and appurtenances at the facilities where the majority of the repair work on freight cars and locomotives will take place, for a total estimated cost of $1,154,000.

Justification for Projects. The applicant states that the single tracking and track rehabilitation project is justified because the heavy traffic density on its double track main line route between Milwaukee and the Twin Cities fits that line within what the applicant envisions to be a primary segment of a national rail system, and also because that main line route provides sufficient capacity to accommodate a portion of other rail traffic in the corridor. The applicant further states that completion of the freight car and locomotive repair projects would enable it to generate additional revenue while reducing future annual maintenance costs and improving fuel efficiency and reliability, and that pollution control expenditures are required to insure that the facilities utilized in such repair work meet environmental specifications.

Comments. Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

The comments will be taken into consideration by the Federal Railroad Administration ("FRA") in evaluating the application. However, formal acknowledgment of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210), as amended).

Dated: January 5, 1977.

Comment closing date: February 9, 1977.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc.77–830 Filed 1–7–77;8:45 am]

[Finance Docket No. 3]

GUARANTEE OF OBLIGATIONS

Receipt of Application

Projects: Notice is hereby given that the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 516 West Jackson Boulevard, Chicago, Illinois, 60606, has filed an application with the Federal Railroad Administrator under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended ("RRRR Act"), 45 U.S.C. 831, to secure a commitment by the United States to guarantee a loan in the principal amount of $17,750,368. Loan arrangements have not been completed at this time. This application is contingent upon approval of a related application submitted by the applicant under section 505 of the RRRR Act, 45 U.S.C. 825, which contains a proposed project for the single tracking and rehabilitation of applicant's main track between Milwaukee, Wisconsin, and Newport, Minnesota.

The proceeds of the loan would be used by the applicant for two projects: (1) the installation of a Centralized Traffic Control ("CTC") system in its main tracks between Milwaukee, Wisconsin, and Newport, Minnesota, a distance of approximately 314 rail miles, to be carried out over a three year period for an estimated total cost of $12,210,048; and (2) the purchase of maintenance of way equipment and ballast cars required to accomplish the single tracking and rehabilitation of the applicant's main tracks between Milwaukee, Wisconsin, and Newport, Minnesota, for an estimated total cost of $5,540,320.

Justification for Projects: The applicant states that the single tracking of its main track between Milwaukee, Wisconsin, and Newport, Minnesota, would involve elimination of considerable lengths of existing double track, resulting in sections of single track between signalized long sidings, and that a CTC system is necessary to insure fluid and efficient movements of trains under such a track configuration. The applicant further states that the maintenance of way equipment is required in order to accomplish the proposed single tracking and rehabilitation project within the time span of three years, and that the purchase of such equipment is economically justified through savings of labor costs and track quality.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

The comments will be taken into consideration by the Federal Railroad Administration ("FRA") in evaluating the application. However, formal acknowledgement of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210), as amended.)

Dated: January 4, 1977.

Comment closing date: February 9, 1977.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc.77–829 Filed 1–7–77;8:45 am]

Office of Pipeline Safety Operations

[Docket No. 76–4W, Notice 2]

MICHIGAN WISCONSIN PIPE LINE CO.

Denial of Petition for Waiver

HISTORY

By petition dated April 9, 1976, the Michigan Wisconsin Pipe Line Company (MWPLC) requested a waiver from compliance with a welding requirement of § 192.245 of the Federal gas pipeline safety standards for:

1. 15 girth welds in 15.9 miles of 42" pipeline loop on its Hamilton to Bridgman mainline in Michigan; and

2. 41 girth welds in 7.2 miles of 42" pipeline loop on its Bridgman to St. John mainline in Indiana.

The pipelines are in Classes 1, 2, and 3 locations as defined by 49 CFR 192.5, but are not in operation.

Under 49 CFR 192.245, Repair or removal of defects, each weld that is unacceptable under § 192.241(c), Inspection and test of welds, must be removed if it has a crack more than 2 inches long or a crack that penetrates either the root or second bead. MWPLC sought a waiver of this requirement to validate repairs made on 56 girth welds which contained cracks in either the root or second bead. The welds were repaired according to procedures outlined in the 1973 (13th) edition of the American Petroleum Institute (API) Standard 1104, section 7.4, Authorization for Repair of Cracks. In support of its request for waiver, MWPLC alleges that the repaired welds provide a level of safety equivalent to that provided by § 192.245. Furthermore, MWPLC argues that repair of the cracked welds was the most reasonable and prudent manner for their disposition considering the size of the pipe, the lateness of the construction season, the terrain, the fact that the welds were not identified as containing cracks until after they had been backfilled, and the relatively high cost of removing the cracked welds.

The Office of Pipeline Safety Operations (OPSO) invited written comments on the requested waiver by a notice published in the FEDERAL REGISTER on April 21, 1976 (41 FR 16684). Six comments were received in response to the notice. In general these comments favored granting the requested waiver on the following grounds: that § 192.245(a) is unnecessarily restrictive; the weld repairs were made in accordance with the 1973 (13th) edition of API 1104; the re-

paired welds withstood hydrostatic strength testing in excess of 100 percent of specified minimum yield strength (SMYS) of the pipe; the ANSI B31.8 Code and ANSI B31.4 Code reference the 1973 (13th) edition of API 1104; the expenses of removing and replacing the repaired girth welds would not necessarily enhance the safety or integrity of the pipeline; several onsite safety inspections of the repairs were conducted by a gas safety engineer of the Michigan Public Service Commission; and by Notice 75–5, OPSO proposed rulemaking to amend § 192.245 to permit the repair of certain cracked welds in offshore construction.

NOTE.—The proposed amendment was adopted by Amdt. 192–26 published in the FEDERAL REGISTER on August 16, 1976 (41 FR 34598) and allows the repair of cracks in welds on offshore pipelines being installed from a pipelay vessel.

However, one commenter, the California Public Utilities Commission (CPUC), suggested that MWPLC's waiver request should be denied because the waiver process is not intended for avoidance of costs which are a result of inadvertance. Furthermore, the CPUC stated that requesting a waiver for a repair procedure to serve as an alternative to § 192.245 really questions the stringency of that regulation and should be addressed by rulemaking where the alternative procedure could be examined more critically and in greater detail.

On August 26, 1976, MWPLC provided the following additional information in response to a request by OPSO:

1. A series of 5 pipeline construction maps (scale: 1''=1000') for the subject project.

2. Copies of the pertinent portions of the original certified radiographs in which crack areas and repair areas of the weld were delineated.

3. A technical description of the weld repair procedure.

4. A narrative description of the qualification of the repair procedure.

5. Copies of field data generated from two cut-out welds containing cracks in the root bead that were used to qualify the repair procedure and the welders.

6. A cost comparison setting forth the total actual cost of the weld repairs ($675,846.97) versus the total estimated cost of replacement ($1,986,560.57).

7. A narrative explanation of the sequence of events and circumstances relating to the timing of the application for waiver.

In addition, OPSO requested API to explain the technical basis for Section 7.4 in the 1973 (13th) edition of API 1104. On October 27, 1976, API responded to the request by providing the following:

1. A copy of correspondence dated October 1971, discussing welding problems in laying pipelines offshore and recommending changes to the 1968 (11th) edition of API 1104 to alleviate the problems.

2. A commentary titled "Repair Procedure for Welds" handed out during the 1972 meeting of the API 1104 Code Committee.

ANALYSIS

It is the policy of the Materials Transportation Bureau not to grant waivers from safety standards of general applicability unless cogent, compelling reasons are presented why a standard is inappropriate for a particular situation or why some alternative safety standard would be more appropriate in that situation. In addition, a waiver is not granted if it would result in a reduction in safety.

OPSO has evaluated the various reasons advanced by MWPLC as to why a waiver should be granted for the 56 welds in question. In general these reasons related to the circumstances at the time of construction, the observance of repairs by Michigan Public Service Commission (MPSC) inspectors, the fact that cracks in certain girth welds made offshore may be repaired, cost savings, and the level of safety provided by the repair procedures.

As for the circumstances, MWPLC alleges that it did not discover the cracked welds until after "its own normal review" of radiographs certified as acceptable by the radiographic contractor. By this time, November 1975, pipelines containing the 56 welds for which a waiver is sought had already been laid and backfilled by the construction contractor. MWPLC then determined on the basis of engineering and economic analyses that because of the "size of pipe, the length of the various backfilled segments, the terrain and the lateness of the construction season, * * * it was impractical and extremely costly to cut out and replace the welds" as required by 49 CFR 192.245. However, cracked welds discovered by the review which had not been backfilled were cut out and replaced in compliance with §192.245.

These circumstances do not appear to OPSO at all unusual. It is the duty of every operator to check the performance of its contractors to assure compliance with Part 192. If irregularities are discovered, they are normally corrected by taking the steps necesssary to meet the required performance. Moreover, the factors cited by MWPLC of pipe size, backfilled segment lengths, terrain, and lateness of construction season are not so unusual as to make conformity with § 192.245 inappropriate. Indeed, MWPLC had to excavate the welds to effect the repairs and subsequent radiographs. With access to the welds, much of the alleged impracticality of making complete replacements was removed.

Secondly, it appears that MPSC inspectors were at the scene of the repair but did not advise MWPLC that the repair work was not permitted by Part 192 until after the work had been completed. In this capacity MPSC was serving as an agent of OPSO for purposes of inspecting an interstate transmission facility for conformity with Part 192. Although the evidence is sketchy, the record indicates that MPSC's field inspectors concluded at the time of repair that the repair procedure outlined in section 7.4 of the 13th edition of API 1104 was acceptable under Part 192. This view was clearly erroneous, however, since § 192.245 does not refer directly to API 1104. Although § 192.245 does refer to § 192.241(c) as the standard for acceptable welds, that standard expressly incorporates by reference only Sec. 6 of API 1104. At the same time, MWPLC states that it believed in good faith that the 13th edition of API 1104 was incorporated by reference in Part 192 in its entirety and was therefore applicable to the repair situation. This statement is contradicted, however, by the fact that MWPLC cut out and replaced those cracked welds which had not been backfilled in order to comply with § 192.245.

OPSO cannot find any rational justification for the apparent misinterpretation of applicable requirements by MPSC. Even if there were some ambiguity in the regulations to explain MPSC's action, it appears that MWPLC knew the applicable requirements of Part 192 and did not perform the repair procedures in reliance on misinformation from MPSC. Therefore, OPSO does not believe that the mistake by MPSC justifies granting a waiver.

OPSO does not believe that permitting cracked welds to be repaired offshore is sufficient reason for allowing similar welds to be repaired onshore. As discussed in Notice 75–5 and Amdt. 192–27, the potential hazards for both pipeline and personnel created by replacement of welds in pipelines being installed offshore from a pipelay vessel overcome the safety advantages gained by removal of the welds. A similar situation does not exist in normal weld removal operations onshore. In addition, the risk associated with the possible failure of a pipeline offshore is in most cases less than for a failure occurring onshore.

Next is MWPLC's argument that from an economical standpoint, repair was more logical than replacement. MWPLC determined that it was "extremely costly" to cut out and replace the welds. The figures submitted in support of this claim indicate a savings of about $1.3 million was achieved by repairing instead of replacing the cracked welds. According to MWPLC, this saving was due to differences in labor and equipment costs associated with replacement versus repair and the significantly longer time necessary to accomplish replacement. OPSO does not dispute these savings. However, the additional costs of replacement were not attributable to any unusual circumstance. Once the backfill was removed at the sites of the 56 welds, MWPLC was not faced with an unusual compliance situation. While cost savings are not ignored as justification for a waiver, some compelling reason(s), in addition to cost savings, to show why the general standard should not be followed must be shown before a waiver is granted. Such reasons have not been advanced by MWPLC with regard to any of the 56 welds in question.

The granting of a waiver, justified only by cost savings and an assertion of equivalent safety, would invite every operator to request on that basis that it

be permitted to follow a standard different from the codified standard having general applicability. If carried to an extreme, a multitude of separate, individual rules, or waivers would result. Of course, this situation would be administratively unmanageable, unenforceable, and contrary to the policy of general rulemaking. The proper course for achieving these savings is to petition for a rule change that will permit the activity or operation that results in such savings. It is clearly the only reasonable and fair choice from the standpoint of sound rulemaking policy in that it would afford all interested persons the opportunity to question the safety implications of the rule change during the proposal stage and to benefit from lower compliance costs if the rule change is adopted.

Further, OPSO has evaluated MWPLC's assertion that the repaired welds "equal or exceed the quality and integrity of original production welds and replacements pursuant to 49 CFR 192.245." While that evaluation shows that the radiographs of the repaired welds do not exhibit unacceptable weld defects, OPSO believes that this finding alone is not sufficient to determine the level of safety. Also, there is no evidence to show that the hydrostatic testing of repaired cracked welds to a level of 100 percent of SMYS is by itself, or in combination with radiography, sufficient to guarantee the integrity of repairs. Instead, the following factors indicate that the level of safety of the 56 welds is uncertain:

1. The evidence submitted by MWPLC in support of the repair procedure used on the 56 welds does not include any duration response testing results or studies to show that repairing cracks in welds in accordance with the procedures used will not jeopordize the welds or the pipelines over their projected service life. As a result, the reliability of the repaired welds and the pipelines is not evident.

2. Similarly, the repair procedures outlined in the 13th edition of API 1104 do not appear to have a duration response testing basis and appear to be a consensus standard developed because of the difficulties in removing cracked welds during installation offshore.

3. Even if the limited testing performed by MWPLC was satisfactory, the number of weld specimens tested by MWPLC to qualify the crack repair procedure was insufficient to provide a high statistical confidence level regarding the safety of welds repaired.

4. The repair procedure followed by MWPLC did not provide for post heat treatment as recommended by the API 1104 procedures.

CONCLUSION

In consideration of the foregoing and after reviewing all available relevant information, OPSO finds that MWPLC has not presented any compelling reason why the requirement of § 192.245 for removal of cracked welds should be waived. Moreover, OPSO finds that the level of safety provided by the repairs made on the 56 welds in question is uncertain. Therefore, the petition by MWPLC for waiver from § 192.245 is hereby denied.

This decision is without prejudice, however, to MWPLC's submitting a petition for rulemaking based on sound technical information to permit the repair of cracked welds onshore as an alternative to their being cut out and replaced.

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 49 USC 1672; 40 FR 43901, 49 CFR 1.53.)

Issued in Washington, D.C. on January 4, 1977.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.77-746 Filed 1-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 150-86]

COMMISSIONER OF INTERNAL REVENUE

Delegation of Authority With Respect to Northern Mariana Islands Social Security Tax

The purpose of this order is to delegate authority to the Commissioner of Internal Revenue to perform functions with respect to the administration, collection and enforcement, (and assessment of the Northern Mariana Islands Social Security Tax.

The authority necessary to perform all functions on behalf of the government of the Northern Mariana Islands with respect to the administration, collection and enforcement, and assessment of the taxes (including interest and penalties) imposed by the Northern Mariana Islands Social Security Act, heretofore delegated to the Secretary of the Treasury by a Memorandum of Agreement and Delegation made effective as of January 1, 1977, is hereby delegated to the Commissioner of Internal Revenue.

The Commissioner of Internal Revenue may redelegate such authority to any officer or employee of the Internal Revenue Service.

WILLIAM E. SIMON,
Secretary of the Treasury.

DECEMBER 31, 1976.

[FR Doc.77-740 Filed 1-7-77;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEES

Renewals

In accordance with section 14 of Pub. L. 92-463, Federal Advisory Committee Act, the Veterans Administration has determined that renewal of the following advisory committees, for a period of two years, is in the public interest:

Committee	*Expiration Date*
Education and Training Review Panel.	Dec. 31, 1978
Career Development Committee.	Jan. 4, 1979
Geriatric Research, Education and Clinical Centers Advisory Committee.	Jan. 17, 1979

New charters for these committees have been filed in accordance with Pub. L. 92-463.

By direction of the Administrator.

Dated: December 30, 1976.

A. J. SCHULTZ,
Associate Deputy Administrator.

[FR Doc.77-720 Filed 1-7-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Federal-State Partnership Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Federal-State Partnership Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Federal-State Partnership Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 5, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-814 Filed 1-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 300]

ASSIGNMENT OF HEARINGS

JANUARY 5, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 82492 (Sub-No. 134), Michigan & Nebraska Transit Co., Inc., now assigned February 10, 1977, at Chicago, Ill. is canceled.

MC 544 Sub 1, Vancouver Portland Bus Co., MC 29839 Sub 5, Evergreen-Stage Lines, Inc., and MC 29839 Sub 6, Evergreen Stage Lines, Inc., now assigned February 14, 1977, (1 week), at Portland Oregon, will be held in Room 104, Pioneer Courthouse 555 S. W. Yamhill Street.

MC 119988 Sub 98, Great Western Trucking Co., Inc., now assigned January 24, 1977, at Dallas, Tex., (2 days), will be held in Room 5A15–17 New Federal Bldg., 1100 Commerce Street.

MC 139495 Sub 163, National Carriers, Inc., now assigned January 26, 1977 (3 days), at Dallas, Tex., will be held in Room 5A15–17, New Federal Bldg., 1100 Commerce Street.

MC 107515 Sub 1015, Refrigerated Transport Co., Inc., now assigned February 2, 1977 (3 days), at Memphis, Tenn., will be held in Courtroom 978, Federal Office Bldg., 167 North Main Street.

MC 128273 Sub 207, Midwestern Distribution, Inc., now assigned February 1, 1977 (1 day), at Memphis, Tenn., will be held in Courtroom 978, Federal Office Bldg., 167 North Main Street.

MC 127834 Sub 113, Cherokee Hauling & Rigging, Inc., now assigned January 31, 1977 at Memphis, Tenn. (1 day), will be held in Courtroom 978, Federal Office Bldg., 167 North Main Street.

MC 119634 Sub 15, Dick Irvin, Inc., now assigned February 2, 1977 (3 days), at Billings Mont., will be held in Room 3033, Federal Bldg., 316 North 26th Street.

MC 135231 Sub 18, North Star Transport, Inc., now assigned February 7, 1977 (2 days), at Portland Oregon, will be held in Room 104, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 139495 Sub 130, National Carriers, Inc., now assigned February 9, 1977, (3 days), at Portland, Oregon, will be held in Room 104, Pioneer Courthouse, 555 S.W. Yamhill Street.

MCF–12631, Ligon Specialized Hauler, Inc.—Investigation of Control—Dixie Truck Line, Inc., Haggard Heavy Hauling, Inc. Roy Smith, Inc., and L & B Express, Inc.; MC–C–8735, Ligon Specialized Hauler, Inc., Virginia Hauling Co., A Corp., Cherokee Hauling & Rigging, Inc., Eck, Miller Transportation Corp., Heavy & Specialized Haulers, Inc., O'Nan Transportation Co., Inc., Carriers Management-Service, Inc., and Foote Mineral Co.—Investigation of Operations and Practices and Revocation of Certificates and MC 119777 Sub 245, Ligon Specialized Hauler, Inc., now assigned February 7, 1977 (1 week) at Memphis, Tenn., will be held in Courtroom 978, Federal Office Bldg., 167 North Main Street.

MC–F–12234, Century Express Ltd.—Purchase—Lansdale Transportation Co., Inc.; MC–F–12604, St. Johnsbury Trucking Company, Inc.—Purchase (Portion)—Lansdale Transportation Company, Inc. (Century Express Ltd. Assignor); MC 108473 (Sub-37), St. Johnsbury Trucking Company, Inc.; MC–F–12605, H. W. Taynton Company, Inc.—Purchase (Portion)—Lansdale Transportation Company, Inc. (Century Express, Ltd. Assignor) and MC 109821 (Sub-44), H. W. Taynton Company, Inc., now assigned January 11, 1977 at Washington, D.C., is canceled.

MC–F–13025, Preston Trucking Company, Inc.—Purchase (Portion)—Lansdale Transportation Co., Inc. (Century Express Ltd. Assignor), now assigned January 11, 1977 at Washington, D.C., is postponed to April 19, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–810 Filed 1–7–77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 5, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43295—*Soybeans to Gulf Ports for Export.* Filed by The Atchison, Topeka and Santa Fe Railway Company, (No. 110–A), for interested rail carriers. Rates on soybeans, in carloads, as described in the application, from various points in Oklahoma and Kansas, to Gulf ports for export.

Grounds for relief—Carrier competition, new commodity.

Tariff—Supplement 91 to The Atchison, Topeka and Santa Fe Railway Company tariff 5655–J, I.C.C. No. 15193. Rates are published to become effective on March 4, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–812 Filed 1–7–77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The folowing letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before January 31, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before February 9, 1977, subject to its tariff publication effective date.

P–43–76 (Special certificate—waste products), filed November 5, 1976. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *cullet*, from Meadville, Pa., and Crestline, Ohio, to Crystal City, Mo.; in furtherance of a recognized pollution control program sponsored by PPG Industries, Inc., of Pittsburgh, Pa., for the purpose of transporting broken glass, cullet; (2) *spent carbon* from points in the United States, to Bayport, Tex. and Neville Island, Pa., in furtherance of a recognized pollution control program sponsored by Calgon Corp. of Pittsburgh, Pa., for the purpose of recycling spent (used) carbon; and (3) *furnace lining scrap or refuse,* from points in the United State, to points in Pennsylvania, in furtheranee of a recognized pollution control program sponsored by North American Refractories Company of Cleveland, Ohio, for the purpose of recovering furnace lining scrap or refuse for recycling.

NOTE.—Applicant presently holds Waste Products Certificate No. P–24–73.

P–44–76 (Special Certificate—Waste Products), filed November 17, 1976. Applicant: RABBIT TRANSIT, 220 Erie Street, Pomona, Calif. 91766. Applicant's representative: Dwight Willard, P.O. Box 2329, Dublin, Calif. 94566. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling and reuse,* including scrap paper, cardboard and plastic scrap, between points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, in furtherance of recognized pollution control programs sponsored by: (1) Western Paper Salvage, Inc. of Phoenix, Ariz., for the purpose of recycling waste paper and cardboard; (2) Sunset Fibre Industries of Orange County, Calif., for the purpose of recycling waste paper; (3) Paper Pak Products, Inc. of La Verne, Calif., for the purpose of recycling waste paper and cardboard; (4) Allan Company of Baldwin Park, Calif., for the purpose of recycling waste paper and cardboard; (5) Mobil Oil Corporation of Los Angeles, Calif., for the purpose of recycling scrap plastics; (6) Ponderosa Paper Products Inc. of Flagstaff, Ariz., for the purpose of recycling waste paper; (7) Ecology Paper Products Company of Phoenix, Ariz., for the purpose of recycling waste paper and cardboard; (8) Garden State Paper Company, Inc. of Pomona, Calif., for the purpose of recycling waste paper; (9) Crown Zellerbach Corporation of San Francisco, Calif., for the purpose of recycling waste paper; (10) Consolidated Fibres, Inc. of Richmond, Calif., for the purpose of recycling waste paper; and (11) Independent Paper Stock Company of San Francisco, Calif., for the purpose of recycling waste paper.

NOTE.—Applicant presently holds Waste Products Certificate No. P–20–73.

P–45–76 (Special Certificate—Waste Products), filed November 5, 1976. Applicant: MARX TRUCK LINE, INC., 220 Lewis St., Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach, 5000 South Lewis Blvd., Sioux City, Iowa 51102. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse*, from Milwaukee, Wis., to points in Iowa and Nebraska, in furtherance of a recognized pollution control program sponsored by the Milwaukee Sewerage Commission of the City of Milwaukee, Wis., for the purpose of reuse of recycled waste materials.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–811 Filed 1–7–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ADVISORY PANEL FOR THE REVIEW OF THE LASER ISOTOPE SEPARATION PROGRAM

Meetings

The Advisory Panel for the Review of the Laser Isotope Program will hold meetings in Germantown on January 10 and 11, 1977, in Room E–301, on the tenth and Room G–207 on the eleventh. The subject scheduled for discussion involves the program for the development of isotope separation using lasers and concerns Restricted Data and data proprietary to Jersey Nuclear Avco Isotopes, Inc.

The meetings will be closed to the public under the authority of subsection 10(d) of Pub. L. 93–463 (the Federal Advisory Committee Act).

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the discussions will concern Restricted Data which is exempt from disclosure under 5 U.S.C. 552(b) (1) and (3) and other National Security Information which is exempt from disclosure under 5 U.S.C. 552(b)(1). It is essential to close the meetings to protect such classified information.

In view of recent knowledge of the pendency of Congressional hearings which are anticipated to involve the subject of discussion at the meeting. I have determined that the normal 15-day notice period is not feasible.

HARRY L. PEEBLES,
Deputy Advisory Committee Managerment Officer.

[FR Doc.77–1301 Filed 1–7–77;10:02 am]